

## *Preface*

This report for the year ended 31 March 2009 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising taxes on sales, trade etc., stamp duty and registration fee, state excise duty, taxes on motor vehicles, passengers and goods tax, agriculture (purchase tax) and non-tax receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test check of records during the year 2008-09 as well as which were noticed in earlier years but could not be included in previous year's reports.

## **OVERVIEW**

This Report contains 28 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalty, etc., involving tax effect of Rs. 82.74 crore. Some of the major findings are mentioned below:

### **1. General**

- The total receipts of the State Government for the year 2008-09 was Rs. 18,452.31 crore. Revenue raised by the Government during the year was Rs. 14,893.73 crore, comprising tax revenue of Rs. 11,655.28 crore and non-tax revenue of Rs. 3,238.45 crore. The State Government also received Rs. 1,724.62 crore as State's share of divisible Union taxes and Rs. 1,833.96 crore as grants-in-aid from the Government of India.

**(Paragraph 1.1)**

- Arrears of revenue at the end of March 2009 as reported by some departments were Rs. 2,366.78 crore, of which Rs. 606.22 crore were outstanding for more than five years.

**(Paragraph 1.6)**

- At the end of June 2009, 6,553 audit observations involving Rs. 8,663.68 crore relating to 2,868 inspection reports issued upto December 2008 remained outstanding.

**(Paragraph 1.12)**

- Test check of the records of the taxes on sales/trade etc., stamp duty and registration fee, state excise, taxes on goods and passengers, taxes on vehicles, other tax and non-tax receipts conducted during the year 2008-09 revealed under assessments/short levy/non-levy/loss of revenue aggregating Rs. 281.13 crore in 37,889 cases. During the course of the year 2008-09, the departments accepted under assessment of Rs. 15.75 crore in 2,861 cases. Of these, the departments recovered Rs. 1.30 crore.

**(Paragraph 1.17)**

### **2. Taxes on Sales, Trade etc.**

A review of **Recovery of sales tax/VAT in arrears** revealed the following:

- The outstanding arrears increased from Rs. 440.49 crore to Rs. 1,591.87 crore (361 *per cent*) over the period from April 2003 to March 2008. The pace of recovery was very slow against the mounting arrears.

**(Paragraph 2.2.7)**

- No time limit has been prescribed for attachment and disposal of attached property, and for issue of revenue recovery certificate against defaulting dealer under the HGST/HVAT Act. This led to accumulation of arrears of Rs. 8.10 crore.

**(Paragraph 2.2.8)**

- Lack of co-ordination between departmental authorities to take effective action to recover the dues led to accumulation of arrears of Rs. 12.68 crore.

**(Paragraph 2.2.9.2)**

- Rs. 10.84 crore could not be recovered due to lack of provisions in Haryana Value Added Tax Act regarding entertainment of appeals on pre-payment of additional demands in dispute.

**(Paragraph 2.2.10)**

- Collection of Rs. 152.40 crore was held up due to non-vacation of stay orders or non-disposal of appeals by first appellate authority.

**(Paragraph 2.2.13)**

- Incorrect levy of concessional rate of tax on sale of rags purchased against declaration in forms VAT-D1 for use in the manufacture of goods instead of at the general rates applicable to rags (being unclassified goods) resulted in non-levy of VAT amounting to Rs. 1.33 crore.

**(Paragraph 2.4.1)**

- Application of incorrect rate of tax on the sales of tyres and tubes resulted in underassessment of VAT of Rs. 86.70 lakh.

**(Paragraph 2.4.2.1)**

- In the case of a dealer of Bahadurgarh, the assessing authority allowed deductions of Rs. 1.22 crore instead of Rs. 87 lakh on account of deferment of tax. This resulted in excess deferment of tax of Rs. 69.22 lakh including interest of Rs. 34.41 lakh.

**(Paragraph 2.4.3)**

- Incorrect classification of mosquito mats/coils by the assessing authorities, Ambala Cantonment and Kurukshetra in the case of two dealers resulted in short levy of tax amounting to Rs. 76.67 lakh.

**(Paragraph 2.5.1.1)**

### **3. Stamp Duty and Registration Fee**

- Stamp duty of Rs. 44.20 lakh was short levied on 50 sale deeds of plots in municipal limits with an area less than 1,000 square yards due to application of lower rates fixed for agricultural land instead of higher rates fixed for residential areas.

**(Paragraph 3.4.1)**

### **4. State Excise**

#### **Excise and Taxation Department**

- Non-initiation of action to recover the differential amount of license fee from 12 defaulting allottees of retail liquor outlets even after reauction of vends at their risk and cost deprived the Government of revenue of Rs. 1.01 crore.

**(Paragraph 4.3.1)**

- License fee and interest of Rs. 81.29 lakh was short recovered from 75 licensees by Deputy Excise and Taxation Commissioners, Kaithal, Karnal, Panipat and Sonipat during the years 2006-07 and 2007-08.

**(Paragraph 4.3.2.1 and 4.3.2.2)**

### **5. Other Tax Receipts**

#### **Excise and Taxation Department**

- Passengers tax amounting to Rs. 98.77 lakh was not demanded by the department in respect of buses of educational institutions, transport co-operative societies and city bus operators.

**(Paragraph 5.3.1)**

#### **Transport Department**

- Token tax of Rs. 44.27 lakh was not demanded by ten Regional Transport Authorities from the owners of city bus operators and stage carriage buses for the different period between April 2006 and March 2008.

**(Paragraph 5.4.1.1 and 5.4.1.2)**

## **6. Non-Tax Receipts**

### **Home Department**

A review of **Receipts of police department** revealed the following:

- Failure on the part of department to raise and realise the police cost from Railways resulted in non-realisation of revenue of Rs. 19.96 crore.

**(Paragraph 6.2.8.1 and 6.2.8.2)**

- Acceptance of payment of incentive money from Ministry of External Affairs in the absence of any control mechanism for recovery of dues for passport verification reports led to short reimbursement of Rs. 1.26 crore.

**(Paragraph 6.2.9)**

- Failure to raise and collect demand timely on provisional basis quarterly as per Government of India instructions resulted in non-realisation of revenue of Rs. 5.29 crore.

**(Paragraph 6.2.13)**

- Police cost amounting to Rs. 1.14 crore was under assessed due to non-inclusion of different elements of cost.

**(Paragraph 6.2.14.2)**

### **Public Health Department**

- Water charges aggregating to Rs. 73.44 lakh was not demanded by the department from owners of 576 unmetered water supply connections of commercial, institutional and industrial establishments for the period between December 2006 and March 2008.

**(Paragraph 6.4)**

### **Civil Aviation Department**

- Government revenue amounting to Rs. 69.36 lakh realised from leasing out surplus land of civil aerodromes was retained unauthorisedly by Haryana Institute of Civil Aviation.

**(Paragraph 6.5)**

### **Mines and Geology Department**

- Royalty and interest of Rs. 33.56 lakh was not recovered from 150 brick kiln owners.

**(Paragraph 6.6)**

## CHAPTER 1: GENERAL

### 1.1 Trend of revenue receipts

The revenue receipts of the State Government comprise its own tax and non-tax revenues, State's share of divisible Union taxes and duties (Central tax transfers) and grants-in-aid received from the Government of India (GOI). The tax and non-tax revenues raised by Government of Haryana, Central tax transfers and grants-in-aid received from GOI, during the year 2008-09 and corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sr. No.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
<b>I</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue <i>(per cent)</i>	7,440.27 (67)	9,078.65 (66)	10,927.76 (61)	11,617.82 (59)	11,655.28 (63)
	• Non-tax revenue <i>(per cent)</i>	2,544.37 (23)	2,458.56 (17)	4,590.76 (26)	5,097.08 (26)	3,238.45 (18)
	<b>Total (I)</b> <i>(per cent)</i>	<b>9,984.64</b> <b>(90)</b>	<b>11,537.21</b> <b>(83)</b>	<b>15,518.52</b> <b>(87)</b>	<b>16,714.90</b> <b>(85)</b>	<b>14,893.73</b> <b>(81)</b>
<b>II</b>	<b>Receipts from the GOI</b>					
	• Central tax transfers <sup>1</sup> <i>(per cent)</i>	619.26 (5)	1,200.97 (9)	1295.64 (7)	1,634.36 (8)	1,724.62 (9)
	• Grants-in-aid <i>(per cent)</i>	545.16 (5)	1,115.13 (8)	1,138.27 (6)	1,401.48 (7)	1,833.96 <sup>2</sup> (10)
	<b>Total (II)</b>	<b>1,164.42</b> <b>(10)</b>	<b>2,316.10</b> <b>(17)</b>	<b>2,433.91</b> <b>(13)</b>	<b>3,035.84</b> <b>(15)</b>	<b>3,558.58</b> <b>(19)</b>
<b>III</b>	<b>Total receipts of the State (I + II)</b>	<b>11,149.06</b>	<b>13,853.31</b>	<b>17,952.43</b>	<b>19,750.74</b>	<b>18,452.31</b>

The revenue receipts of the State Government have shown an increasing trend over the period 2004-05 to 2007-08 with an average 63 *per cent* share of its own taxes, 23 *per cent* share of its non-tax revenues, seven *per cent* each of central tax transfers and grants-in-aid.

The decrease of Rs. 1,298.43 crore (seven *per cent*) in revenue receipts in 2008-09 over the previous year was mainly on account of decrease in the State's own non-tax revenues of Rs. 1,858.63 crore (36 *per cent*).

<sup>1</sup> For details please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Haryana for the year 2008-09. Figures under the head 0021 - Taxes on income other than corporation tax - share of net proceeds assigned to States booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

<sup>2</sup> This amount includes Rs. 10.13 crore as adjustment of previous years.

The increase of Rs. 432.48 crore (31 per cent) in grants-in-aid in 2008-09 over the previous year was mainly on account of increase in non-plan grants of Rs. 271.69 crore (19 per cent), State plan grants of Rs. 92.33 crore (seven per cent) and centrally sponsored schemes of Rs. 68.46 crore (five per cent).

**1.1.1** The following table presents the details of tax revenue raised during the period from 2004-05 to 2008-09:

(Rupees in crore)

Sr. No.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage*
1.	Taxes on sales, trade etc.	4,760.91	5,604.45	6,853.24	7,720.98	8,154.73	(+) 06
2.	State excise	1,013.16	1,106.86	1,217.10	1,378.81	1,418.53	(+) 03
3.	Stamp duty and registration fee	726.58	1,339.73	1,764.98	1,763.28	1,326.39	(-) 25
4.	Taxes on goods and passengers	705.16	757.60	738.41	379.39	370.29	(-) 02
5.	Taxes on vehicles	140.41	172.13	223.66	233.79	239.30	(+) 02
6.	Taxes and duties on electricity	61.75	61.53	98.28	107.45	106.31	(-) 01
7.	Other taxes and duties on commodities and services	20.60	23.23	19.10	24.74	31.15	(+) 26
8.	Land revenue	11.70	13.12	12.99	9.38	8.58	(-) 09
<b>Total</b>		<b>7,440.27</b>	<b>9,078.65</b>	<b>10,927.76</b>	<b>11,617.82</b>	<b>11,655.28</b>	<b>(+) 0.32</b>

\* It represents percentage of increase (+)/decrease (-) in 2008-09 over 2007-08.

The concerned departments mentioned the following reasons for increase/decrease in receipts during 2008-09 over those of 2007-08:

- **Stamp duty and registration fee:** The decrease in revenue receipts (25 per cent) was due to global slowdown of economy leading to the less transaction of immovable properties and reduction in rates of stamp duty from October 2008.
- **Other taxes and duties on commodities and services:** The increase in revenue receipts (26 per cent) was due to more collection of entertainment tax.
- Other components exhibited relative stability with insignificant increase/decrease during the current year over the previous year.

**1.1.2** The following table presents the details of the major non-tax revenue raised by the State Government during the period from 2004-05 to 2008-09:

(Rupees in crore)

Sr. No.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage*
1.	Urban development	317.96	714.09	2,562.34	2,805.24	884.50	(-) 68
2.	Interest receipts	472.41	442.48	648.63	757.20	776.28	(+) 03
3.	Road transport	513.17	548.44	571.18	622.56	645.04	(+) 04
4.	Non-ferrous mining and metallurgical industries	92.73	152.60	136.83	215.74	195.97	(-) 09
5.	Other administrative services	79.56	84.35	61.94	105.54	120.95	(+) 15
6.	Miscellaneous general services <sup>3</sup>	705.63	183.38	130.22	91.25	89.39 <sup>4</sup>	(-) 02
7.	Major and medium irrigation	103.32	64.13	87.19	72.27	74.01	(+) 02
8.	Police	26.45	7.49	22.79	41.44	55.22	(+) 33
9.	Forestry and wildlife	31.58	32.84	38.62	33.79	40.74	(+) 21
10.	Medical and public health	40.92	30.50	31.59	64.91	30.94	(-) 52
11.	Other non-tax receipts	160.64	198.26	299.43	287.14	325.41	(+) 13
<b>Total</b>		<b>2,544.37</b>	<b>2,458.56</b>	<b>4,590.76</b>	<b>5,097.08</b>	<b>3,238.45</b>	<b>(-) 36</b>

\* It represents percentage of increase (+)/decrease (-) in 2008-09 over 2007-08.

The concerned departments mentioned the following reasons for increase/decrease in receipts during 2008-09 over those of 2007-08:

- **Urban development:** The decrease in revenue receipts (68 per cent) was due to big recession in the real estate and accordingly less receipt received from the colonisers<sup>5</sup> and many colonisers had taken refund.

<sup>3</sup> Decrease in revenue receipts was due to prohibition of sale of tickets of a lottery organised, conducted or promoted by any State with effect from May 2005 within the State of Haryana.

<sup>4</sup> Includes Debt relief of Rs. 96.97 crore given by GOI on repayment of consolidated loan.

<sup>5</sup> 'Coloniser' means an individual, company or association, body of individuals, whether incorporated or not, owning or acquiring or agreeing, land for converting it into a colony and to whom a license has been granted under the Haryana Development and Regulation of Urban Areas Act, 1975.



- **Medical and public health:** The decrease in revenue receipts (52 *per cent*) was mainly due to less receipt from Employee State Insurance Corporation, New Delhi.
- **Police:** The increase in revenue receipts (33 *per cent*) was mainly due to higher receipt from the Railways and other Governments on account of deployment of police force.
- **Forestry and wildlife:** The increase in revenue receipts (21 *per cent*) was mainly due to more receipts from user agencies.

The other departments did not intimate (August 2009) the reasons for variations in receipts from that of the previous year despite being requested (March 2009).

## **1.2 Initiatives for mobilisation of additional resources**

The State Government has enacted the Haryana Fiscal Responsibility and Budget Management Act, 2005 (FRBM Act) to ensure prudence in fiscal management and fiscal stability by progressive elimination of revenue deficit by 2008-09 and generate revenue surplus thereafter. The State Government had achieved the target well in advance through improved and efficient tax collection and close monitoring of non-essential expenditure. The State Government had eliminated the revenue deficit and achieved a revenue surplus of Rs. 1,213.42 crore in 2005-06 and continued to maintain revenue surplus thereafter till 2007-08. During 2008-09, there was revenue deficit of Rs. 2,082.42 crore due to decrease in revenue receipts and payment due to implementation of Sixth Pay Commission Report.

Tax rules/procedures have been simplified and tax rates rationalised for better compliance of taxes. The value added tax (VAT), introduced in April 2003, had enhanced the buoyancy of sales tax/VAT collection and generated a higher collection. VAT revenue had increased by 112 *per cent* since introduction of VAT from Rs. 3,838 crore in 2003-04 to Rs. 8,154.73 crore in 2008-09. However, the average growth rate of post VAT receipts remained at 20.23 *per cent* during 2003-08 (five years), in comparison with pre-VAT receipts of 21.73 *per cent* during 1998-2003 (five years).

### 1.3 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the main heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sr. No.	Heads of revenue	Budget estimates	Actual receipts	Variation increase (+)/ decrease (-)	Percentage of variation increase (+)/ decrease (-)
<b>A. Tax revenue</b>					
1.	Taxes on sales, trade etc.	9,785.00	8,154.73	(-) 1,630.27	(-) 17
2.	Stamp duty and registration fee	2,100.00	1,326.39	(-) 773.61	(-) 37
3.	Taxes on vehicles	275.00	239.30	(-) 35.70	(-) 13
4.	Taxes on goods and passengers – tax on entry of goods in local areas	485.25	370.29	(-) 114.96	(-) 24
5.	Land revenue	13.50	8.58	(-) 4.92	(-) 36
<b>B. Non-tax revenue</b>					
6.	Interest receipts	675.19	776.28	(+) 101.09	(+) 15
7.	Urban development	1,800.00	884.50	(-) 915.50	(-) 51
8.	Forestry and wildlife	34.13	40.74	(+) 6.61	(+) 19
9.	Miscellaneous general services	5.48	89.39	(+) 83.91	(+) 1,531
10.	Major and medium irrigation	122.01	74.01	(-) 48.00	(-) 39
11.	Police	25.00	55.22	(+) 30.22	(+) 121
12.	Medical and public health	54.32	30.94	(-) 23.38	(-) 43
13.	Public works	10.00	18.03	(+) 8.03	(+) 80
14.	Other administrative services	94.48	120.95	(+) 26.47	(+) 28

The reasons for variations between the budget estimates and actuals as furnished by the departments are mentioned below:

- **Stamp duty and registration fee:** The decrease in revenue receipts (37 per cent) was due to global slowdown of economy leading to decrease in transaction of immovable property.
- **Taxes on vehicles:** The decrease in revenue receipts (13 per cent) was due to non-posting of enforcement staff to check and compounding of vehicles violating the provisions of Motor Vehicle Act.
- **Taxes on goods and passengers:-** The decrease in revenue receipts (24 per cent) was due to lesser collection under Local Area Development Tax and reduction of rates of passenger tax.

- **Land revenue:** The decrease in revenue receipts (36 *per cent*) was due to less receipt of mutation fee, copying fee and revenue *talbanda*<sup>6</sup>.
- **Urban development:** The decrease in revenue receipts (51 *per cent*) was due to big recession in the real estate and accordingly less receipt received from the colonisers and many colonisers had taken refund.
- **Forestry and wildlife:** The increase in revenue receipts (19 *per cent*) was mainly due to more receipts from user agencies.
- **Miscellaneous general services :** The increase in revenue receipts (1,531 *per cent*) was mainly due to debt relief given by the GOI on repayment of consolidated loan.
- **Police:** The increase in revenue receipts (121 *per cent*) was mainly due to higher receipt from the Railway and other Governments on account of deployment of police force.
- **Medical and public health:** The decrease in revenue receipts (43 *per cent*) was mainly due to less receipt from Employee State Insurance Corporation, New Delhi.
- **Public works:** The increase in revenue receipts (80 *per cent*) was mainly due to more realisation of rent from non-residential Government buildings, rest houses, transit flat, more sales of tender forms and more disposal of stores, vehicles and machinery.

The other departments did not intimate (August 2009) the reasons for variations in actuals from that of the budget estimates despite being requested (March 2009).

#### **1.4 Analysis of collection**

The break-up of the total collection at pre-assessment stage and after regular assessments of sales tax cases for the year 2008-09 and the corresponding figures for the preceding three years as furnished by the Excise and Taxation

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<sup>6</sup> Charges for serving summons.

Department are mentioned below:

(Rupees in crore)

Head of revenue receipts	Year	Amount collected at the pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount refunded	Net collection	Percentage of collection at pre-assessment stage to net collection
Taxes on sales, trade etc.	2005-06	5,480.84	169.01 <sup>7</sup>	45.40	5,604.45	98
	2006-07	6,263.05	644.42 <sup>7</sup>	54.23	6,853.24	91
	2007-08	7,223.15	723.60 <sup>7</sup>	81.15	7,865.60 <sup>8</sup>	92
	2008-09	8,132.08	528.42 <sup>7</sup>	101.34	8,559.16 <sup>9</sup>	95

The above table indicates that collection of revenue at the pre-assessment stage ranged between 91 and 98 *per cent* during the years 2005-06 to 2008-09.

### 1.5 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2006-07 to 2008-09 along with the relevant all India average percentage of expenditure of collection to gross collection for the year 2007-08 are mentioned below:

(Rupees in crore)

Sr. No.	Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2007-08
1.	Taxes on sales, trade etc.	2006-07	6,853.24	45.42	0.66	0.83
		2007-08	7,720.98	50.64	0.66	
		2008-09	8,154.73	65.92	0.81	
2.	Taxes on vehicles	2006-07	223.66	6.93	3.10	2.58
		2007-08	233.79	5.47	2.34	
		2008-09	239.30	8.00	3.34	

<sup>7</sup> It includes amount recoverable on account of penalty for delay in payment of sales tax and purchase tax.

<sup>8</sup> There is a difference of Rs. 144.62 crore in the departmental figures and the figures given in the Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2007-08.

<sup>9</sup> There is a difference of Rs. 404.43 crore in the departmental figures and the figures given in the Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2008-09.

Sr. No.	Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2007-08
3.	State excise	2006-07	1,217.10	12.09	0.99	3.27
		2007-08	1,378.81	12.95	0.94	
		2008-09	1,418.53	18.46	1.30	
4.	Stamp duty and registration fee	2006-07	1,764.98	10.59	0.60	2.09
		2007-08	1,763.28	12.04	0.68	
		2008-09	1,326.39	16.31	1.23	

### 1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 2,366.78 crore of which Rs. 606.22 crore were outstanding for more than five years as mentioned below:

(Rupees in crore)

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than 5 years as on 31 March 2009	Remarks
1.	Taxes on sales, trade etc.	1,955.87	417.20	Recovery of Rs. 491.46 crore were stayed by the High Court and other judicial authorities, Rs. 23.11 crore was stayed due to the order of the Government. Rupees 34.97 crore were held up due to the dealers becoming insolvent, Rs. 17.82 crore were proposed to be written off, Rs. 34.67 crore were held up due to rectification, review and appeal. Recovery of Rs. 212.52 crore was outstanding due to cases pending with the official liquidator/Board of Industrial and Financial Reconstruction (BIFR). Balance amount of Rs. 1,141.32 crore was at different stages of action.
2.	State excise	46.61	21.29	Recovery of Rs. 4.63 crore were stayed by the High Court and other judicial authorities. Rupees 29.45 lakh was likely to be written off. Recovery of Rs. 1.10 crore was outstanding due to cases pending with the official liquidator/BIFR. Recovery of Rs. 2.74 crore was being made in instalments. Rs. 1.24 crore and Rs. 3.95 crore were due to inter state and inter district arrears. Balance amount of

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than 5 years as on 31 March 2009	Remarks
				Rs. 32.66 crore was at different stages of action.
3.	Taxes and duties on electricity	101.23 <sup>10</sup>	61.91	Rs. one crore was recoverable from M/s Haryana Concast, Hisar, Rs. 38 lakh from M/s Rama Fibres, Bhiwani; Rs. 30 lakh from M/s Dadri Cements, Charkhi Dadri and Rs. 16 lakh from M/s Competent Alloys, Ballabgarh. The remaining amount of Rs. 99.39 crore was pending towards the consumers of Dakshin Haryana Bijli Vitran Nigam Limited/ Uttar Haryana Bijli Vitran Nigam Limited.
4.	<ul style="list-style-type: none"> <li>• Taxes on goods and passengers</li> </ul>	58.08	26.71	Recovery of Rs. 2.33 crore were stayed by the High court, judicial and departmental authorities. Balance amount of Rs. 55.75 crore was at different stages of action.
	<ul style="list-style-type: none"> <li>• Tax on entry of goods into local areas (Local Area Development Tax)</li> </ul>	158.64	63.46	Recovery of Rs. 69.02 crore were stayed by the High Court, judicial and departmental authorities Recovery of Rs. 4.47 lakh was outstanding due to cases pending with the liquidator/BIFR. Recovery of Rs. 74.75 lakh was being made in instalments. Balance amount of Rs. 88.83 crore was at different stages of action.
5.	Police	15.38	2.94	Demands of Rs. 6.87 crore (out of Rs. 7.38 crore) were likely to be written off and balance amount of Rs. 51 lakh was recoverable from the Indian Oil Corporation. Recovery of Rs. 4.06 crore was outstanding from eleven <sup>11</sup> States. Remaining amount of Rs. 3.94 crore was recoverable from Civil Aviation, Bachod (Rs. 54 lakh), Bhiwani (Rs. 78 lakh), Hisar (Rs. 57 lakh), Karnal (Rs. 81 lakh) Pinjore (Rs. 95 lakh) and Thermal Plant Faridabad (Rs. 29 lakh).

<sup>10</sup> Figures for the month of March 2009 are tentative.

<sup>11</sup> Bihar, Chandigarh, Chhattisgarh, Gujarat, Kerala, Madhya Pradesh, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than 5 years as on 31 March 2009	Remarks
6.	Other taxes and duties on commodities and services <ul style="list-style-type: none"> <li>• Receipt under the Sugarcane (Regulation, Supply and Purchase Control) Act</li> <li>• Receipts under entertainment duty and show tax</li> </ul>	12.78  0.99	8.65  0.81	Five sugar mills (Bhadson: Rs. 5.11 crore, Naraingarh: Rs. 4.90 crore, Panipat: Rs. 1.82 crore, Yamunanagar: Rs. 85 lakh and Kaithal: Rs. 10 lakh) did not deposit the tax.  Recovery of Rs. 16.56 lakh had been stayed by the High Court and other judicial authorities. Rupees 1.26 lakh were likely to be written off. Balance amount of Rs.80.82 lakh was at the different stages of action.
7.	Non-ferrous mining and metallurgical industries	17.20	3.25	Demands of Rs. 11.31 crore were covered by recovery certificates. Recoveries of Rs. 34.23 lakh were stayed by the High Court and other judicial authorities. Rupees 1.87 lakh was likely to be written off. Rupees 3.02 crore and Rs. 1.73 crore were due as inter State and inter district arrears. Rupees 77.77 lakh was at different stages of action.
	<b>Total</b>	<b>2,366.78</b>	<b>606.22</b>	

Of these, sales tax arrears of Rs. 1,955.87 crore contributed 83 *per cent* of the total arrears. Substantial accumulation of arrears of taxes show that the State Government did not tackle the problem vigorously. It is recommended that effective steps for collecting these arrears may be taken to augment Government revenue.

The position of arrears of revenue pending collection at the end of 2008-09 in respect of other departments was not furnished (August 2009) despite being requested (March 2009).

### 1.7 Arrears in assessments

The number of cases pending assessment at the beginning of the year, cases becoming due during the year, cases disposed during the year and number of cases pending at the end of each year during 2004-05 to 2008-09 as furnished by the Excise and Taxation Department in respect of taxes on sales, trade etc.

(ST) and taxes on goods and passengers (PGT) are mentioned below:

Year	Head of revenue receipts	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of col. 6 to col. 5
1	2	3	4	5	6	7	8
2004-05	ST	2,05,930	1,59,740	3,65,670	1,42,901	2,22,769	39
	PGT	1,312	704	2,016	536	1,480	27
2005-06	ST	2,22,769	1,63,789	3,86,558	1,86,761	1,99,797	48
	PGT	1,480	618	2,098	433	1,665	21
2006-07	ST	1,99,797	1,76,682	3,76,479	1,59,608	2,16,871	42
	PGT	1,665	672	2,337	1,915	422	82
2007-08	ST	2,16,871	1,81,128	3,97,999	1,75,124	2,22,875	44
	PGT	422	1,400	1,822	723	1,099	40
2008-09	ST	2,22,875	1,83,153	4,06,028	1,64,132	2,41,896	40
	PGT	1,099	1,105	2,204	633	1,571	29

The above table shows that pending cases in respect of ST at the beginning of 2004-05 were 2,05,930 which increased to 2,41,896 at the end of 2008-09 i.e. 17 per cent. The percentage of ST cases finalised to total cases during the years 2004-05 to 2008-09 ranged between 39 and 48 per cent. Sixty per cent of total cases (4,06,028) were pending assessment (2,41,896 cases) as on 31 March 2009. Pending cases in respect of PGT increased from 1,312 at the beginning of 2004-05 to 1,571 (20 per cent) at the end of 2008-09. The percentage of PGT cases finalised to total cases during the years 2004-05 to 2008-09 ranged between 21 and 82 per cent. Seventy one per cent of total cases (2,204) were pending assessment (1,571 cases) as on 31 March 2009.

### 1.8 Performance of assessments

No norms have been fixed for Deputy Excise and Taxation Commissioners for disposal of assessment cases. After the introduction of Haryana Value Added Tax Act, 2003, Assistant Excise and Taxation Officers (AETOs) have not been assigned the duty to frame assessment and there are no norms fixed for Excise and Taxation Officers to frame or dispose off assessment of sales tax cases.

However, an assessing authority is required to dispose off all the cases under Deemed Assessment Scheme within one year of the date prescribed for furnishing of last return for the year and all scrutiny cases within a period of three years from the close of the year to which the assessments relate.



### 1.9 Evasion of tax

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and the demand for additional tax raised during 2008-09 are mentioned below:

(Rupees in crore)

Sr. No.	Heads of revenue	Cases pending as on 31 March 2008	Cases detected during the year 2008-09	Total (3+4)	Number of cases in which assessments/ investigations completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2009
					Number of cases	Amount of demand	
1.	Taxes on sales, trade etc.	59	1,338	1,397	1,301	138.39	96
2.	State excise	149	2,359	2,508	2,229	78.49	279
3.	Taxes on goods and passengers	622	8,363	8,985	8,350	6.80	635

### 1.10 Write off and waiver of revenue

During the year 2008-09, demands for Rs. 16.07 crore in 267 cases and Rs. 29.95 lakh in 21 cases were written off as reported by the Excise and Taxation Department. The details are mentioned below:

(Rupees in lakh)

Sr. No.	Reasons	Sales tax		State excise	
		Number of cases	Amount	Number of cases	Amount
1.	Whereabouts of defaulters not known	123	802.57	6	9.81
2.	Defaulters no longer alive	17	111.20	7	8.12
3.	Defaulters not having any property	88	424.19	8	12.02
4.	Defaulters adjudged insolvent	4	2.09	Nil	Nil
5.	Other reasons	35	267.09	Nil	Nil
<b>Total</b>		<b>267</b>	<b>1,607.14</b>	<b>21</b>	<b>29.95</b>

### 1.11 Refunds

The number of refund cases pending at the beginning of the year 2008-09, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2008-09, as reported by the Excise and

Taxation, Power and Urban development departments are mentioned below:

(Rupees in crore)

Particulars of claims	Sales tax		State excise		Taxes and duties on electricity		Urban Development	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Opening balance	301	31.84	47	0.20	Nil	Nil	Nil	Nil
Received	2,621	911.51	353	4.56	2	0.03	150	800.00
Refunds	2,586	883.70	383	4.59	2	0.03	7	222.18
Closing balance	336	59.65	17	0.17	Nil	Nil	143	577.82

Refund of Rs. 1,110.50 crore had been made to 2,978 claimants during the year 2008-09 by the departments.

### **1.12 Failure of the senior officials to enforce accountability and protect interest of the Government**

The Accountant General (Audit) Haryana arranges to conduct periodical inspection of the various offices of the Government departments to test check the transactions of tax and non-tax revenue receipts and verify the maintenance of important accounting and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of offices/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report compliance through initial reply to the Accountant General within six weeks from the dates of issue of the IRs. Serious financial irregularities are reported to the heads of the departments and the Government.

Inspection reports issued upto December 2008 disclosed that 6,553 audit observations involving money value of Rs. 8,663.68 crore relating to 2,868 IRs remained outstanding at the end of June 2009. Of these, 527 IRs containing 1,082 paragraphs involving money value of Rs. 95.20 crore had not been settled for more than 10 years by the various departments.

The large pendency of IRs is indicative of failure on the part of the heads of offices and heads of departments to initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.

To ensure that action to recover the revenue due does not become time barred, it is recommended that the Government may take suitable steps to ensure that:

- an effective procedure exists for prompt and appropriate response to the audit observations;
- action is taken against officials/officers failing to take effective steps to get the audit observations settled at the earliest after getting Government revenue recovered or other action as per law; and
- action is taken to recover loss/outstanding demands in a time bound manner.

### **1.13 Departmental audit committee meetings**

In order to expedite settlement of the outstanding audit observations contained in the IRs, departmental audit committees were constituted by the Government in September 1985. These committees are chaired by the Administrative Secretary of the department concerned and attended among others by the officers concerned of the State Government and of the office of the Accountant General (Audit) Haryana.

The meetings are required to be held quarterly for reviewing and monitoring the progress of settlement of audit observations. During the year 2008-09, only 53 drawing and disbursing officers (DDOs) of four departments out of 699 DDOs from 23 departments dealing with various major heads of tax and non-tax revenue convened meetings of the audit committee. Thus, most of the Government departments did not take any initiative for expeditious settlement of the outstanding audit observations through this meeting. The Government should ensure periodical meetings of the committees for effective progress.

### **1.14 Response of the departments to draft audit paragraphs**

The Finance Department had issued directions to all the departments on 5 January 1982 to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs are forwarded by the Accountant General to the Secretaries of the departments concerned through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments is invariably indicated at the end of each paragraph included in the Audit Report.

Forty one draft paragraphs (clubbed in 26 paragraphs) and two reviews included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended March 2009 were forwarded to the Secretaries of the departments concerned during January to July 2009 through demi-official letters. However, reply was received only in five cases.

### 1.15 Follow up on Audit Reports - summarised position

According to the instructions issued by the Finance Department in October 1995 and reiterated in July 2001, the administrative departments were to initiate suo moto positive and concrete action on all paragraphs and reviews featuring in the Report of the Comptroller and Auditor General of India (Revenue Receipts) regardless of whether the cases were taken up for examination by the Public Accounts Committee (PAC) or not. They were also to furnish detailed notes, duly vetted by Audit indicating the remedial action taken or proposed to be taken by them within three months of the presentation of the Audit Reports to the Legislature.

The position of paragraphs which have appeared in the Audit Reports and those pending discussion as on 30 June 2009 is mentioned in Annexure I. 122 paragraphs pertaining to the period 2003-04 to 2007-08 were pending for discussion by the PAC. The Administrative Departments had failed to submit action taken notes (ATNs) in respect of 79 (out of 122) paragraphs within three months from the date of presentation<sup>12</sup> of the Audit Reports to the Legislature.

Further, the response of the Administrative Departments towards the recommendations of the PAC was not encouraging as 526 recommendations pertaining to the period 1977-78 to 2002-03 were still pending for want of final action by the concerned departments (Annexure II).

### 1.16 Compliance with the earlier Audit Reports

During the years between 2003-04 and 2007-08, the department/Government accepted audit observations involving revenue of Rs. 1,009.70 crore out of which an amount of Rs. 451.26 crore was recovered till 31 March 2009 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2003-04	315.26	126.27	126.27
2004-05	367.24	362.94	2.26
2005-06	200.60	98.17	6.19
2006-07	407.54	392.67	315.22
2007-08	122.75	29.65	1.32
<b>Total</b>	<b>1,413.39</b>	<b>1,009.70</b>	<b>451.26</b>

The recovery in respect of the accepted cases was 45 per cent. The Government may advise the concerned departments to take necessary steps for speedy recovery.

<sup>12</sup> 2003-04: March 2005; 2004-05: December 2005; 2005-06: March 2007; 2006-07: March 2008 and 2007-08: February 2009.

### **1.17 Results of audit**

Test check of the records of sales tax, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax and non-tax receipts during the year 2008-09 revealed under assessment/short levy/loss of revenue amounting to Rs. 281.13 crore in 37,889 cases. During the year, the departments accepted under assessment of Rs. 15.75 crore in 2,861 cases. Out of these, 2,430 cases involving Rs. 13.11 crore were pointed out in 2008-09 and the rest in earlier years. An amount of Rs. 1.30 crore recovered in 364 cases during 2008-09 of which Rs. 56.89 lakh recovered in 213 cases related to earlier years. No replies have been received in respect of the remaining cases.

This report contains 28 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalty etc. involving Rs. 82.74 crore. The department/Government accepted audit observations involving Rs. 75.64 crore of which Rs. 70.40 lakh had been recovered upto August 2009. These are discussed in succeeding chapters II to VI.

## **CHAPTER II: TAXES ON SALES, TRADE ETC.**

### **2.1 Results of audit**

Test check of the records relating to assessments and refunds of sales tax/value added tax (VAT) in Excise and Taxation Department, conducted during the year 2008-09, revealed irregularities in assessment, levy and collection of tax involving Rs. 208.32 crore in 863 cases, which broadly fall under the following categories:

(Rupees in crore)

Sr. No.	Category	Number of cases	Amount
1.	<b>Recovery of sales tax/VAT in arrears (A review)</b>	1	38.23
2.	Underassessment of turnover under Central Sales Tax Act (CST Act)	117	48.67
3.	Application of incorrect rates of tax	112	25.97
4.	Non-levy of penalty	37	19.92
5.	Incorrect computation of turnover	36	10.76
6.	Non-levy of interest	44	2.69
7.	Other irregularities	516	62.08
<b>Total</b>		<b>863</b>	<b>208.32</b>

During the year 2008-09, the department accepted underassessments of turnover under CST Act, application of incorrect rates of tax, non-levy of penalty/interest, incorrect computation of turnover etc. of Rs. 8.48 crore involved in 106 cases of which 67 cases involving Rs. 7.14 crore had been pointed out during 2008-09 and the remaining in the earlier years. The department recovered Rs. 81.07 lakh in 61 cases during the year 2008-09, of which 39 cases involving Rs. 52.33 lakh related to the year 2008-09 and the balance to the earlier years.

A review of **“Recovery of sales tax/VAT in arrears”** involving Rs. 38.23 crore and a few illustrative audit observations involving Rs. 5.48 crore are mentioned in the succeeding paragraphs.

## **2.2 Review of Recovery of sales tax/VAT in arrears**

### **2.2.1 Highlights**

- The outstanding arrears increased from Rs. 440.49 crore to Rs. 1,591.87 crore (361 *per cent*) over the period from April 2003 to March 2008. The pace of recovery was very slow against the mounting arrears.

**(Paragraph 2.2.7)**

- No time limit has been prescribed for attachment and disposal of attached property, and for issue of revenue recovery certificate against defaulting dealer under the Haryana General Sales Tax /Haryana Value Added Tax Act. This led to accumulation of arrears of Rs. 8.10 crore.

**(Paragraph 2.2.8)**

- Lack of co-ordination between departmental authorities to take effective action to recover the dues led to accumulation of arrears of Rs. 12.68 crore.

**(Paragraph 2.2.9.2)**

- Rs. 10.84 crore could not be recovered due to lack of provisions in Haryana Value Added Tax Act regarding entertainment of appeals on pre-payment of additional demands in dispute.

**(Paragraph 2.2.10)**

- Collection of Rs. 152.40 crore was held up due to non-vacation of stay orders or non-disposal of appeals by first appellate authority.

**(Paragraph 2.2.13)**

### **2.2.2 Introduction**

The assessment, levy and collection of sales tax in Haryana was governed under the Haryana General Sales Tax Act, 1973 (HGST Act) and the rules framed thereunder upto 31 March 2003 and thereafter under the Haryana Value Added Tax Act, 2003 (HVAT Act) and the rules framed thereunder. Besides, Central Sales Tax Act, 1956 (CST Act) and the rules made thereunder are in operation for inter-State sales (ISS). After making final assessment, a tax demand notice (TDN) is served on the dealer for the payment of assessed demand, if any, specifying the time (not exceeding 30 days) by which demand shall be payable. For delayed/non-payment of tax due, interest and penalty are also leviable at the prescribed rates under the provisions of Acts/Rules. Thus, amount of tax, interest and penalty which remains unpaid constitute arrears of sales tax/VAT. If the dues are not paid by the dealer within time specified in the TDN or the extended period, the assessing authority (AA) may apply to the Collector to issue revenue recovery certificate (RRC), and take all legal steps such as attachment of property/assets and detention of the dealer, if necessary, for recovery of dues as arrears of land revenue under the Punjab Land Revenue Act, 1887 (PLR Act) as applicable to Haryana.

### 2.2.3 Organisational set up

At the Government level, Financial Commissioner and Principal Secretary, Excise and Taxation Department (FCET) is responsible for the administration of sales tax laws in the State. At the department level, the overall control and supervision of the sales tax organisation is vested with the Excise and Taxation Commissioner Haryana (ETC). The ETC is assisted by Additional Excise and Taxation Commissioners (AETCs), Joint Excise and Taxation Commissioners (JETCs), Deputy Excise and Taxation Commissioners (Sales Tax) {(DETCs (ST))} and allied staff at headquarters. He is assisted by JETCs at range level (four ranges)<sup>1</sup>, 22 offices of DETCs at district level and Excise and Taxation Officers (ETOs), Taxation Inspectors and other allied staff in the administration of the HGST/HVAT/CST Acts/Rules in the Department. ETOs have been vested with the powers of Assistant Collectors, Grade I and DETCs as Collectors under section 27 of the PLR Act for effecting recoveries of tax, interest and penalty imposed under the Acts but remaining unpaid by due date(s) as arrears of land revenue.

### 2.2.4 Audit objectives

The review was conducted with a view to ascertain:

- whether adequate provisions in the Acts/Rules exist for recovery of arrears;
- whether extent of compliance of procedure/codal provisions and executive instructions ensure timely collection of arrears;
- the efficiency and effectiveness of the State machinery in collection of arrears; and
- whether adequate internal control mechanism exists for prompt realisation of arrears of revenue.

### 2.2.5 Scope of audit and methodology

The review covered the period from 2003-04 to 2007-08 and was conducted from May 2008 to March 2009 with reference to the records relating to arrears of sales tax/VAT available in the offices of 13 DETCs.<sup>2</sup> Out of these, 12 DETCs were sampled statistically after stratifying the districts on the basis of tax arrears to ensure a representative (optimum) coverage as per details given below:

Number of DETC	Name of District	Tax arrears ranged between
Two	Faridabad (East) and Faridabad (West)	Exceeding Rs. 300 crore
Two	Ambala and Panipat	Rs. 100 crore and Rs. 300 crore
Four	Bhiwani, Jagadhari, Karnal and Sonipat	Rs. 25 crore and Rs. 100 crore

<sup>1</sup> Ambala, Faridabad, Hisar and Rohtak.

<sup>2</sup> Ambala, Bhiwani, Faridabad (East), Faridabad (West), Fatehabad, Jagadhari, Jhajjar, Jind, Kaithal, Karnal, Panchkula, Panipat and Sonipat.



Number of DETC	Name of District	Tax arrears ranged between
Four	Jhajjar, Jind, Kaithal and Panchkula	Less than Rs. 25 crore

An additional district Fatehabad was included in the scope of review on the suggestion made by the department during entry conference.

### 2.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Department in providing necessary information and records for audit. An entry conference was held in December 2008 and attended by the FCET, ETC and AETC. The audit objectives, methodology and selection of districts were discussed. The draft review report was forwarded to the Government and the department in June 2009 and was discussed in the exit conference held on 13 July 2009. The Financial Commissioner and Principal Secretary, Excise and Taxation Department (FCET) represented the Government, while the ETC and two AETCs represented the department. However, the department has sent reply to the audit observations on 17 July 2009. The response of the Government and department to the audit observations have been appropriately incorporated in the respective paragraphs.

A review of 'Recovery of Sales tax/VAT in arrears' was conducted by audit. The review revealed a number of system and compliance deficiencies which are discussed in the following paragraphs.

### 2.2.7 Trend of revenue and arrears

The sales tax/VAT revenue pending collection as intimated by the ETC in August 2008 and revenue actually realised during the years 2003-04 to 2007-08 are mentioned in the following table:

(Rupees in crore)

Year	Arrears at the beginning of the year	Arrears added during the year	Total	Collection of demand during the year	Arrears at the end of the year	Percentage of collection to total tax arrears
(1)	(2)	(3)	(4) (2+3)	(5)	(6) (4-5)	(7) (5 to 4)
2003-04	440.49	484.30	924.79	207.40	717.39	22.43
2004-05	717.39	449.64	1,167.03	257.99	909.04	22.10
2005-06	909.04	453.20	1,362.24	220.09	1,142.15	16.16
2006-07	1,142.15	448.92	1,591.07	322.57	1,268.50	20.27
2007-08	1,268.50	971.52	2,240.02	648.15	1,591.87	28.94

Audit observed that:

- The pace of recovery process was very slow in comparison to the mounting arrears. The percentage of collection to total sales tax/VAT arrears ranged between 16 and 29 per cent. The department could

recover an average only 22 *per cent* during the period 2003-04 to 2007-08.

- Amount of arrears increased from Rs. 440.49 crore as on 1 April 2003 to Rs. 1,591.87 crore (361 *per cent*) as on 31 March 2008.

#### Revenue raised vis-a-vis recovery of arrears

(Rupees in crore)

Year	Sales tax/VAT receipts	Amount of arrears recovered	Percentage of collection of arrears to sales tax/VAT receipts
(1)	(2)	(3)	(4) (3 to 2)
2003-04	3,838.00	207.40	5.40
2004-05	4,760.91	257.99	5.42
2005-06	5,604.45	220.09	3.93
2006-07	6,853.24	322.57	4.71
2007-08	7,720.98	648.15	8.39

- The percentage of collection of arrears to sales tax/VAT realised, ranged between four and eight *per cent*.

(Rupees in crore)

Year	Arrears at the end of the year	Amount of arrears more than five years old	Amount of arrears less than five years old	Percentage of arrears for more than five years to arrears at the end of the year
(1)	(2)	(3)	(4) (2 - 3)	(5) (3 to 2)
2003-04	717.39	161.04	556.35	22.45
2004-05	909.04	160.78	748.26	17.69
2005-06	1,142.15	191.47	950.68	16.76
2006-07	1,268.50	283.40	985.10	22.34
2007-08	1,591.87	296.68	1,295.19	18.64

- Out of total arrears of Rs. 1,591.87 crore, arrears of Rs. 296.68 crore (19 *per cent*) were outstanding for more than five years.
- Percentage of arrears for more than five years old to arrears at the end of the year ranged between 17 and 22 *per cent*.

Substantial accumulation of arrears of sales tax/VAT shows that the Department did not deal with the problem vigorously. Effective steps for collecting sales tax/VAT arrears may be taken to augment Government revenue.

### **Audit findings**

#### **System deficiencies**

##### **2.2.8 Non-fixation of time limit**

Under the provisions of PLR Act, in cases where arrears are to be recovered as arrears of land revenue, action to attach movable/immovable property could be initiated by DETC. He is required to apply to ETC who is competent to accord sanction for sale/auction of attached property to adjust the sale proceeds against the tax dues.

Amount of tax, interest and penalty remaining unpaid by the dealer after the due date in pursuance to the TDN is recoverable in accordance with the provisions of the Revenue Recovery Act, 1890 (RR Act). When the AA cannot recover the dues from the defaulter due to closure of his business and transfer to other place within or outside the State, the DETC is required to send the RRC to the DETC-cum-Collector (Collector)/revenue authority {Deputy Commissioner (DC)} of the district concerned within or outside the State respectively for recovery of dues as arrears of land revenue.

Audit observed that no time limit has been prescribed for attachment and disposal of attached property and for issue of RRC against defaulting dealer under the HGST/HVAT Act.

Due to non-fixation of time limit for disposal of attached property and issue of RRCs, arrears of Rs. 8.10 crore could not be recovered as discussed in the following paragraphs:

##### **2.2.8.1 Disposal of attached property**

Test check of the records of three<sup>3</sup> offices of DETC revealed that warrants of attachment of property were issued in respect of six dealers for the recovery of arrears amounting to Rs. 3.84 crore between February 1994 and March 2005. Out of these, five cases were sent to the ETC for according sanction for sale/disposal of properties between May 2003 and January 2008, who accorded sanction in three cases (except two cases one each Jagadhari and Jhajjar) between July 2003 and December 2004. Thus, there was delay on the part of DETC which ranged between 13 and 181 months as detailed below:

Name of DETC	Number of cases	Date of attachment of property	Date of cases sent to ETC	Delay on the part of DETC to send cases to ETC (months)	Amount of dues (Rupees in lakh)
Jagadhari	3	February 1994 to October 2002	September 2004 to May 2007 (one case not sent)	22 to 181	63.53

<sup>3</sup> Jagadhari, Jhajjar and Kaithal.

Name of DETC	Number of cases	Date of attachment of property	Date of cases sent to ETC	Delay on the part of DETC to send cases to ETC (months)	Amount of dues (Rupees in lakh)
Jhajjar	2	February 1999 to March 2005	May 2003 to January 2008	33 to 50	241.99
Kaithal	1	June 2003	August 2004	13	78.35
<b>Total</b>	<b>6</b>				<b>383.87</b>

Absence of provision of fixation of time limit regarding attachment and disposal of attached property and lack of effective follow up action resulted in accumulation of arrears of Rs. 3.84 crore.

During the exit conference, the department admitted the facts and stated that the matter would be pursued with the Government.

### 2.2.8.2 Issue of recovery certificates

Test check of the records of seven<sup>4</sup> offices of DETC revealed that the AAs finalised the assessments in respect of 14 dealers for the assessment years (AYs) between 1994-95 and 2003-04 and raised additional demands of Rs. 4.26 crore between January 2001 and June 2007. Since these dealers failed to deposit the tax within time specified/extended period of the issue of TDNs, the AAs had declared the recovery of dues to be recovered as arrears of land revenue. The AAs were required to initiate recovery proceedings and apply to DETC of the district for issuing RRC to the Collector/DC concerned within or outside the State.

- In respect of seven dealers (additional demands of Rs. 3.24 crore created between January 2001 and February 2005), three<sup>5</sup> DETCs had issued RRCs after the lapse of period ranging from nine to 54 months.
- In respect of seven dealers (additional demands of Rs. 1.02 crore created between March 2001 and June 2007), five<sup>6</sup> DETCs had not issued RRCs even after the lapse of period ranging from 15 to 60 months.

Non-fixation of a time limit for initiating the recovery proceedings led to laxity in pursuing the outstanding Government dues. In the absence of any time limit specified for issue of RRCs under the Acts/Rules/executive instructions, the AAs took very long period to initiate and finalise recovery proceedings, due to which the arrears remained unrealised resulting in blockage of revenue of Rs. 4.26 crore due to the Government.

After the case was pointed out, the department stated that no time limit could be prescribed for issue of RRC as it took time to enquire about the whereabouts of the defaulting dealer and immovable property owned by him. However, during the exit conference, the department admitted the facts and stated that the matter would be pursued with the Government.

<sup>4</sup> Faridabad (West), Fatehabad, Jhajjar, Kaithal, Panchkula, Panipat and Sonipat.

<sup>5</sup> Faridabad (West), Fatehabad and Panipat.

<sup>6</sup> Faridabad (West), Jhajjar, Kaithal, Panchkula and Sonipat.

### **2.2.9 Non-recovery of inter-district and inter-State arrears due to lack of co-ordination between the departmental officers and revenue authorities**

When a defaulter does not own any movable/immoveable property in a district or within the State and enquiries show that he has properties in other districts/States, the AA should apply to DETC giving full details of the defaulter, his address, arrears due for recovery and action taken, if any, for collection duly enclosing a certificate that the arrears are not recoverable within his jurisdiction or in the State. On receipt of report, DETC will send RRC to the Collector of the district concerned within the State or to the DCs of other States, where the defaulter owns property or has shifted his business etc., for enforcing collections. The Collector of the district where property of the defaulter is situated is required to recover the amount as if it were an arrear of land revenue which has accrued in his own district.

**2.2.9.1** Test check of the records of 11 offices<sup>7</sup> of DETC revealed that the AAs finalised the assessments for the AYs between 1988-89 and 2004-05 and created additional demands of Rs. 19.96 crore between March 1993 and March 2008. Enquiries revealed that all the dealers had closed down and shifted their business, and their properties (including residential) outside the State. DETC had sent RRCs to the DCs of the concerned States between September 2001 and July 2008. Out of Rs. 19.96 crore, DETCs had furnished incorrect address or insufficient details of defaulters in three cases involving Rs. 3.69 crore. The arrears of Rs. 19.96 crore remained uncollected due to: (i) lack of co-ordination of departmental authorities with DCs of other States; (ii) improper/non-response from the DCs of other States, and (iii) furnishing of incorrect/insufficient details of defaulters to the DCs of other States.

During the exit conference, the department stated that DETCs had been directed to look after their arrears even if RRCs sent to other States. It would be their responsibility to pursue these cases to recover the arrears.

**2.2.9.2** Test check of the records of eight<sup>8</sup> offices of DETC revealed that RRCs for collection of Rs. 12.68 crore pertaining to 15 defaulters were sent to the Collectors of the concerned districts within the State between January 2003 and July 2008 where the properties of the defaulters were situated. But even after a lapse of nine to 75 months, arrears of Rs.12.68 crore remained uncollected either due to lack of response from the departmental officers in other districts or due to lack of concerted efforts and co-ordination among the officers of the department.

During the exit conference, the department stated that in respect of inter-district arrears, the Collector-cum-DETC of the concerned district would pursue the matter regarding recovery of arrears in the case where the defaulter had shifted to other districts within the State. However, the DETCs were being directed to take extra care in such cases and to have a cross co-ordination with the revenue authorities.

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<sup>7</sup> Ambala, Bhiwani, Faridabad (East), Faridabad (West), Fatehabad, Jhajjar, Jind, Kaithal, Karnal, Panchkula and Sonipat.  
<sup>8</sup> Bhiwani, Faridabad (East), Fatehabad, Jhajjar, Jind, Kaithal, Karnal and Sonipat.

### **2.2.10 Absence of provisions under HVAT Act to entertain appeals only on pre-payment of additional demands in dispute**

Under the HGST Act, no appeal shall be entertained unless it is filed within 60 days from the date of the order appealed against and the appellate authority is satisfied that the amount of tax assessed, penalty and interest, if any, recoverable from the person has been paid. It is further provided that the said authority, if satisfied that the person is unable to pay the whole amount of tax assessed or the penalty imposed/interest due, he may, if the amount of tax and interest admitted by the appellant to be due has been paid, entertain the appeal and may stay the recovery of the balance amount subject to furnishing of a bank guarantee/adequate security to the satisfaction of the appellate authority. In this way, the dealer preferring appeal could be forced to make payment of additional demands in dispute and the department could recover arrears of tax to a large extent before the appeals could be entertained. But there is no such condition under the HVAT Act to force the payment of additional demand by the appellant before entertaining any appeal by the appellate authority. In the absence of such condition in the HVAT Act to entertain appeal only on payment of additional demand in dispute, recovery of arrears remain blocked till the appeal is decided or stay is vacated.

Test check of the records of seven<sup>9</sup> offices of DETC revealed that assessments of 20 dealers for the AYs between 2003-04 and 2006-07 were finalised and additional demands of Rs. 10.84 crore were raised between November 2005 and December 2007. All the dealers preferred appeals before the appellate authorities within the prescribed period and were dismissed/rejected by JETCs (Appeals) between November 2006 and February 2009. In the absence of any condition of pre-payment of additional demand in dispute before entertaining the appeal by the appellate authority, the department could not recover the additional demands of Rs. 10.84 crore.

During the exit conference, the department stated that the proposal for inserting a suitable amendment in the HVAT Act for pre-payment of additional demand on the lines of a similar provision under the HGST Act was sent to the Government for approval which was not acceded to by the Government. However, an amendment was made in Section 33 of HVAT Act in March 2009 where the appellate authority shall ensure before entertaining the appeal that the appellant had furnished a bank guarantee or adequate security to the satisfaction of the AA, in the manner, as may be prescribed, for the amount in the dispute.

### **2.2.11 Absence of provision regarding allowances of instalments in payment of arrears due**

The HGST/HVAT Act is silent on the number of instalments which can be fixed for the recovery of dues from the defaulting dealer in case the dealer requests for making payment in instalments. As per instructions issued under the Punjab General Sales Tax Act by ETC in December 1971, if any dealer requests for instalments, his request should not be granted straight away but

<sup>9</sup> Ambala, Bhiwani, Faridabad (East), Faridabad (West), Fatehabad, Jagadhari and Jhajjar.

his past history should be examined and if he is a habitual extension seeker, he should be discouraged as far as possible and if his circumstances are such that he is really not in a position to make the payment of tax due in lump sum, he should be allowed to make payment of dues in instalments against adequate security to the satisfaction of the AA or bank guarantee failing which the recovery proceedings under the PLR Act shall be started against the defaulting dealer.

Test check of records of five<sup>10</sup> offices of DETC revealed that the AAs finalised the assessments of six dealers for the AYs between 1992-93 and 2001-02 (including an inspection case of February 2004) and created additional demands of Rs. 1.37 crore between March 1998 and September 2005. TDNs were issued against these dealers but they had not paid the dues and requested for making payment of arrears in instalments. DETCs did not obtain adequate security or bank guarantees in five out of six cases and in the case of Kaithal dealer, surety of Rs. 6 lakh against arrears of Rs. 6.33 lakh was given by a dealer. Orders for payment of dues in instalments were passed by DETCs between February 2001 and January 2008 directing the dealers to pay monthly instalments ranging between Rs. 5,000 and Rs. 15,000 which would take considerable period ranging from 64 to 1,237 months to clear the demand of tax only. Besides, interest would also accrue on the outstanding balance of above dues which would also take considerable time to be recovered in instalments. In the absence of any provisions prescribing maximum number of instalments, DETCs had given undue benefit to the dealers due to fixation of unrealistic instalments. Three dealers paid instalments of Rs. 8.34 lakh out of Rs. 54.11 lakh between February 2001 and January 2008 and stopped paying instalments after February 2007 and January 2008. The department recovered Rs. 11.66 lakh and balance amount of Rs. 1.25 crore was recoverable as of March 2008. A few illustrative cases are mentioned below:

Name of DETC	Period and date of assessment (s) (between)	Amount of tax (Rupees in lakh)	Date of order	Monthly Instalment/ number of instalment	Nature of observation
Karnal	2000-01 and 2001-02 (September 1995)	61.87	June 2007	<u>Rs. 5,000</u> 1,237	Recovered Rs. 1.47 lakh in 30 (out of 1,237) instalments upto October 2008.
Kaithal	1994-95 to 1997-98 (December 2001 and November 2002)	21.56	April 2001	Rs. 8,000 (Rs. 10,000 proposed by the <u>dealer</u> ) 431	The dealer closed down business and registration certificate was cancelled in September 1998. The dealer made payments of Rs. 3 lakh in 38 (out of 431) instalments upto February 2007 and did not make payment thereafter.

<sup>10</sup> Ambala, Jind, Kaithal, Karnal and Panipat.

Name of DETC	Period and date of assessment (s) (between)	Amount of tax (Rupees in lakh)	Date of order	Monthly Instalment/ number of instalment	Nature of observation
	1995-96 to 1999-2000 (March 1998 and October 2001)	6.33 (out of 7.17)	January 2007	<u>Rs. 10,000</u> 64	The dealer paid Rs. 1.10 lakh in 11 (out of 64) instalments upto January 2008 and stopped making payment. Thereafter the department had not initiated action to recover the dues from the defaulting dealer/surety.
Jind	1992-93 and 1993-94 (March 2000)	25.38	February 2001	<u>Rs. 8,000</u> 317	The dealer deposited Rs. 4.24 lakh in 53 (out of 317) instalments upto January 2008 and filed case in civil court in February 2008 against cancellation of instalment due to non-payment of instalment regularly.

During the exit conference, the department admitted the facts and agreed to streamline the process of recovery.

### 2.2.12 Internal audit

Internal audit is a means for an organisation to assure itself that the prescribed systems are functioning reasonably well. The internal audit parties are required to conduct cent *per cent* audit of all the assessment cases finalised, examining inter alia assessment orders, issue of TDNs, collection of dues and verification of deposit in the treasury.

Test check of records of eight<sup>11</sup> offices of DETC revealed that the ETOs had overstated arrears of Rs. 5.90 crore in eight cases due to inclusion of arrears in both 'net recoverable' and 'recovery to be written off', or due to not including the effect of demands reduced as a result of rectification order/finalisation of remand cases etc. and understated arrears of Rs. 5.75 crore in 13 cases due to non-inclusion of unrealised demands or difference in actual arrears and arrears relating to assessments for the AYs 1993-94 to 2006-07 finalised between December 1997 and August 2007 in the 'Arrears Statement' as of 31 March 2008. DETCs and ETC could not detect such irregularities at the time of consolidation/compilation of arrears, but had Internal Audit Wing (IAW) been set up in the department for conducting the audit of sales tax/VAT cases and other related records, such irregularities could be detected and got rectified by them. Thus, in the absence of internal audit, the department had no means of knowing the areas where systems were deficient and did not, therefore, have the opportunity of taking remedial action. Arrears of Rs. 5.90 crore and Rs. 5.75 crore were overstated and understated and could not be detected due to non-existence of proper internal control/IAW.

<sup>11</sup> Ambala, Faridabad (East), Faridabad (West), Jhajjar, Kaithal, Karnal, Panchkula and Sonapat.



After the case was pointed out, the department stated (July 2009) that the department had set up an internal audit system for control and supervision of expenditure as well as receipts. The department had one Chief Accounts Officer, five Accounts Officers and eleven Section Officers. The internal audit parties conducted periodical audit of accounts/expenditure of each and every district. But no audit of assessments of sales tax cases had been conducted by internal audit parties so far. So far as the audit of the assessment work done by various taxing authorities (AETO, ETO, DETC) was concerned, it was done by dedicated revising/revisional authorities (RAs) i.e. DETC (Inspection), DETC (ST) of the district and JETC (Range). In addition to these RAs posted in the field, the department had an AETC at the head office vested with the powers of RA. In case any assessment order passed by an AA was found to be illegal or improper, suo motu action was taken by the RA and the order was revised to that extent. The fact, however remains that the internal audit is a management tool for assessing efficient functioning of the department and plugging leakage of revenue. The role of the internal audit is quite different from that of a RA. Thus, in the absence of internal audit in sales tax department, the department had no means of knowing the areas where systems were deficient and did not, therefore, have opportunity of taking remedial action. Moreover, the irregularities discussed in this review are indicators of ineffective internal control mechanism as none of the irregularities (including understated and overstated arrears) pointed out by statutory audit were detected by the departmental/RAs.

During the exit conference the department assured to pursue the matter regarding audit of assessment cases with the Government to strengthen IAW.

## **Compliance deficiencies**

### **2.2.13 Disposal of appeal cases by JETCs**

The JETC (Appeals) at the range level is the first appellate authority who hears appeals against orders passed by the AAs raising the demand and issue any orders for recovery of the disputed demands. However, as per instructions issued by the ETC in March 1984 under HGST Act, it is to be ensured that the appeal cases, in which revenue of more than Rs. 5,000 is involved and stay of recovery of disputed demands have been granted, are decided within three months of the grant of stay.

The information collected from JETCs Faridabad and Rohtak in respect of five<sup>12</sup> offices of DETC revealed that JETCs (Appeals) had granted stay of recovery of dues amounting to Rs. 152.40 crore in 457 cases during the period between April 2003 and December 2007. JETCs (Appeals) had neither decided nor vacated stay orders in these cases till 31 March 2008. Thus, collection of revenue of Rs. 152.40 crore remained locked due to stay orders granted in 457 cases by the JETCs (Appeals). Out of these cases, recovery of Rs. 91.77 crore (60 *per cent*) was locked up in appeals in 138 cases for more than one to four years.

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<sup>12</sup> Faridabad (East), Faridabad (West), Jhajjar, Panipat and Sonipat.

During the exit conference, the department stated that as per ETC instructions (March 1984), appeal cases were to be decided within three months of grant of stay by JETCs but no time limit had been prescribed in the Act. However, the Appellant Authority was being advised to decide the cases involving stay within a time frame of six months.

#### **2.2.14 Non-declaration of arrears under Punjab Land Revenue Act**

Under Section 34 of HGST Act and Section 26 of HVAT Act, the amount of tax, interest and penalty, which remains unpaid after the due date, shall be recoverable as arrears of land revenue under the PLR Act.

Test check of records of eight<sup>13</sup> offices of DETC revealed that AAs finalised the assessments in respect of 13 dealers for the AYs 1991-92 to 2005-06 between January 2000 and March 2008 and raised additional demand of Rs. 5.15 crore. Since these dealers failed to deposit the tax within the specified period/extended period of the issue of TDNs, the AAs were required to declare the recovery of dues as arrears of land revenue under the Act *ibid* but the same had not been declared till March 2009. Non-declaration of arrears under the PLR Act resulted in non-realisation of accumulated arrears of Rs. 5.15 crore.

During the exit conference, the department stated that there was acute shortage of AAs which affects the efficiency. The department admitted the facts and assured to pursue these cases vigorously.

#### **2.2.15 Failure to initiate follow up action for recovery of arrears within the district**

On declaration of arrears under PLR Act, summons are issued to the defaulter and if the defaulter does not appear within 10 days a writ of demands is to be issued by revenue officer on or after the day following than in which an arrear of land revenue accrues. Further several steps viz. issue of arrest warrant and detention, issue of distress warrants and attachment of property of the defaulter are to be taken by the DETC for recovery of dues.

Test check of records of four<sup>14</sup> offices of DETC revealed that AA declared arrears of Rs. 3.38 crore as arrears of land revenue in six cases under their jurisdiction between January 2004 and November 2007. Out of six cases, the AAs had not even issued writ of demand in two cases involving arrears of Rs. 1.81 crore. In the remaining four cases, the AAs issued summons between August 2005 and November 2007 but no follow up action was taken to recover the arrears. As a result, these proceedings continue to linger on for long period thereby jeopardising the recoveries of Rs. 3.38 crore.

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<sup>13</sup> Faridabad (East), Faridabad (West), Jagadhari, Jhajjar, Kaithal, Panchkula, Panipat and Sonipat

<sup>14</sup> Ambala, Jagadhari, Kaithal and Sonipat.

During the exit conference, the department stated that there was acute shortage of AAs which affects the efficiency. The department admitted the facts and assured to pursue these cases vigorously.

### **2.2.16 Disposal of immovable property during the currency of recovery of arrears**

Under the HGST Act, where, during the pendency of any proceedings under this Act, any person liable to pay any tax/other dues creates a charge on or transfers, any immovable property belonging to him in favour of any other person with intention to defrauding any tax or other dues, any such charge or transfer shall be void as against any claim in respect of any tax or other dues payable by such person as a result of the completion of the said proceedings.

Test check of the records of five<sup>15</sup> offices of DETC revealed that the AAs finalised the assessments of 11 dealers for the AYs between 1987-88 and 2002-03 and created additional demands of Rs. 7.55 crore between June 1995 and July 2006. All the dealers had closed down their business and had sold/disposed off their assets, land and properties or plant and machinery between 1999-2000 and 2005-06 i.e., during the pendency of recovery proceedings. In two cases involving Rs. 31.08 lakh, the revenue authorities allowed the transfer of the properties despite prior intimation to them for not allowing such transfers. In the case of one dealer of Karnal, the AA finalised the assessments for the AYs 1996-97 to 1999-2000 between September 2001 and February 2003 and requested the Tehsildar, Karnal in November 2007 for not allowing the dealer to transfer of property though the dealer had already disposed off the property during the year 2005-06. The AAs had not taken any action to get the disposal of immovable/movable properties declared null and void under the Act. Failure on the part of AAs to raise demands in time and to initiate action under the Act resulted in accumulation of arrears to the extent of Rs. 7.55 crore.

During the exit conference, the department stated that normally a dealer cannot dispose off his immovable property during currency of recovery of arrears but some dealers had managed to dispose off their assets clandestinely and in such cases the AAs came to know about the sale only after it had been completed by the dealers. However, the recovery proceeding in each case continued. The facts remains that failure on the part of AA to raise demands in time and to initiate action under the Act led to accumulation of arrears.

### **2.2.17 Conclusion**

Commercial tax/sales tax receipts contribute major tax revenue of the State. An increasing trend in the arrears position had been noticed during all the years since introduction of HVAT Act. The collection of dues pending remained doubtful since statutory audit detected overstated and understated arrears of Rs. 5.90 crore and Rs. 5.75 crore in eight DETC offices only. Effective and meaningful follow up action to recover the arrears was not

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<sup>15</sup> Fatehabad: 1, Jind: 1, Karnal: 3, Panipat: 4 and Sonipat: 2.

taken. Despite specific provisions in the Act/Rules and several departmental instructions issued from time to time the authority could not implement the same in many cases resulting in failure of the system in regard to prompt assessment and collection of revenue. No step was also taken to make required amendments in the HVAT Act/Rules to enable the department to become more effective to recover the dues promptly inspite of deficiencies being pointed out by audit under HGST Act/Rules. As a result, these proceedings lingered on for long periods thereby jeopardising recoveries of huge amounts due to non-pursuance or lack of monitoring of recovery proceedings.

The Government has introduced in August 2008 a scheme of incentive/cash award upto five *per cent* of the amount recoverable for providing information in case of arrears not under dispute or liquidation and where it is not possible to find the whereabouts of defaulters or their properties. During the period August 2008 to March 2009, an arrear of Rs. 25 lakh was recovered due to this scheme and no cash award/incentive had been paid under this scheme upto March 2009.

### **2.2.18 Recommendations**

The Government may consider taking the following steps for proper and effective collection of arrears of sales tax/VAT:

- strengthening Internal Audit Wing to ensure timely detection and correction of errors in assessment, levy and collection of sales tax/VAT revenue;
- evolving a suitable mechanism for the collection of dues by closely monitoring their initiation and completion of recovery proceedings;
- prescribing a time limit for (i) initiating recovery proceedings for attachment and disposal of attached property, (ii) the issue of RRC and adherence to such time limit should be closely monitored to avoid pendency of revenue collection;
- evolving a suitable mechanism to ensure proper co-ordination between the departmental officers within the State to facilitate early realisation of the arrears locked up under revenue recovery proceedings; and
- fixing target for the collection of arrears and closely monitoring the performance of both the AAs and the Collectors against such targets.

## **2.3 Other Audit observations**

*Scrutiny of assessment records of sales tax/value added tax (VAT) in Excise and Taxation Department revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/penalty/interest, incorrect determination/ classification/turnover and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of Assessing Authorities (AAs) are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.*

## **2.4 Non-observance of the provisions of Acts/Rules**

*The HGST/HVAT/CST Acts and Rules provide for:-*

- (i) levy of tax/interest/penalty at the prescribed rate;*
- (ii) allowed exemption of tax to new industries under HGST Act who opt for deferment of tax under HVAT Act on fulfillment of prescribed conditions;*
- (iii) exemption of tax on ISS subject to submission of the prescribed declaration/certificates; and*
- (iv) allowance of input tax credit (ITC) as admissible.*

*The AAs, while finalising the assessments, did not observe some of the rules in cases mentioned in the paragraph 2.4.1 to 2.4.7. This resulted in non/short levy/non-realisation of tax/interest/penalties of Rs. 3.68 crore.*

### **2.4.1 Non-levy of penalty**

Under Section 7 (3) of the HVAT Act, where goods taxable are sold by one dealer to another dealer, tax is leviable at a lower rate if the purchasing dealer furnishes a declaration in form VAT-DI certifying that the goods are meant for use in the manufacture of goods for sale. Further, if an authorised dealer after purchasing any goods for any of the purposes specified in various clauses fails to make use of the goods for any such purpose, the AA may impose upon him by way of penalty under Section 7 (5) of the HVAT Act a sum not exceeding one and a half times the tax which would have been levied additionally. However, no penalty would be imposed if the dealer voluntarily pays the tax which would have been levied additionally when he failed to make use of the goods purchased for the specified purposes.

During test check of the assessment records of the office of DETC (ST), Panipat in August 2008, it was noticed that 64 dealers purchased rags valued as Rs. 58.21 crore during the years 2004-05 and 2005-06 at concessional rate of tax against declaration in forms VAT-DI for use in the manufacture of goods. Out of which, these dealers sold rags valued as Rs. 22.11 crore to other dealers at concessional rate of tax and also failed to pay the tax which would have been levied additionally. The AA, while finalising the assessments between April 2007 and March 2008, omitted to levy tax at the general rates

applicable to rags being unclassified goods. This resulted in non-levy of VAT of Rs. 1.33 crore besides maximum penalty of Rs. 1.99 crore.

After the cases were pointed out in August 2008, the AA stated in October 2008 that the cases had been sent to the DETC-cum-Revisonal Authority (RA), Panipat for taking suo motu action in September 2008. Further report has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in December 2008 and reported to the Government in March and May 2009; their reply has not been received (August 2009).

## **2.4.2 Underassessment of value added tax due to application of incorrect rate**

**2.4.2.1** Under Section 7 of the HVAT Act, VAT on tyres and tubes is leviable at the rate of 10 *per cent* from 1 April to 7 July 2003 and eight *per cent* from 8 July 2003 to 30 June 2005.

During test check of the assessment records of the office of DETC (ST), Ambala Cantonment in November 2007 and December 2008, it was noticed that four dealers sold tyres and tubes valued as Rs. 20.94 crore (1 April to 7 July 2003: Rs. 1.48 crore; 8 July 2003 to 30 June 2005: Rs. 19.46 crore). The AAs, while finalising the assessments between October 2005 and October 2007, levied tax at the rate of four *per cent* instead of 10 *per cent* on sales upto 7 July 2003 and at eight *per cent* from 8 July 2003 to 30 June 2005. Application of incorrect rate of tax resulted in underassessment of tax of Rs. 86.70 lakh.

After the cases were pointed out in November 2007 and December 2008, the AAs stated in March 2009 that the cases had been sent to the RA for taking suo motu action in December 2008. Further report has not been received (August 2009).

**2.4.2.2** Under the HVAT Act, tax is leviable at the rates specified in Schedules 'A' to 'G' of the Act depending upon the classification of goods. The State Government did not specify dryer felts under any schedule of the HVAT Act upto 30 June 2005. As per the Haryana Government notification dated 30 June 2005 issued under the HVAT Act, dryer felts are taxable as specified commodity (Sr. No. 26) under Schedule 'C' at the rate of four *per cent* from 1 July 2005. Thus, dryer felts, being non-specified item in any schedule, is leviable to tax at the rate of 10 *per cent* during the period April 2003 to June 2005.

During test check of the assessment records of the office of DETC (ST), Faridabad (West) in August 2008, it was noticed that a dealer sold dryer felts valued as Rs. 1.10 crore during the year 2004-05 under the HVAT Act. The AA, while finalising the assessment in March 2008, levied tax at the rate of four *per cent* instead of the correct rate of 10 *per cent*. Application of incorrect rate of tax resulted in underassessment of VAT of Rs. 6.59 lakh.

After the case was pointed out in August 2008, the DETC (ST) stated in January 2009 that the quantum of liability of tax at 10 *per cent* on dryer felts

in respect of case for the year 2003-04 was already in revision before the RA. Audit observed that the AA repeated the same irregularity in the same case in the next year assessment and submitted the same reply. Final reply has not been received (August 2009).

**2.4.2.3** As per the clarification issued on 19 May 2004 under the HVAT Act, SW pipes<sup>16</sup> are exigible to tax at the rate of 12 *per cent* under entry 29 “Sanitary goods and fittings including sewerage pipes”.

During test check of the assessment records of the office of DETC (ST), Jind in August 2008, it was noticed that a dealer sold SW pipes valued as Rs. 2.19 crore during the year 2004-05. The AA, while finalising the assessment in February 2008, levied tax at the rate of 10 *per cent* treating the goods as unclassified item instead of the correct rate of 12 *per cent*. Application of incorrect rate of tax resulted in underassessment of VAT of Rs. 4.37 lakh.

After the case was pointed out in August 2008, the AA stated in September 2008 that the VAT on SW pipes at that relevant time was 10 *per cent* and tax was rightly calculated. The reply of the AA is not in consonance with the clarification issued in the case of same assessee by the Government in May 2004.

The matter was pointed out to the ETC, Excise and Taxation Department in October 2008 and February 2009 and reported to the Government in February and May 2009; their reply has not been received (August 2009).

### **2.4.3 Underassessment of tax due to allowing of excess benefit of deferment**

Under Section 61 (2) (d) (iii) of the HVAT Act, an industrial unit availing the benefit of deferment of payment of tax, whether by change over under the provisions of the Act or otherwise, may, in lieu of making payment of the deferred tax after five years, pay half the amount of the deferred tax upfront along with the returns and on making payment in this manner, the tax due according to the returns shall be deemed to have been paid in full. If the tax calculated is more than the input tax, the difference of the two shall be the tax payable. Further, Section 14 (6) of the HVAT Act inter alia lays down that if a dealer fails to make payment of tax, he shall be liable to pay in addition to the tax payable by him, simple interest at one and a half *per cent* per month if the payment is made within ninety days, and at three *per cent* per month if the default continues beyond ninety days for the whole period, from the last date specified for the payment of tax to the date he makes the payment.

During test check of the assessment records of the office of ETO, Bahadurgarh in July 2007, it was noticed that a dealer, availing the benefit of capital

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<sup>16</sup> Stone ware pipes (SW pipes) are generally used in laying sewer line (sewerage line). Hence, the rate of tax applicable to SW pipes which are pre-dominantly used as sewerage pipes will be covered by entry No. 29 “Sanitary goods and fittings including sewerage pipes”.

subsidy of Rs. 8.58 crore for the period 5 February 2003 to 4 February 2008, had opted to pay 50 per cent of the tax in lieu of deferment of payment of tax under the HVAT Act/Rules. The assessee had made sale of goods valued as Rs. 59.18 crore involving tax of Rs. 2.44 crore<sup>17</sup> during the year 2003-04. After adjusting ITC of Rs. 62.30 lakh paid on purchase of goods (Rs. 15.58 crore), the balance tax payable was Rs. 1.81 crore<sup>18</sup>. The dealer was entitled to exemption of 50 per cent of deferred tax amounting to Rs. 87 lakh<sup>19</sup>. The AA, while finalising the assessment in November 2006, allowed 50 per cent of total tax liability i.e. Rs. 1.22 crore instead of admissible amount of Rs. 87 lakh. This resulted in excess deferment of tax of Rs. 34.81 lakh<sup>20</sup>. Additionally, interest amounting to Rs. 34.41 lakh<sup>21</sup> was also leviable on default in tax demand of Rs. 31 lakh for the period from November 2003 to November 2006.

After the case was pointed out in July 2007, the DETC, Jhajjar admitted the audit observation and stated in December 2008 that the JETC (Range)-cum-RA, Gurgaon had created additional demand of Rs. 16.59 lakh (Tax: Rs. 6.81 lakh; interest: Rs. 9.78 lakh) under HVAT Act in March 2008 and did not raise demand of tax under CST Act though he had calculated additional tax demand of Rs. 24.23 lakh and interest of Rs. 35.87 lakh under CST Act in the annexure attached with the revision order. The case was referred to the ETC in January 2009 for re-examination for taking suitable action in the matter. Further progress has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in September 2007 and January 2009 and reported to the Government in March 2009; their reply has not been received (August 2009).

#### 2.4.4 Non-levy of interest

**2.4.4.1** The instructions issued by the ETC under the HGST Act in September 1993 stipulates that it is the duty of every AA to finalise penal proceedings alongwith the assessment and if, for any reason, the penal action is kept pending that should be initiated immediately after the assessment is finalised and must be completed within six months of the assessment.

During test check of the assessment records of the office of DETC (ST), Gurgaon (East) in December 2008, it was noticed that the AA finalised the assessment for the year 2004-05 in March 2008 and created an additional demand of Rs. 26.23 lakh but action to levy interest/penal action was to be taken separately as stated in the assessment order. However, no such proceedings were initiated even after a lapse of nine months. This resulted in non-levy of interest of Rs. 29.34 lakh.

<sup>17</sup> Rs. 2,28,98,168 (Rs. 57,24,54,200X 4/100) +Rs. 14,65,057 {Rs. 1,83,13,211 (sale without C forms under CST Act)X8/100}= Rs. 2,43,63,225

<sup>18</sup> Rs. 1.74 crore + Rs. 7.33 lakh.

<sup>19</sup> Rs. 1,74,00,250 ÷ 2 = Rs. 87,00,125

<sup>20</sup> Tax payable: Rs. 31.00 lakh (Rs. 87.00 lakh – tax paid Rs. 56.00 lakh) + Tax on inter State sales without 'C' form: Rs. 7.32 lakh – Tax demand as per assessment order: Rs. 3.51 lakh= Rs. 34.81 lakh.

<sup>21</sup> Rs. 31,00,125 X 3 X 37 months/100 = Rs. 34.41 lakh.



After the case was pointed out in December 2008, the AA stated in February 2009 that a show cause notice had been issued to the dealer for levy of interest. Final reply has not been received (August 2009).

**2.4.4.2** Under Section 9 (2) of the CST Act read with Section 14 (6) of the HVAT Act, if a dealer fails to make the payment of tax due as per return filed by him or in the manner prescribed, he shall be liable to pay, in addition to the tax payable by him, simple interest at one and a half *per cent* per month if the payment is made within ninety days, and at three *per cent* per month for the whole of the period if the default continues beyond ninety days, from the last date specified for the payment of tax to the date he makes payment.

During test check of the assessment records of the offices of DETC (ST), Panchkula and Panipat in April and August 2008, it was noticed that a dealer of Panchkula deposited tax of Rs. 29.09 lakh out of Rs. 42.99 lakh due along with the returns under CST Act during the year 2004-05 and a dealer of Panipat claimed refund of Rs. 13.11 lakh as against Rs. 10.32 lakh admissible under HVAT Act during the year 2003-04. The AAs, while finalising the assessments in June 2007, created additional demand of tax aggregating to Rs. 16.69 lakh but omitted to levy interest for non-payment of tax along with the returns. This resulted in non-levy of interest amounting to Rs. 15.86 lakh for the period between August 2004 and June 2007.

After the cases were pointed out in April and August 2008, DETCs (ST), Panchkula and Panipat stated in December 2008 that interest of Rs. 12.90 lakh had been levied by the ETO, Panchkula in July 2008 and the case of Panipat dealer was under examination. A report on recovery and action taken in the case of Panipat has not been received (August 2009).

**2.4.4.3** During test check of the assessment records of the office of DETC (ST), Jind in August 2008, it was noticed that the dealer deposited tax amounting to Rs. 2.23 crore (2004-05: Rs. 2.18 crore; April 2007: Rs. 5.23 lakh). The AA, while finalising the assessment for the year 2004-05 in February 2008, allowed adjustment of tax of Rs. 2.23 crore and did not levy interest on late deposit of tax of Rs. 5.23 lakh deposited on 1 April 2007. This resulted in non-levy of interest of Rs. 4.55 lakh for the period from November 2004 to March 2007.

After the case was pointed out in August 2008, the AA stated in August 2008 that tax was paid according to returns. However, as per the record from Demand and Collection Register (DCR), the dealer deposited tax of Rs. 5.23 lakh in April 2007.

The matter was pointed out to the ETC, Excise and Taxation Department in June 2008 and April 2009 and reported to the Government in January and May 2009; their reply has not been received (August 2009).

### **2.4.5 Non-levy of value added tax**

As per the notification issued on 1 April 2003 under the HVAT Act, VAT on sweets and toffees is leviable at the rate of 12 *per cent*.

During test check of the assessment records of the office of DETC (ST), Sirsa in July 2007, it was noticed that a dealer sold sweets and toffees valued as Rs. 39.06 lakh during the year 2004-05 and claimed tax free sales. The AA, while finalising the assessment in May 2006, allowed the deductions as tax free sales. This resulted in non-levy of VAT of Rs. 4.69 lakh.

After the case was pointed out in July 2007, the DETC (ST), Sirsa stated in January 2009 that an additional demand of Rs. 4.48 lakh (after adjusting ITC of Rs. 20,900) had been created by the RA in September 2008 and directed the AA to take action to levy interest under the Act. DETC (ST) Sirsa further stated in May 2009 that a sum of Rs. 1.55 lakh had been recovered in April 2009 and efforts were being made to recover the balance amount. A report on recovery of balance amount and action taken to levy interest has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in February 2009 and reported to the Government in April 2009; their reply has not been received (August 2009).

### **2.4.6 Incorrect allowing of input tax credit**

**2.4.6.1** Under Section 8(1) of the HVAT Act and the rules framed thereunder, claim of input tax can be allowed to the purchasing dealer only when the tax has been deposited by the selling dealer. As per direction issued by the JETC (Range) Faridabad in March 2008, claim of input tax in respect of purchases made from dealer 'A' was admissible at nil during AY 2004-05.

During test check of the assessment records of the office of DETC (ST), Jind in July 2008, it was noticed that a dealer purchased cold rolled (CR)/hot rolled (HR) coils valued as Rs. 1.09 crore from dealer 'A' of Faridabad during the year 2004-05 and claimed ITC of Rs. 4.34 lakh. The AA, while finalising the assessment in March 2008, allowed ITC of Rs. 4.34 lakh despite the specific direction of JETC (Range) Faridabad issued on 11 March 2008 for allowing ITC at nil of purchases made from dealer 'A'. Failure on the part of AA to take action as per direction of JETC (Range) resulted in non-raising of demand and incorrect allowing of ITC of Rs. 4.34 lakh.

After the case was pointed out in July 2008, the AA stated in August 2008 that ITC was allowed on the basis of tax invoice/VAT C-4 and necessary verification of purchases from the dealer pointed out by audit would be sought. The facts remains that the AA did not comply with the direction of the JETC (Range) of March 2008 before finalising the assessment. Further report has not been received (August 2009).

**2.4.6.2** Under Section 8 of the HVAT Act, input tax in respect of any goods purchased by a VAT dealer shall be the amount of tax paid to the State on the sale of such goods to him. Provided that where the goods purchased in the State are used or disposed of partly in the circumstances mentioned in

Schedule E<sup>22</sup> and partly otherwise, the input tax in respect of such goods is computed pro rata. No ITC on goods which are disposed of otherwise than by way of sale is admissible.

During test check of the assessment records of the office of DETC (ST), Jind in March 2008, it was noticed that the dealer transferred purchased goods valued as Rs. 4.28 crore out of gross turnover of Rs. 4.84 crore to their branches outside the State otherwise than by way of sale and sold goods valued as Rs. 55.73 lakh after making payment of tax of Rs. 2.24 lakh during the year 2003-04. The AA, while finalising the assessment for the year 2003-04 in August 2006, erroneously allowed ITC of Rs. 4.89 lakh and failed to reverse ITC of Rs. 4.33 lakh on pro rata basis on the value of goods sent on consignment. This resulted in excess allowing of ITC of Rs. 4.33 lakh.

After the case was pointed out in March 2008, DETC (ST), Jind stated in June 2008 and March 2009 that the RA created additional demand of Rs. 4.33 lakh in July 2008 and directed the AA to take action to levy interest under the Act within two months. The dealer deposited Rs. 10,000 and TDN had been issued to the dealer to deposit the balance amount. A report on balance recovery of tax and action to levy interest has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in April and October 2008 and reported to the Government in January 2009; their reply has not been received (August 2009).

#### **2.4.7 Short/non-recovery of lump sum tax on works contract and penalty**

As per Haryana Government notification dated 7 April 2003 issued under HVAT Act, a contractee shall, deduct from the payment made to a contractor for execution of a works contract in the State involving transfer of goods (whether as goods or in some other form), tax in advance calculated at the rate of four *per cent* of the amount paid. Further, if a dealer fails to pay the whole or any part of tax, he shall be liable to pay penalty, in addition to the amount of tax, a sum equal to the amount of tax so assessed.

During test check of the assessment records of the office of DETC (ST), Jagadhari in January 2008, it was noticed that a works contractor received payment of Rs. 1.19 crore for execution of the works contract during the period 2004-05. However, the contractee, while making payment to the contractor, incorrectly deducted tax at the rate of two *per cent*. The AA, while finalising the assessment in November 2006, erroneously levied tax at the rate of two *per cent* instead of four *per cent*. This resulted in short levy of tax of Rs. 2.37 lakh. Additionally, penalty of Rs. 2.37 lakh was also leviable.

After the case was pointed out in January 2008, the ETO, Yamunanagar re-assessed the case and created an additional demand of tax of Rs. 2.37 lakh in January 2008 which was deposited by the contractee in February 2008. Further ETO, Yamunanagar levied penalty of Rs. 2.37 lakh in October 2008.

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<sup>22</sup> Schedule E includes list of goods/items on which no ITC is available.

A report on recovery of penalty has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in February 2008 and reported to the Government in January 2009; their reply has not been received (August 2009).

## **2.5 Incorrect determination of classification/turnover**

*The HVAT Act/Rules provide for:-*

- (i) *disclosure of actual turnover by the dealer in the returns;*
- (ii) *accurate determination of classification of goods by the AAs at the time of assessment; and*
- (iii) *accurate determination of turnover by the AAs at the time of assessment.*

*The AAs, while finalising the assessments, in cases mentioned in the paragraph 2.5.1 to 2.5.3, did not observe some the above provisions which resulted in short levy/underassessment of tax of Rs. 1.75 crore .*

### **2.5.1 Short levy of tax due to incorrect classification**

**2.5.1.1** Under Section 7 (1) (a) (iv) of the HVAT Act, tax is leviable at the rates specified in Schedules 'A' to 'G' of the Act depending upon the classification of goods. Mosquito mats/coils and other mosquito repellents were taxable as specified commodity under Schedule 'C' at the rate of 10 *per cent* from 11 December 2002 to 31 March 2003 under the HGST Act. The State Government did not specify this commodity under any schedule of the HVAT Act with effect from 1 April 2003. It has judicially been held<sup>23</sup> in August 1998 that mosquito coil/mat cannot be treated as insecticide and is commonly known as repellent and taxable as such. Mosquito mats/coils and other mosquito repellents, being non-specified item in any schedule, are leviable to tax at the general rate of 10 *per cent* upto 30 June 2005 and 12.5 *per cent* thereafter.

During test check of the assessment records of the offices of DETC (ST), Ambala Cantonment and Kurukshetra between January and December 2008, it was noticed that two dealers made sales of mosquito mats/coils valued as Rs. 12.58 crore during the years between 2003-04 and 2005-06. The AAs, while finalising the assessments between February 2007 and March 2008, levied tax at the rate of four *per cent* treating the goods as insecticides instead of the correct rate of 10/12.5 *per cent*. Incorrect classification resulted in short levy of tax of Rs. 76.67 lakh.

After the cases were pointed out between January and December 2008, the AAs stated between August and December 2008 that the cases had been sent to the RA Kurukshetra and DETC (Inspection) Ambala Cantonment for taking suo motu action in July and December 2008. The ETC stated in May 2009 that the RA had created additional demand of Rs. 30.05 lakh in respect of Kurukshetra dealer. Further report has not been received (August 2009).

<sup>23</sup> M/s Sonic Electrochem and another Vs. Sales Tax Officer and others {(1998) 12 PHT 215 (Supreme Court)}.

**2.5.1.2** As per the notification issued on 1 April 2003 under the HVAT Act, VAT on all kinds of cooking appliances, cooking ranges, microwave and grills etc. was leviable at the rate of 12 *per cent* for the period from 1 April 2003 to 30 June 2005 and thereafter at the rate of four *per cent* under Schedule 'C' of the Act.

During test check of the assessment records of the office of DETC (ST), Ambala in December 2007, it was noticed that a dealer sold pressure cookers valued as Rs. 3.11 crore during the years 2003-04 and 2004-05. The AA, while finalising the assessment in November 2005 and September 2006, levied tax at the rate of four *per cent* instead of the correct rate of 12 *per cent*. Application of incorrect rate of tax resulted in underassessment of VAT of Rs. 24.85 lakh.

After the case was pointed out in December 2007, the DETC Ambala stated in March 2009 that the case had been sent to RA for suo motu action in March 2009. Further report has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in March 2008 and February 2009 and reported to the Government between January and April 2009; their reply has not been received (August 2009).

## **2.5.2 Underassessment of tax due to inadmissible deduction from gross turnover**

Under section 2 (ze) (ii) of the HVAT Act, the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, where such transfer, is for cash, deferred payment or other valuable consideration, and such transfer shall be deemed to be a sale of those goods by the person making the transfer. Further, section 14 (6) of the Act inter alia lays down that if a dealer fails to make payment of tax, he shall be liable to pay in addition to the tax payable by him, simple interest at one and a half *per cent* per month if the payment is made within ninety days, and at three *per cent* per month if the default continues beyond ninety days for the whole period, from the last date specified for the payment of tax to the date he makes the payment.

**2.5.2.1** During test check of the assessment records of the office of DETC (ST), Panipat in September 2008, it was noticed that the dealer company (contractor) was engaged in building construction and did not opt for lump sum payment of tax. The contractee supplied material valued at Rs. 1.55 crore to the contractor for use in the execution of works and the cost was recovered from contractor through works bills. The dealer had not claimed any ITC. The AA, while finalising the assessments of the dealer in December 2007 and March 2008, omitted to levy tax on deemed sale of material valued as Rs. 1.55 crore and allowed other miscellaneous deduction of Rs. 48.24 lakh from the gross turnover. This resulted in underassessment of tax of Rs. 21.89 lakh due to inadmissible allowing of deduction.

After the cases were pointed out in September 2008, the ETO, Panipat stated in October 2008 that the material supplied by the contractee was transferred to him by the contractor in the execution of works contract by theory of

accretion. The reply of the ETO is not in consonance with the provisions of HVAT Act as tax was leviable at every successive stage and deemed sale was also taxable in the hands of the contractor. Further reply has not been received (August 2009).

**2.5.2.2** During test check of the assessment records of the office of DETC (ST), Sonipat in February and March 2008, it was noticed that the dealer company (contractor) was engaged in building construction and did not opt for lump sum payment of tax. A corporation of Panchkula (contractee) supplied steel bars/flats, cement and sand etc. valued as Rs. 1.92 crore to the contractor during the year 2003-04. The AA, while finalising the assessment in March 2007, allowed deduction of Rs. 1.92 crore from the gross turnover of Rs. 3.38 crore for the tax paid cement and steel supplied by the contractee to the contractor for use in the project and the cost recovered from the contractor through works bills. This resulted in underassessment of tax of Rs. 15.91 lakh due to inadmissible allowing of deduction. Additionally, interest amounting to Rs. 16.71 lakh was also leviable for non-payment of tax.

After the case was pointed out in February and March 2008, the DETC, Sonipat stated in March 2009 that the RA created an additional demand of Rs. 14.94 lakh in March 2009. A report on recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in April and December 2008 and reported to the Government in February and April 2009; their reply has not been received (August 2009).

### **2.5.3 Incorrect allowing of deduction**

Under entry 51 of Schedule 'B' appended to the HVAT Act, all varieties of cotton, woollen or silken textiles including rayon, artificial silk or nylon but not including such carpets, druggets, woollen durrees, cotton floor durrees, rugs and all varieties of dryer felts on which additional excise duty in lieu of sales tax is not levied are tax free goods. Thus cotton, woollen or silken textiles including rayon, artificial silk or nylon shall be covered under entry 51 only when additional excise duty is leviable on these goods.

During test check of the assessment records of the office of DETC (ST), Faridabad (West) in May 2008, it was noticed that a dealer sold imported fabrics valued as Rs. 1.41 crore during the year 2005-06 and claimed tax free sales. The AA, while finalising the assessment in July 2007 allowed the deduction as tax free sales. Since no additional excise duty was levied on fabric imported by the dealer from Singapore, the same was not covered under Schedule 'B' (exempted from levy of VAT). Incorrect allowing of deduction resulted in non-levy of VAT of Rs. 17.56 lakh. Additionally, interest for non-payment of tax was also leviable.

After the case was pointed out in May 2008, the DETC (ST), Faridabad stated in January 2009 that demand of Rs. 38 lakh (including interest) had been created. A report on recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in December 2008 and reported to the Government in April 2009; their reply has not been received (August 2009).

## **2.6 Evasion of tax due to misuse of declaration form 'F'**

The AAs, while finalising the assessments, did not cross verify declaration of forms F with Tax Information Exchange System<sup>24</sup>, as required in the ETC instructions dated 14 March 2006, resulting in short levy of tax of Rs. 6.79 lakh.

Under Section 38 of the HVAT Act, if a dealer has maintained false or incorrect accounts or documents with a view to suppress his sales or purchases, imports into the State, exports out of the State or stock of goods, or has concealed any particulars in respect thereof or has furnished or produced any account, return, document or information which is false or incorrect in any material particular, such authority may direct him to pay by way of penalty, in addition to the tax to which he is assessed or liable to be assessed, a sum thrice the amount of tax which would have been avoided. Under Section 6A of the CST Act, transfer of goods from one State to another place of business in another State is exempt from levy of tax on production of 'F' forms and if any dealer fails to prove to the satisfaction of the AA claim of transfer of goods, then the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale.

During test check of the assessment records of the office of DETC (ST), Jind in September 2008, it was noticed that a dealer claimed deduction of consignment sale of goods valued as Rs. 84.89 lakh against declaration in forms 'F'. The AA, while finalising the assessment in February 2008, allowed the deduction. Cross verification of records by audit with other States 'Tax Information Exchange System' in September 2008 revealed that the dealer had suppressed his sales and submitted fake declaration forms since these forms 'F' were not issued to the consignee by the department and were originally issued to a firm of New Delhi. Failure on the part of AA to scrutinise the claim and cross verify the transactions as required in the ETC instructions dated 14 March 2006 resulted in incorrect allowing of deduction which consequently led to evasion of tax of Rs. 6.79 lakh. Additionally, penalty of Rs. 20.37 lakh was also leviable for evasion of tax.

After the case was pointed out in September 2008, the AA stated in February 2009 that the case had been sent to the DETC (ST), Jind for taking suo motu action.

The matter was pointed out to the ETC, Excise and Taxation Department in December 2008 and reported to the Government in March 2009; their reply has not been received (August 2009).

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<sup>24</sup> A website to serve as repository of inter-state transactions.

## **CHAPTER III: STAMP DUTY AND REGISTRATION FEE**

### **3.1 Results of audit**

Test check of the records of various registration offices during the year 2008-09 revealed non/short levy of stamp duty (SD) and registration fee amounting to Rs. 6.52 crore in 1,290 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
<b>A- Revenue Department</b>			
1.	Non/short recovery of stamp duty due to undervaluation of immovable property	922	4.51
2.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	53	0.53
3.	Short recovery of stamp duty due to misclassification of instruments	31	0.28
4.	Short recovery of stamp duty due to non-charging of residential rates on purchase of land by builders	1	0.14
5.	Irregular exemption of stamp duty on mortgage deeds	13	0.03
6.	Miscellaneous irregularities	137	1.01
<b>Total</b>		<b>1,157</b>	<b>6.50</b>
<b>B- Land Revenue</b>			
7.	Miscellaneous irregularities	133	0.02
<b>Total</b>		<b>133</b>	<b>0.02</b>
<b>Grand total</b>		<b>1,290</b>	<b>6.52</b>

During the year 2008-09, the department accepted underassessments and other deficiencies of Rs. 1.90 crore involved in 310 cases, of which 304 cases involving Rs. 1.89 crore had been pointed out during 2008-09 and the remaining in the earlier years. The department recovered Rs. 1.49 lakh in seven cases during the year 2008-09, of which one case involving Rs. 16,543 related to the year 2008-09 and the balance to the earlier years.

After the issue of draft paragraph, the department further recovered Rs. 1.43 lakh in one case.

A few illustrative audit observations involving Rs. 74.56 lakh are mentioned in the succeeding paragraphs.



### **3.2 Audit observations**

*Scrutiny of records of various registration offices revealed several cases of non-compliance of the provisions of the Indian Stamp Act, 1899 (IS Act) and Indian Registration Act, 1908 and Government notifications/instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided.*

### **3.3 Non-compliance of provisions of the Acts/Rules**

*The provisions of the Indian Stamp Act, 1899 (IS Act) and Indian Registration Act, 1908 require:-*

- (i) levy of stamp duty at the prescribed rate;*
- (ii) exemption of stamp duty on fulfillment of prescribed conditions; and*
- (iii) correct classification of documents.*

*The registering authorities did not observe some of the above provisions at the time of registration of documents in cases mentioned in the paragraphs 3.3.1 to 3.3.2. This resulted in short levy/evasion of stamp duty of Rs. 20.28 lakh.*

#### **3.3.1 Evasion of stamp duty due to undervaluation of immovable property**

Under Section 27 and 64 of the IS Act, as applicable to Haryana, consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amounts of duty with which it is chargeable, should be fully or truly set forth therein. The IS Act further provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to Rs. 5,000 per instrument.

During test check of the records of six<sup>1</sup> registering offices between July and November 2008, it was noticed that ten conveyance deeds were registered between April 2007 and May 2008 on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was Rs. 1.97 crore. Cross verification by audit of these deeds with the agreements executed between the concerned parties between March 2007 and February 2008 and recorded with the various document writers revealed that the total sale value of the agreements worked out to Rs. 3.95 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than that agreed upon between the affected parties. Undervaluation of immovable properties in conveyance deeds resulted in evasion of stamp duty of Rs. 10.41 lakh. Additionally, penalty not exceeding Rs. 50,000 for

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<sup>1</sup> JSRs Alewa, Jakhal and Pillukhera; SRs Palwal, Safidon and Samalkha.

undervaluation made with intent to defraud the Government was also leviable.

After the cases were pointed out between July and November 2008, the Joint Sub Registrar (JSR) Jakhal and Sub Registrars (SRs) Safidon and Samalkha stated between November 2008 and January 2009 that the cases had been referred to the Collector under Section 47-A of the Act for determination of value of the immovable property. The reply of the registering authorities does not explain why these cases had been referred to the Collector since there was no need to refer the cases to the Collector for decision as the value of the property had already been agreed upon between the affected parties. The JSR Alewa and SR Palwal stated between July 2008 and January 2009 that progress of recovery would be intimated after taking necessary action as per provisions of the IS Act. The JSR Pillukhera stated in April 2009 that Rs. 16,543 had been recovered in October 2008. Further report has not been received (August 2009).

After the matter was reported to the Government in February 2009, the Government stated in May 2009 that in such cases, jurisdiction lies with the Collector under section 47-A of the Act to decide the stamp duty so chargeable in quasi judicial capacity. The concerned SRs/JSRs and Courts of Collectors would require time to verify the facts and decide the cases as per provisions of the stamp law procedure.

### **3.3.2 Evasion of stamp duty due to misclassification of documents**

Under the provisions of the IS Act, separate rates have been prescribed for different types of instruments. The classification of an instrument depends upon the nature of the transactions recorded therein. In case possession of the property is handed over after receipt of full amount of consideration, the instrument becomes a conveyance deed and stamp duty becomes leviable under the IS Act.

During test check of the records of five<sup>2</sup> offices of registering authorities for the year 2007-08 between June and September 2008, it was noticed that eight instruments conveying possession and transfer of property valued as Rs. 1.62 crore to the vendees were executed between May 2007 and March 2008. In all the cases, the vendors received full amount in lieu of the property sold and the possession of immovable property was also handed over to the purchasers. The deeds were liable to be treated as conveyance deeds and stamp duty of Rs. 9.87 lakh was leviable. However, the registering authorities misclassified these documents and registered the deeds as agreements to sell charging stamp duty of Rs. 440 which was incorrect. This resulted in evasion of stamp duty of Rs. 9.87 lakh.

After the cases were pointed out between June and September 2008, the SRs Ambala City, Hisar and Sohna stated between June and September 2008 that progress of recovery would be intimated after taking necessary action as per provisions of the IS Act. The JSR Ambala Cantonment and SR Farukhnagar stated in September and October 2008 that the cases had been sent (September and October 2008) to the Collector under section 47-A of the

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<sup>2</sup> JSR Ambala Cantonment, SRs: Ambala City, Farukhnagar, Hisar and Sohna.

Act for decision. Further report has not been received (August 2009).

The matter was reported to the Government in February 2009; their reply has not been received (August 2009).

### **3.4 Non-compliance of Government notification/instructions**

- (i) *Government instructions of November 2000 prescribes for levy of stamp duty on land sold within municipal limits with an area less than 1,000 square yards be valued at the rates fixed for the residential property of that locality.*
- (ii) *Government instruction of September 1996 prescribes for registration of mutated property on the basis of a compromise decrees which is not bonafide as conveyance deed.*
- (iii) *Government notification of August 1995 provides for exemption for purchase of agriculture land from the compensation received for acquired land.*

*Non-compliance of some of provisions in the above notifications/instructions in some of the cases as mentioned in paragraphs 3.4.1 to 3.4.3 resulted in non/short realisation of duty of Rs. 54.28 lakh.*

#### **3.4.1 Short levy of stamp duty due to application of incorrect rates of immovable property**

In order to check evasion of stamp duty in sale deeds, the Government issued instructions in November 2000 to all registering authorities in the State to the effect that land sold within municipal limits with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards be valued at the rate fixed for the residential property of that locality for the purpose of levying stamp duty.

During test check of the records of 15 offices<sup>5</sup> of SR for the year 2007-08 between April and October 2008, it was noticed that 50 sale deeds of plots in municipal limits with an area less than 1,000 square yards and in case where purchasers were more than one and the share of each purchaser was less than 1,000 square yards were registered between April 2007 and January 2008. The deeds were liable to be assessed for Rs. 9.22 crore based on the rates fixed for residential areas and stamp duty of Rs. 67.06 lakh was chargeable. However, the registering authorities assessed the deeds for Rs. 2.94 crore based on the rates fixed for agricultural land and levied stamp duty of Rs. 22.86 lakh. This resulted in short levy of stamp duty of Rs. 44.20 lakh.

After the cases were pointed out between April and October 2008, seven<sup>6</sup> SRs stated between September 2008 and March 2009 that the cases had been sent to the Collector under Section 47-A of the Act for decision. SR Palwal stated

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<sup>5</sup> Ambala City, Ballabgarh, Farukhnagar, Faridabad, Gurgaon, Hodal, Kalka, Karnal, Ladwa, Pehowa, Palwal, Pataudi, Sonipat, Sohna and Thanesar.

<sup>6</sup> Ballabgarh, Faridabad, Farukhnagar, Hodal, Karnal, Kalka and Pehowa.

in July 2008 that the cases would be sent to the Collector for decision.

Further report and reply from the remaining SRs has not been received (August 2009).

After the matter was reported to the Government in February 2009, the Government stated in May 2009 that these cases had been sent to the concerned Collectors under Section 47 of the Act for decision.

### **3.4.2 Exemption of stamp duty on collusive decrees<sup>7</sup>**

Under Section 17 of the Indian Registration Act, 1908, non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future any right, title or interest, whether vested or contingent, of the value of Rs. 100 and upwards, to or in immovable property are compulsory registrable documents. Thus, a compromise decree<sup>8</sup> which is not bonafide<sup>9</sup> is liable to be charged as an instrument of conveyance. The Financial Commissioner Revenue (FCR) issued instructions in September 1996 to all the registering authorities that mutated property registered on the basis of a compromise decree which is not bonafide is liable to be charged as an instrument of conveyance as per Schedule 1-A of the IS Act. The SRs were asked to carefully examine each document so as to ensure that there is no deliberate attempt for evasion of stamp duty and the same is properly stamped under the Act.

During test check of the records of three<sup>10</sup> offices of SRs between May and August 2008 for the year 2007-08, it was noticed that six compromise decrees which were not bonafide were registered between June 2007 and February 2008 without charging stamp duty on total consideration of Rs. 1.31 crore. These parties obtained collusive decrees to evade stamp duty. The SRs did not comply with the instructions of the FCR issued in September 1996 and allowed exemptions from payment of stamp duty without confirming the facts that property mutated was executed between blood relations. This resulted in irregular exemption of stamp duty of Rs. 7.78 lakh.

After the cases were pointed out between May and August 2008, the SRs Gharaunda and Karnal stated between October and December 2008 that all the cases of deficiency of Rs. 5.92 lakh had been referred to the Collector under Section 47 of the IS Act for decision. SR Narnaund stated in August 2009 that the Collector decided these four cases in December 2008 for levy of stamp duty of Rs. 1.86 lakh and efforts were being made to recover the deficient amount of stamp duty. Further report on recovery/progress has not been received (August 2009).

The matter was reported to the Government in March 2009; their reply has not been received (August 2009).

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<sup>7</sup> Collusive decree means the decree obtained by the parties by fraudulent secret understanding.

<sup>8</sup> Settlement of property by mutual consent.

<sup>9</sup> Which is related by blood relation.

<sup>10</sup> Gharaunda, Karnal and Narnaund.

### **3.4.3 Irregular exemption of stamp duty**

By a notification issued on 11 August 1995, the Government remitted stamp duty in respect of the sale deeds executed by the farmers whose land is acquired by the Government of Haryana for public purposes and who purchase agriculture land in the State within one year of the amount of compensation received by them for the acquired land. Thus, the remittance is allowed for the purchase of agriculture land only and the purchase of residential land is liable to stamp duty as per rules.

During test check of the records of the office of SR, Panchkula for the year 2007-08 in July 2008, it was noticed that the farmers, whose land was acquired by the Government for public purposes, purchased two residential plots valued as Rs. 38.31 lakh and got registered two sale deeds. The registering authority allowed exemption of stamp duty of Rs. 2.30 lakh under aforesaid notification though stamp duty was leviable since they had purchased residential plots from the amount of compensation received. Thus, irregular exemption of stamp duty resulted in loss of revenue to Government to the extent of Rs. 2.30 lakh.

After the cases were pointed out in July 2008, the SR Panchkula admitted the facts and stated in January 2009 that notices of recovery had been issued to the concerned parties. Progress of recovery has not been received (August 2009).

After the matter was reported to the Government in February 2009, the Government stated in April 2009 that the department was pursuing the cases vigorously. Notices for recovery had been issued to the parties concerned.

## **CHAPTER IV: STATE EXCISE**

### **4.1 Results of audit**

Test check of the records of the offices of DETC (Excise) relating to State excise conducted in audit during the year 2008-09 revealed non/short recovery of excise duty, license fees and penalty etc. amounting to Rs. 5.59 crore in 384 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
<b>Excise and Taxation Department (State Excise)</b>			
1.	Non/late deposit of license fees and loss of interest	212	4.45
2.	Non-recovery of penalty on illicit liquor	87	0.84
3.	Non-imposition of penalty	65	0.15
4.	Miscellaneous irregularities	20	0.15
<b>Total</b>		<b>384</b>	<b>5.59</b>

During the year 2008-09, the department accepted underassessments and other deficiencies of Rs. 1.20 crore involved in 98 cases, of which 27 cases involving Rs. 45.66 lakh had been pointed out during 2008-09 and the remaining in earlier years. The department recovered Rs. 8.84 lakh in 25 cases during the year 2008-09, of which one case involving Rs. 25,000 related to the year 2008-09 and balance to the earlier years.

A few illustrative audit observations involving Rs. 2.35 crore are mentioned in the succeeding paragraphs.

## **4.2 Audit observations**

Scrutiny of records of DETC (Excise) relating to State excise revealed several cases of non-observance of provisions of Acts/Rules and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions remain undetected till an audit is conducted. There is need for the Government to consider directing the Department to improve the internal control system including strengthening of internal audit so such omissions can be avoided, detected and corrected.

## **EXCISE AND TAXATION DEPARTMENT**

### **4.3 Non-observance of provisions of the Acts/Rules**

The Punjab Excise Act/Haryana Liquor License (HLL) Rules, 1970/State Excise Policy/Punjab Distillery Rules, 1932 provides for:-

- (i) levy of excise duty/license fee/interest/penalty at the prescribed rate; and
- (ii) recovery of cost of supervisory excise staff posted at the distillery.

The DETC (Excise) of respective district did not observe some of the rules in cases mentioned in the paragraph 4.3.1 to 4.3.3 whereas no clear policy has been formed for recovery of salary of excise staff posted at the distillery despite specific recommendations of the PAC as mentioned in paragraphs 4.3.4. This resulted in non-realisation/recovery of license fee/interest/penalty/cost of Rs. 2.35 crore.

#### **4.3.1 Non-realisation of differential license fee**

Under the HLL Rules, 1970 read with the State excise policy for the year 2006-07 and 2007-08, every successful allottee of retail licensed liquor outlet, shall be required to deposit a security equal to 20 per cent of the annual license fee of the licensed outlet, out of which, five per cent of the license fee has to be deposited on the day of draw of lot, five per cent within seven days of the allotment/draw of lot on or before 31 March of the year, whichever is earlier and remaining 10 per cent by 7<sup>th</sup> April of the respective year. A person to whom a liquor outlet has been allotted shall pay by the 15<sup>th</sup> of every month the remaining 80 per cent in eight instalments equal to 10 per cent of the total annual license fee upto the month of November of the respective year. In case the allottee refuses to accept the license or fails to deposit the monthly instalment in full alongwith interest by the end of the month, the licensed outlet shall cease to be in operation on the first of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. The DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

During test check of the records of four<sup>1</sup> offices of DETC (Excise) between May 2007 and April 2008, it was noticed that 12 retail outlets were auctioned

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<sup>1</sup> Faridabad, Karnal, Kurukshetra and Sirsa.

during March 2006 and May 2007 for Rs. 1.62 crore and Rs. 1.11 crore for the year 2006-07 and 2007-08. Out of 12 successful bidders, five bidders did not deposit the security amount and the remaining seven licensees failed to pay the monthly instalments of license fee in full by the due date. Of the total license fee of Rs. 2.73 crore, the allottees deposited security amounting to Rs. 40.21 lakh and monthly instalments amounting to Rs. 34.79 lakh. Thus, the allottees did not deposit the balance amount of Rs. 1.98 crore. The department cancelled their retail liquor outlets between June 2006 and August 2007 and forfeited the entire amount of security. These retail liquor outlets were reauctioned between August 2006 and September 2007 for the remaining period for Rs. 97.35 lakh at the risk and cost of original licensees. However, the department did not initiate any action to recover the differential amount of license fee of Rs. 1.01 crore<sup>2</sup> from the original allottees. This resulted in non-realisation of Government revenue of Rs. 1.01 crore.

After the cases were pointed out between May 2007 and April 2008, DETC (Excise), Sirsa stated in January and May 2009 that license fee amounting to Rs. 25,000 had been recovered in one case and efforts were being made to recover the balance amount of Rs. 39.75 lakh from the original four allottees and issued recovery certificate for Rs. 3 lakh to DETC Hisar in one case. DETC (Excise), Kurukshetra, Karnal and Faridabad stated between August 2008 and January 2009 that efforts were being made to recover the differential amount of Rs. 60.70 lakh from the original eight allottees. A report on recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in July 2007 and July 2008 and reported to the Government in March 2009; their reply has not been received (August 2009).

### 4.3.2 Short recovery of license fee and interest

The HLL Rules, 1970 read with the State excise policy for the year 2006-07 and 2007-08, provide for payment of monthly instalment of license fee by the 15<sup>th</sup> of each month by the licensee holding license for retail outlets for vending 'Country Liquor' (CL) and 'Indian Made Foreign Liquor' (IMFL). Failure to do so renders him liable to pay interest at the rate of one and a half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

**4.3.2.1** During test check of the records of the offices of DETC (Excise), Kaithal, Karnal and Sonapat between May 2007 and August 2008, it was noticed that retail liquor outlets for the sale of CL/IMFL were allotted to 19 licensees for Rs. 5.11 crore for the year 2006-07 and 2007-08.

<sup>2</sup> Rs. 2.73 crore - Rs. 1.72 crore (Rs. 40.21 lakh + Rs. 34.79 lakh + Rs. 97.35 lakh) = Rs. 1.01 crore



The licensees failed to pay the monthly instalments of license fee for the period between August 2006 and November 2007 in full by the prescribed dates. Against Rs. 5.11 crore, the licensees had paid only Rs. 4.59 crore. The DETCs (Excise), however, did not initiate any action to cease/seal the vends for non-deposit of monthly instalments and to levy interest for belated payments of license fee. This resulted in non/short recovery of license fee of Rs. 52.48 lakh besides interest<sup>3</sup> of Rs. 16.92 lakh.

After the cases were pointed out between May 2007 and August 2008, DETC (Excise), Sonapat stated in November 2008 and February 2009 that license fee of Rs. 4.64 lakh and interest of Rs. 76,150 had been recovered between September 2007 and January 2009. DETC (Excise), Kaithal stated in April 2008 that efforts were being made to recover the license fee. DETC (Excise), Karnal stated in August 2008 that action would be taken to recover the license fee as per provisions of the Rules. A report on recovery and final reply has not been received (August 2009).

**4.3.2.2** During test check of the records of the offices of DETC (Excise), Kaithal and Panipat for the years 2006-07 and 2007-08 in October 2007 and April 2008, it was noticed that 56 licensees failed to pay monthly instalments of license fee amounting to Rs. 5.07 crore for the period between April 2006 and November 2007 by the prescribed dates. The DETCs (Excise), however, did not levy interest for belated payment of the license fee ranging between 15 to 184 days. This resulted in short recovery of interest of Rs. 11.89 lakh.

After the cases were pointed out in October 2007 and April 2008, DETCs (Excise), Kaithal and Panipat stated between February 2008 and March 2009 that an amount of Rs. 28,071 had been recovered in one case in July 2008 and efforts were being made to recover the balance amount. A report on recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department between July 2007 and October 2008 and reported to the Government in March and April 2009; their reply has not been received (August 2009).

### **4.3.3 Non-recovery of penalty**

Under Section 61 and 61-A of the Punjab Excise Act, 1914, as applicable to Haryana, penalty not less than Rs. 50 and not more than Rs. 500 per bottle of 750 ml is leviable on the offender for possession of illicit liquor. The Act further provides that if penalty is not paid within the stipulated period, the Collector or DETC shall pass orders for confiscation of means of transport along with the liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation. The auction amount after deducting the expenditure incurred on it shall be adjusted towards payment of penalty and the excess amount, if any, shall be refunded to the owner. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

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<sup>3</sup> Interest calculated upto December 2008.

During test check of records of the offices of DETC (Excise), Fatehabad and Kurukshetra between August 2006 and May 2008, it was noticed that in 48 cases, 15,171 bottles of illicit country liquor were detained between April 2005 and October 2007 and penalty of Rs. 30.60 lakh was imposed. The department had confiscated six vehicles in these cases. Neither the defaulters paid the penalty nor the department initiated any action to recover the amount either by auctioning the confiscated vehicles or by recovery through revenue recovery certificate as arrears of land revenue even after the lapse of 17 to 47 months. This resulted in non-recovery of penalty of Rs. 30.60 lakh.

After the cases were pointed out in August 2006 and May 2008, DETC (Excise) Fatehabad and Kurukshetra stated between December 2008 and January 2009 that an amount of Rs. 2.90 lakh had been recovered in 19 cases (including auction money of two vehicles amounting to Rs. 2.60 lakh) between May 2007 and September 2008 and efforts were being made to recover the balance amount of Rs. 27.70 lakh. Further progress of recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department between October 2006 and June 2008 and reported to the Government in March 2009; their reply has not been received (August 2009).

#### **4.3.4 Non-recovery of cost of supervisory excise staff**

Under Rule 13 and 16 of the Punjab Distillery Rules, 1932, as applicable to Haryana, the licensee shall agree to the posting of a Government excise establishment to his distillery for the purpose of ensuring the due observance of the Rules and for watch and ward. The licensee shall, if required by the Excise Commissioner, make into the Government treasury such payment as may be demanded on account of the salaries of the Government excise establishment posted to the distillery, but he shall not make any direct payment of any member of such establishment. Further, Rule 4.1 of the Punjab Financial Rules, Volume I, as applicable to Haryana, stipulates that the amount due to the Government shall be properly assessed and after realisation it shall be paid into the treasury.

Mention was made in paragraph 4.2.12 of the Report of the Comptroller and Auditor General of India for the year ended March 1996 (Revenue Receipts) Government of Haryana regarding non-recovery of cost of supervisory excise staff. The Public Accounts Committee (PAC) in their 50<sup>th</sup> Report<sup>4</sup>, in response to similar reply during oral discussion, recommended that the Government may decide a clear policy in the matter of salary of excise staff posted at the distillery. But no such action has been taken in this regard even after the recommendation of the PAC.

During test check of the excise records of the offices of DETC (Excise), Hisar, Panipat, Sonipat and Yamunanagar between July 2007 and January 2008, it

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<sup>4</sup> 50<sup>th</sup> Report presented to the House on 15 March 2001.

was noticed that the Excise and Taxation Department posted 35 employees<sup>5</sup> in five<sup>6</sup> distilleries and paid salary expenses aggregating to Rs. 22.09 lakh during the year 2006-07. The cost of the establishment (pay and allowances) amounting to Rs. 22.09 lakh recoverable from the distilleries was neither demanded by the department nor paid by the management of these distilleries.

After the cases were pointed out between July 2007 and January 2008, the ETC stated in July 2009 that the Government had decided to recover the salary cost of supervisory staff posted in the distillery on quarterly reimbursement basis from 2009-10. Due to delay in the decision even after the recommendations of the PAC in March 2001, the department suffered a loss of revenue of Rs. 22.09 lakh.

The matter was reported to the Government in January 2009; their reply has not been received (August 2009).

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<sup>5</sup> Two Assistant Excise and Taxation Officers; 21 Excise Inspectors; two clerks and 10 peons.

<sup>6</sup> Associated Distillery Limited, Hisar; Panipat Co-operative Distillery, Panipat; Frost Falcon Distilleries Limited, Murthal (District Sonipat), Frost Falcon Distilleries Limited, Jahari (District Sonipat) and Haryana Distillery Limited, Yamunanagar.

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## CHAPTER V: OTHER TAX RECEIPTS

### 5.1 Results of audit

Test check of the records in the offices of Transport, Excise and Taxation, Agriculture and Power departments relating to revenue received from taxes on vehicles, taxes on goods and passengers and other tax receipts during the year 2008-09 revealed non/short recovery of tax, fees and penalty etc. amounting to Rs. 5.18 crore in 5,738 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
<b>A: Transport Department (Taxes on vehicles)</b>			
1.	Non/short recovery of token tax in respect of stage carriage buses	473	0.79
2.	Short charging of permit/countersignature fees from owners of heavy/light transport vehicles	1,226	0.29
3.	Non-recovery of bid money	18	0.20
4.	Non/short realisation of registration fee and token tax on vehicles transferred from other States	982	0.18
5.	Miscellaneous irregularities	1,510	0.65
<b>Total</b>		<b>4,209</b>	<b>2.11</b>
<b>B: Excise and Taxation Department (Taxes on goods and passengers)</b>			
1.	Non-recovery of passengers tax from bus owners of co-operative societies/educational institutions	713	1.58
2.	Non-recovery of goods tax	693	0.36
<b>Total</b>		<b>1,406</b>	<b>1.94</b>
<b>C: Other Tax Receipts (entertainment duty and show tax, purchase tax on sugarcane and taxes and duties on electricity)</b>			
	Other tax receipts	123	1.13
<b>Grand total</b>		<b>5,738</b>	<b>5.18</b>

During the year 2008-09, the departments accepted underassessments and other deficiencies of Rs. 2.17 crore involved in 1,860 cases of which 1,852 cases involving Rs. 2.13 crore had been pointed out during the year 2008-09 and the remaining in earlier years. The departments recovered Rs. 16.36 lakh in 99 cases during the year 2008-09, of which 91 cases involving Rs. 12.73 lakh related to the year 2008-09 and balance to the earlier years.

A few illustrative audit observations highlighting irregularities involving financial effect of Rs. 1.61 crore are mentioned in the succeeding paragraphs.

## **5.2 Audit observations**

*Scrutiny and records in the offices of Transport, Excise and Taxation, Agriculture and Power departments relating to revenue received from taxes on vehicles, taxes on goods and passengers and other tax receipts revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty/permit fee and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. The Government needs to improve the internal control system to avoid occurrence of such cases in future.*

### **EXCISE AND TAXATION DEPARTMENT**

## **5.3 Non-observance of the provisions of Acts/Rules**

*The Punjab Passengers and Goods Taxation Act/Rules provide for levy of passengers tax at the prescribed rate.*

*While the owners of the vehicles did not pay the tax, the Department also did not issue the demand notice as required in some cases as mentioned in the paragraph 5.3.1. This resulted in non/short realisation of tax of Rs. 98.77 lakh.*

### **5.3.1 Non/short realisation of passengers tax**

Under the Punjab Passengers and Goods Taxation Act, 1952 (PPGT Act) and the rules framed thereunder, as applicable to Haryana, the passengers tax is payable by 20<sup>th</sup> of each month at the rates prescribed by Government from time to time. The owner of the bus shall pay lump sum tax by making deposit into the Government treasury or by furnishing demand draft or pay order to the appropriate authority. In case the said sum is paid within the first seven days of the month to which the payment relates, the permit holder shall be entitled to a concession of 10 *per cent* of lump sum payable. If any sum is payable by an owner under the Act or rules, the AA shall serve a notice in Form P.T.T. 11 (demand notice) alongwith a copy of the order and shall also fix date not less than 15 days from the date of service, by which the owner shall furnish the receipted challans in proof of such payment. In case the tax is not paid within the prescribed time, penalty not exceeding Rs. 5,000 shall be leviable.

#### **5.3.1.1 Educational institutions**

The owner of the bus of an educational institution may, in lieu of tax chargeable on fare and freight, pay lump sum tax (month wise) at the rate of Rs. 60 per seat per month for nine months (from July to March) in a year. Further as per notification dated 18 October 2007 (applicable from 1 March 2007), the Government prescribed lump sum tax in respect of private

schools owning educational institutional buses on the basis of monthly bus charges per seat exceeding Rs. 100 but not exceeding Rs. 200 at the rate of Rs. 20 and exceeding Rs. 200 at the rate of Rs. 40 per seat per month for nine months in a year.

During test check of records of four<sup>1</sup> offices of DETC between November 2007 and October 2008, it was noticed that the owners of 492 educational institution buses, granted permits for plying buses, either did not deposit the monthly passengers tax or deposited it short during the period between April 2007 and March 2008. The department, however, did not raise the demand to realise tax from the defaulting bus owners. This resulted in non/short realisation of passenger tax of Rs. 59.38 lakh. Additionally, a maximum penalty of Rs. 24.60 lakh was also recoverable.

After the cases were pointed out between November 2007 and October 2008, DETCs Bhiwani, Kaithal and Narnaul intimated between September 2008 and March 2009 that an amount of Rs. 18,480 had been recovered in respect of four buses of Kaithal between April and November 2008 and efforts were being made to recover the balance amount. DETC Rewari stated in September 2008 that notices would be issued to recover the tax from the defaulting institutions. Further report on recovery has not been received (August 2009).

### **5.3.1.2 Transport co-operative societies**

The permit holder buses on link routes of the State under the scheme of privatisation of passenger road transport, are required to pay lump sum passengers tax based on the seating capacity of the bus on monthly rate of Rs. 16,000 for 52/54 seater and Rs. 10,000 for 30/32 seater buses. Further, the Government vide notification issued in April 2002, revised rates of passengers tax to Rs. 20,000 and Rs. 14,000 for 52/54 and 30/32 seater buses respectively, in case their routes are extended upto 24 kilometers. With effect from March 2007, the Government revised the passenger tax to Rs. 12,000 for 52/54 seater and Rs. 6,000 for 30/32 seater buses and in case their routes extended upto 24 kilometers at the rate of Rs. 16,000 for 52/54 seater and Rs. 10,000 for 30/32 seater buses.

During test check of records of six<sup>2</sup> offices of DETC in October and November 2008, it was noticed that 29 transport co-operative societies<sup>3</sup> either did not deposit the monthly passengers tax or deposited it short during 2007-08. The department, however, did not raise the demand to realise tax from the defaulting societies. This resulted in non/short realisation of tax of Rs. 29.06 lakh. Additionally maximum penalty of Rs. 1.45 lakh was also recoverable.

<sup>1</sup> Bhiwani, Kaithal, Narnaul and Rewari.

<sup>2</sup> Bhiwani, Faridabad (East), Faridabad (West), Jind, Jhajjar and Panipat.

<sup>3</sup> As per Haryana Co-operative Societies Act, 1984, a transport co-operative society means a society registered under the Act for plying buses on link routes in the State and granted permit under Section 7 of the Motor Vehicle Act, 1988.

After the cases were pointed out in October and November 2008, DETCs Faridabad (West), Jhajjar and Jind stated between November 2008 and March 2009 that a sum of Rs. 1.78 lakh had been recovered in two cases of Faridabad (West) in December 2008 and January 2009 and efforts were being made to recover the balance amount. DETC Faridabad (East) and Bhiwani stated between March and June 2009 that efforts were being made to recover the amount. DETC Panipat stated between January and May 2009 that notices had been issued to recover the dues from the defaulting vehicle owners. A report on recovery and final reply has not been received (August 2009).

### **5.3.1.3 City bus operators**

The holders of permit for plying buses on the roads within the municipal corporation limit in Gurgaon and Faridabad districts are required to pay passengers tax at the rates prescribed for ordinary half body and ordinary full body at Rs. 4,200 and Rs. 7,000 per month respectively with effect from 24 February 2004.

During test check of the records of the offices of DETC, Faridabad (East) and Gurgaon for the year 2007-08 in April and October 2008, it was noticed that 26 private bus operators who were granted permits for plying buses in city areas did not deposit the monthly passengers tax for different periods between April 2007 and March 2008. The department, however, did not take action to realise the tax from the defaulting bus owners. This resulted in non/short realisation of tax of Rs. 10.33 lakh. Additionally, maximum penalty of Rs. 1.30 lakh was also leviable.

After the cases were pointed out in April and October 2008, DETCs, Faridabad (East) and Gurgaon stated between November 2008 and April 2009 that tax amounting to Rs. 2.56 lakh had been recovered between April 2008 and February 2009 and efforts were being made to recover the balance amount of Rs. 7.77 lakh. A report on action taken to levy penalty and the recovery of balance amount has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department between February 2008 and March 2009 and reported to the Government in March and April 2009; their reply has not been received (August 2009).

## **TRANSPORT DEPARTMENT**

### **5.4 Non-observance of the provisions of Acts/Rules**

*The Punjab Motor Vehicles Act, 1924/Haryana Motor Vehicle Rules, 1993 provide for:-*

- (i) payment of motor vehicles tax/token tax by the owner of vehicles at the prescribed rate;*
- (ii) token tax to be paid in advance and within the prescribed period; and*
- (iii) payment of permit fee in respect of transfer of permit by the owner of vehicles.*

*The Transport Department did not observe some of the provisions of the Acts/Rules in some cases for levy and collection of token tax and permit fee as mentioned in the paragraph 5.4.1 which resulted in non/short realisation of tax/permit fee of Rs. 58.17 lakh.*

#### **5.4.1 Non/short recovery of token tax**

Under the Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act) and the rules framed thereunder, as applicable to Haryana, the token tax shall be leviable in advance on every motor vehicle<sup>4</sup> in equal instalments for quarterly periods commencing on the first day of April, July, October and January per vehicle for a period of one year. Any broken period in such quarterly periods shall, for the purpose of levying the tax, be considered as a full quarter. In case of omission to comply with the provisions, the Act further provides that the licensing officers may impose a penalty which may extend to twice the amount of tax due. When a person neglects or refuses to pay instalment of tax within one month from the expiry of the period fixed for such payment, the licensing officer may forward to the Collector a certificate specifying the amount of tax due recoverable as arrears of land revenue.

##### **5.4.1.1 City bus owners**

A stage carriage or contract carriage plying under a permit issued under Faridabad and Gurgaon city 'Private Bus Service Scheme, 2004' is required to pay token tax prescribed for a half body bus<sup>5</sup> and for a full body bus<sup>6</sup> at the rate of Rs. 18,000 and Rs. 30,000 per annum respectively.

During test check of the records of the offices of Secretary, Regional Transport Authority (RTA), Faridabad and Gurgaon for the years 2006-07 to 2007-08 between August 2007 and June 2008, it was noticed that 138 private bus operators who were granted permits for plying buses in city areas did not deposit token tax for different periods between April 2006 and March 2008. No action was taken by the RTAs to recover token tax from the defaulting bus owners. This resulted in non/short realisation of token tax of Rs. 22.22 lakh. Additionally, maximum penalty of Rs. 44.43 lakh was also leviable.

After the cases were pointed out between August 2007 and June 2008, the Secretary, RTAs Faridabad and Gurgaon stated in June 2008 and March 2009 that a sum of Rs. 3.17 lakh had been recovered in 17 cases between August 2007 and March 2009 and efforts were being made to recover the balance amount. A report on recovery of balance amount has not been received (August 2009).

<sup>4</sup> Motor vehicle means stage carriage and contract carriage permit holder vehicles.

<sup>5</sup> Half-body bus means an omnibus, which is not a maxi cab, and not a full-body bus.

<sup>6</sup> Full-body bus means an omnibus whose capacity shall be, with ordinary 3x2 seating arrangement, to carry more than 35 but not more than 54 persons, and with luxury 2x2 seating arrangement to carry more than 12 but not more than 35 persons excluding the driver.



#### **5.4.1.2 Stage carriage bus owners**

Token tax on a stage carriage bus plying for hire and used for the transport of passengers shall be leviable at the rate of Rs. 550 per seat per annum subject to a maximum of Rs. 35,000 per vehicle per annum.

During test check of the records of 10 offices<sup>7</sup> of the Secretary, RTAs between November 2007 and October 2008, it was noticed that 102 buses were plied as stage carriages by the transport co-operative societies during the years 2006-07 and 2007-08. However, token tax was either not deposited or deposited short by the societies. No action was taken by the RTAs to recover the tax. This resulted in non/short realisation of token tax of Rs. 22.05 lakh. Additionally penalty was also leviable.

After the cases were pointed out between November 2007 and October 2008, six<sup>8</sup> RTAs stated between January and June 2009 that Rs. 3.83 lakh had been recovered in 26 cases between April 2008 and May 2009 and efforts were being made to recover the balance amount of Rs. 10.42 lakh. RTA Fatehabad stated in January 2009 that recovery was being made. RTA Kaithal stated in February 2009 that action was being taken to recover the tax. A report on recovery and reply from the remaining two RTAs involving Rs. 4.17 lakh has not been received (August 2009).

The matter was pointed out to the State Transport Controller (STC), Transport Department between December 2007 and March 2009 and reported to the Government in April and May 2009; their reply has not been received (August 2009).

#### **5.4.1.3 Short realisation of permit transfer fee**

Under the Haryana Motor Vehicles Rules, 1993, where the holder of a permit desires to transfer the permit to some other person under section 82 (1) of the Motor Vehicles Act, 1988 (MV Act), they shall make a joint application accompanied by a cash receipt or treasury challan showing the payment of fee of Rs. 100 specified for making application for grant of permit to the State or RTA for issue of the permit. If the RTA allows transfer of a permit, it shall call upon the holder of the permit, in writing, to surrender parts A and B of the permit within seven days of the receipt of the order and shall likewise call upon the person to whom the permit is to be transferred to deposit the fee of Rs. 2,625 and Rs. 1,750 specified for grant of permit for heavy transport vehicle (HTV) and light transport vehicle (LTV) respectively.

During test check of the records of offices of Secretary, RTA Naraingarh (now RTA Ambala) and Sirsa in October and November 2008, it was noticed that holders of 576 permits (HTV: 463; LTV: 113) applied for transfer of permits during the years 2006-07 and 2007-08. RTAs allowed transfer of permits in these cases. Against the recoverable fee of Rs. 14.71 lakh, the department

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<sup>7</sup> RTAs Bhiwani, Faridabad, Fatehabad, Gurgaon, Jhajjar, Kaithal, Panipat, Rewari, Rohtak and Sirsa.

<sup>8</sup> RTAs Bhiwani, Faridabad, Gurgaon, Panipat, Rewari and Sirsa .

charged application fee of Rs. 57,600 and permit fee of Rs. 23,400 only. This resulted in short realisation of permit fee of Rs. 13.90 lakh.

After the cases were pointed out in October and November 2008, RTA Ambala stated in February 2009 that an amount of Rs. 63,500 had been recovered in 25 cases in December 2008 and January 2009 and efforts were being made to recover the balance amount. RTA Sirsa stated in June 2009 that notices would be issued to recover the permit transfer fee from the concerned parties. A report on recovery has not been received (August 2009).

The matter was pointed out to the STC, Transport Department in November and December 2008 and reported to the Government in May 2009; their reply has not been received (August 2009).

### **5.5 Non-realisation of additional fee for retention of choice registration mark**

*The Department did not observe provisions of Government notification in some cases at the time of allowing the registration of choice numbers which resulted in non-levy of additional fee of Rs. 4.35 lakh.*

As per notification issued by Government in December 2005 under Section 65 of the MV Act and the Haryana Motor Vehicles Rules, 1993 framed thereunder, the registering authority shall allot to the owner of non-transport vehicle<sup>9</sup>, a registration mark of his choice from amongst the registration mark specified by the Central Government on payment of prescribed additional fee. However, if the motor vehicle with choice registration number is being transferred in the name of other person, the same may be allowed by the registering authority on payment of additional fee as prescribed.

During test check of the records of five<sup>10</sup> registering authorities {Motor Vehicles (MVs)} between February and October 2008, it was noticed that in 63 cases, the motor vehicles with choice registration numbers were transferred in the name of other persons. Registering authorities transferred the vehicles with choice registration numbers without charging the additional fee as prescribed. This resulted in non-realisation of additional fee of Rs. 4.35 lakh.

After the cases were pointed out between February and October 2008, four<sup>11</sup> registering authorities (MVs) stated in June 2008 and March 2009 that a sum of Rs. 15,000 (Faridabad: Rs. 5,000; Nuh: Rs. 10,000) had been recovered in two cases and efforts were being made to recover the balance amount of Rs. 3.40 lakh. Further report on recovery and reply from registering authority (MV), Panchkula has not been received (August 2009).

<sup>9</sup> Non-transport vehicle means private service vehicle registered in the name of an individual and if declared to be used by him solely for personal purposes.

<sup>10</sup> Faridabad, Jagadhari, Narwana, Nuh and Panchkula.

<sup>11</sup> Faridabad, Jagadhari, Narwana and Nuh.

The matter was pointed out to the STC, Transport Department in February 2009 and reported to the Government in April 2009; their reply has not been received (August 2009).

## CHAPTER VI: NON-TAX RECEIPTS

### 6.1 Results of audit

Test check of the records in departmental offices relating to Home (Police), Public Works, Forest, Co-operation, Urban Development, Mines and Geology, Medical and Public Health, Animal Husbandry, Food and Supplies and Agriculture conducted in audit during the year 2008-09, revealed underassessments of tax and loss of revenue amounting to Rs. 55.52 crore in 29,614 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
<b>A: Home (Police)</b>			
1.	Receipts of Police Department (A review)	1	32.55
2.	Miscellaneous irregularities	26,756	0.43
<b>Total</b>		<b>26,757</b>	<b>32.98</b>
<b>B: Public Works Department</b>			
<b>(i) Water services and sanitation</b>			
1.	Non-recovery of water and sewerage charges	15	9.53
2.	Loss due to non-levy of charges on un-metered supply of water to industrial institutions/commercial connections	1,457	3.24
3.	Miscellaneous irregularities	131	0.17
<b>Total</b>		<b>1,603</b>	<b>12.94</b>
<b>(ii) Irrigation</b>			
1.	Miscellaneous irregularities	341	0.19
<b>(iii) Buildings and Roads</b>			
1.	Miscellaneous irregularities	20	0.09
<b>C: Forest</b>			
1.	Miscellaneous irregularities	369	5.86
<b>D: Co-operation</b>			
1.	Non/short recovery of dividend on share capital	28	1.15
2.	Non/short recovery of audit fees	94	0.19
3.	Non-recovery of loans and interest	1	0.15
<b>Total</b>		<b>123</b>	<b>1.49</b>

Sl. No.	Category	Number of cases	Amount
<b>E: Urban Development</b>			
1	Non-collection of external development charges/Infrastructure Development Charges and interest thereon	23	1.01
2.	Short recovery of license fee and conversion charges	3	0.02
<b>Total</b>		<b>26</b>	<b>1.03</b>
<b>F: Mines and Geology</b>			
1.	Non-recovery of royalty and interest	215	0.66
2.	Non-recovery of interest on late deposit of contract money	56	0.11
3.	Miscellaneous irregularities	18	0.04
<b>Total</b>		<b>289</b>	<b>0.81</b>
<b>G: Medical and Public Health</b>			
1.	Miscellaneous irregularities	20	0.09
<b>H: Animal Husbandry, Food and Supplies and Agriculture</b>			
1.	Non-deposit of revenue receipts into treasury	66	0.04
<b>Grand total</b>		<b>29,614</b>	<b>55.52</b>

During the year 2008-09, the departments accepted non/short realisation and other deficiencies of Rs. 2.00 crore involved in 487 cases of which 180 cases involving Rs. 1.49 crore had been pointed out during the year 2008-09 and the remaining in the earlier years. The departments recovered Rs. 23.28 lakh in 172 cases during the year 2008-09, of which 19 cases involving Rs. 9.23 lakh related to the year 2008-09 and balance to the earlier years.

A review of “**Receipts of Police Department**” involving Rs. 32.55 crore and a few illustrative audit observations involving Rs. 1.76 crore are mentioned in the succeeding paragraphs.

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## HOME DEPARTMENT

### 6.2 Review of Receipts of Police Department

#### 6.2.1 Highlights

- Failure on the part of department to raise and realise the police cost from Railways resulted in non-realisation of revenue of Rs. 19.96 crore.

(Paragraph 6.2.8.1 and 6.2.8.2)

- Acceptance of payment of incentive money from Ministry of External Affairs (MEA) in the absence of any control mechanism for recovery of dues for passport verification reports (PVRs) led to short reimbursement of Rs. 1.26 crore.

(Paragraph 6.2.9)

- Failure to raise and collect demand timely on provisional basis quarterly as per Government of India (GOI) instructions resulted in non-realisation of revenue of Rs. 5.29 crore.

(Paragraph 6.2.13)

- Police cost amounting to Rs. 1.14 crore was under assessed due to non-inclusion of different elements of cost.

(Paragraph 6.2.14.2)

- Delay in disposal of 728 confiscated arms valuing Rs. 29.89 lakh resulted in blockage of revenue.

(Paragraph 6.2.16)

#### 6.2.2 Introduction

The State Government is responsible for maintenance of law and order in the State. This responsibility is discharged through the Police Department whose duties and functions are governed under the Police Act, 1861 and the Rules framed thereunder i.e. the Punjab Police Rules, 1934 as applicable to Haryana. While the services rendered by the police personnel for maintenance of general law and order in the State is the normal function of the Government, their services are extended on special occasions and lent to other departments of the State, Central or other State Governments, autonomous bodies, private organisations and individuals on payment of charges fixed by the Government from time to time.

The receipts of the Police Department mainly comprise recovery of the cost of police personnel provided to the Public Sector Undertakings (PSUs), Banks, Railways and private persons within the State of Haryana towards guarding chest/remittance, performing watch and ward duties, for maintenance of law and order etc. The incidence of recovery of expenditure on the cost of police personnel provided to other State Governments also arises for maintenance of

law and order in other States in unusual circumstances like communal riots, natural calamities and at the time of elections etc. at the request of that Government. Other police receipts conform to fees, fines and forfeiture in respect of services controlled by the department, receipts under Arms Act and sale of confiscated arms and ammunition, unserviceable vehicles and other material.

### **6.2.3 Organisational set up**

At the Government level, the Financial Commissioner and Principal Secretary, Home Department is responsible for the administration of Police Department. Overall control and superintendence of police force vests with the Director General of Police Haryana, Panchkula (DGP). Claims on account of cost of police force supplied to other State Governments/Union Territories (UTs) are preferred by the DGP. The DGP is assisted by Inspector General of Police (IGP) at four<sup>1</sup> range level and Senior Superintendent of Police (SSP)/ Superintendent of Police (SP) at 21 district levels. Besides, Haryana Armed Police (HAP) having five battalions in reserve, each under the charge of a Commandant is placed at the disposal of the DGP for any emergency duty within or outside the State. Government Railway Police (GRP) is headed by SP at Ambala Cantonment and provides security to railway passengers within the State and is responsible to recover 50 *per cent* of its cost to be shared by the Railways. Telecommunication wing headed by IGP/Telecom (Controlling officer) assisted by Deputy Inspector General (DIG) Telecom/SP Telecom is functioning as head of office have been constituted (November 1966) to provide services of telecommunication in the department for immediate sending messages to the police officers in the field offices.

### **6.2.4 Audit objectives**

The review was conducted to ascertain whether:-

- the system and procedure relating to assessment, raising and collection of police receipts was efficient and effective;
- the rules and regulations governing realisation of police receipts were adequate and complied with;
- a system of periodical reporting to the Government/DGP existed;
- obsolete, confiscated/seized arms/ammunitions, other office equipments and machinery were being disposed off regularly and receipts remitted in the Government treasury; and
- the internal control mechanism in the department was effective.

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<sup>1</sup> Ambala, Faridabad, Hisar and Rohtak.

### 6.2.5 Scope and methodology of audit

Records relating to the period from 2003-04 to 2007-08 kept in the office of the DGP Haryana, nine<sup>2</sup> (out of 21) SP offices and ten<sup>3</sup> (out of 21) other police offices in the State were test checked between June 2008 and March 2009. Selection of the offices was made by statistical random sampling method.

### 6.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Home Department in providing the necessary information and records for audit. An entry conference was held in December 2008 and attended by the Financial Commissioner and Principal Secretary, Home Department and IGP. The objectives of the review and the audit methodology were discussed and agreed upon. The draft review report was forwarded to the Government and the department in May 2009 and was discussed in the exit conference held on 14 July 2009. The Inspector General of Police (IGP) represented the department. The views of the department have been incorporated in the respective paragraphs.

A review of the systems and procedures pertaining to levy, collection and accounting of the receipts of the Police Department revealed a number of system and compliance deficiencies which are discussed in the following paragraphs.

### 6.2.7 Trend of revenue

The budget estimates (BEs), actual realisation of revenue, variation in actual receipts over the BE and percentage of variation for the period 2003-04 to 2007-08 is mentioned in the table below:

**(Rupees in crore)**

Year	Budget estimates	Actual Receipts	Variation of actual receipts over BE increase (+)/shortfall (-)	Percentage of variation
2003-04	17.30 <sup>4</sup>	11.71	(-) 5.59	(-) 32
2004-05	17.61	26.45	(+) 8.84	(+) 50
2005-06	29.90	7.49	(-) 22.41	(-) 75
2006-07	13.40	22.79	(+) 9.39	(+) 70
2007-08	20.00	41.44	(+) 21.44	(+) 107

<sup>2</sup> Ambala, Faridabad, Gurgaon, Hisar, Karnal, Panchkula, Panipat, Sirsa and Yamunanagar.

<sup>3</sup> SP (GRP) Ambala, Commandant 1st IRB Bhondsi, SP (Commando) Karnal, Commandant 2nd Bn, Madhuban, Commandant 4th Bn, Madhuban, Forensic Science Laboratory (FSL), Madhuban, Director Police Training College Madhuban, ADGP (CID) Panchkula, SP (Telecom) Panchkula and IGP Rohtak.

<sup>4</sup> During 2003-04 the figure of revised estimates as Rs. 17.52 crore was shown in para 1.4 of Audit Report for the year ended 31 March 2004. This is the reason for variation in figure of Chapter I and figure as indicated here.



The department attributed decrease in revenue receipts during 2005-06 to less receipt for police supplied to other Governments and abolition of Haryana State Industrial Security Force during 2004-05. The increase in revenue receipts during 2004-05, 2006-07 and 2007-08 was due to higher receipt of payment from the Railways and other State Governments/GOI on account of deployment of police forces. In the exit conference, the department stated (July 2009) that there were high variations between the BEs and the actual receipts as it was not always possible to foresee the actual receipts.

### Audit findings

#### System deficiencies

#### 6.2.8 Non-realisation of police cost from Railways

As per provisions of the Police Act, 1861 and Government Accounting Rules, 1990, the cost of GRP shall be shared between the State Government and the Railways on 50:50 basis provided the strength and deployment is determined with the approval of Railways. The cost for this purpose include pay and allowances, office expenses and contingencies, contribution towards leave salary and pension of the establishment as well as rent of the building occupied by the staff of the Railway Police.

Claims of reimbursement of cost of police deployed to Railways were sent directly by SP (GRP) and SP (Telecom) to the Chief Security Commissioner-cum-IG (Railway Protection Force) {IG (RPF)}.

Audit observed that there is no prescribed system for raising and collection of police cost from Railways as discussed in the succeeding paragraphs:

**6.2.8.1** Test check of records of the office of SP (GRP) Ambala Cantonment in July 2008 revealed that demands to realise the police cost (50 per cent share) from Railways were generally sent at an interval of six months as given below:

**(Rupees in crore)**

Name of Railway Department	Period of dues	Date of raising bills	Amount
Northern Railway	1 October 2006 to 31 March 2007	13 June 2007	5.17
	1 April 2007 to 30 September 2007	10 January 2008	6.33
	1 October 2007 to 31 March 2008	17 June 2008	6.62
Western Railway	1 October 2006 to 31 March 2007	13 June 2007	0.04
<b>Total</b>			<b>18.16</b>

No payment on account the above bills have been received. Further the department has not raised the demand to Western Railways for the period 1 April 2007 to 31 March 2008.

After the case was pointed out in June 2008, the department stated in September 2008 that Northern Railways had accorded sanction for Rs. 18.13 crore in July 2008 but the payment was still awaited. Further progress of recovery and reply in respect of recovery from Western Railways has not been received (August 2009).

**6.2.8.2** Test check of the records of the office of SP (Telecom), Panchkula in June 2008 revealed that the department had deployed telecommunication staff on Railways duty on its own since December 1990 without obtaining the approval of the Railways. The deployment was made to set up a separate control room in the GRP at Ambala in view of terrorist violence on the Railways. The instructions to establish the control room were stated to have been conveyed by the then DGP on 24 July 1987. However, no bill was raised for recovery of police cost. The lapse was pointed out by audit in October 2002. Even after that the department failed to take immediate steps to raise and realise the cost from Railways.

The department raised two claims towards cost of staff deployed during the period between December 1990 and December 2006 amounting to Rs. 1.80 crore<sup>5</sup> on IG (RPF) in July 2006 and May 2007. The Railway authorities returned the bill in December 2006 (Rs. 1.19 crore raised in July 2006) for want of a copy of Railway Board concurrence order. SP (Railways) Haryana, Ambala Cantonment requested the DGP in April 2008 that correspondence with the Railway Board may be made for obtaining their approval as desired by the Railway authorities. However, no reply had been sent to Railway authorities upto June 2008. Delays in raising the bills and non-obtaining of approval of the Railways even after lapse of more than seventeen years, resulted in non-realisation of revenue to the extent of Rs. 1.80 crore. However, given the railway refusal to honour the claims, it is unlikely that these claims would ever be paid by them.

During the exit conference, the department stated that efforts would be made to effect recovery from Railways and as regard deployment of police staff without obtaining approval from Railways, the matter would also be looked into.

### **6.2.9 Non-existence of system to monitor the raising of claims for incentive money for passport verification reports**

With a view to encourage timely receipts of PVRs in respect of passports, GOI, MEA introduced a scheme in October 2003 for payment of incentive money of Rs. 100 and Rs. 50 per PVR referred directly by the passport office to the State Government provided it was received within 30 days and after 30 days respectively. From 1 September 2005, the MEA decided to disburse

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<sup>5</sup> Rs. 1.19 crore: December 1990 to September 2003; Rs. 60.86 lakh: October 2003 to December 2006.

Rs. 100 and Rs. 25 per PVR provided it was received within 20 days and after 20 days respectively. Apart from the above, the MEA also disbursed an amount of Rs. 200 to the State Government for each passport application received through District Passport Cell (DPC) alongwith the PVR with effect from 1 April 2002.

Audit observed that no system had been prescribed for monitoring the receipts of incentive claims from SP/SSP offices in respect of PVRs cleared during the year. Further State Government/DGP was not aware of the actual amount due from MEA. Absence of any control system for recovery of dues led to short payment to the State Government.

As per information provided by 18 offices<sup>6</sup> of SSP/SP (between October 2008 and February 2009) the department cleared 2,05,460 PVRs and 1,37,421 applications for passport received from passport offices and DPCs during the period from January 2004 to December 2007. Though the department had not raised claims, the MEA paid incentive money of Rs. 3.12 crore (between January 2004 and December 2007) to the State Government against incentive money payable amounting to Rs. 4.38 crore. Thus, an amount of Rs. 1.26 crore was short paid by MEA to the State Government as per details given below:-

Particular	Period	Number of PVRs cleared	Amount (Rupees In lakh)	Number of PVRs for which payment received for MEA	Amount of incentive money passed by MEA (Rupees in lakh)
<b>Passports received for verification from the passport offices</b>					
Within 30 days	1 January 2004 to 31 August 2005	50,830	50.83	2,085	2.08
After 30 days	1 January 2004 to 31 August 2005	18,485	9.24	49,556	12.39
Within 20 days	1 September 2005 to 31 December 2007	93,156	93.15	2,357	2.36
After 20 days	1 September 2005 to 31 December 2007	42,989	10.75	80,775	20.19
<b>Passport received from DPC</b>					
	1 January 2004 to 31 December 2007	1,37,421	274.84	1,37,726	275.45
<b>Total</b>		<b>3,42,881</b>	<b>438.81</b>	<b>2,72,499</b>	<b>312.47</b>

<sup>6</sup> Ambala, Bhiwani, Faridabad, Fatehabad, Gurgaon, Hisar, Jind, Kaithal, Kurukshetra, Mewat, Narnaul, Panchkula, Panipat, Rewari, Rohtak, Sirsa, Sonipat and Yamunanagar.

It is evident from the table above that the MEA had paid incentive money at the rate of Rs. 100 per PVRs cleared within 30/20 days for 4,442 PVRs as against 1,43,986 PVRs and at the rate of Rs. 25 per PVRs cleared after 30/20 days for 1,30,331 instead of payable at Rs. 50 per PVRs for 18,485 and at Rs. 25 per PVRs for 42,989. Furthermore, delay in sending 61,474 PVRs (after 30 days: 18,485, after 20 days: 42,989) from police authorities during the period January 2004 to December 2007 led not only a public inconvenience due to delay in issuance of passports but also revenue implication for the State Government resulting in less receipts of Rs. 41.48 lakh<sup>7</sup>.

During the exit conference, the department stated that delay in PVRs in respect of passport was due to the fact that passport documents for verifications were firstly sent to the office of District Magistrate (DM) and Criminal Investigation Department (CID) and thereafter to the police department. However, the department agreed to take up the matter with the State Government for monitoring.

#### **6.2.10 Absence of provision to realise interest for belated payments**

The Punjab Police Act/Rules do not prescribe any time limit for the demand and payment of the cost of police guards deployed to other State Governments and Railways and for levy of interest in case of delay in payment.

It was also noticed in audit that there was no provision for levy of interest on delay in payment as a result of which no interest can be charged on the revenue of Rs. 25.25 crore remained outstanding against Railways and other State Governments as pointed out in paragraphs 6.2.8 and 6.2.13. It is pertinent to mention that the expenditure on the salary of police staff deployed on such duty and other charges are met by the State Government out of its budget on which the State Government incurs an interest liability on account of its borrowings. It is, therefore, logical that the burden of any delay in reimbursement of this cost to the State Government should be passed on to the parties which requisition the services of the police personnel.

During the exit conference, the department agreed to take up the matter with the State Government for inserting a provision of interest in the Punjab Police Rules.

#### **6.2.11 Delay in submission of inventory of unclaimed vehicles**

As per section 25 of the Police Act, 1861, it shall be the duty of every police officer to take charge of all unclaimed property and to furnish an inventory thereof to the DM.

Audit observed that there is no provision in the Punjab Police Rules, 1934 regarding time limit for submission of inventory of unclaimed vehicles to the DM.

<sup>7</sup> Rs. 41,48,425 = (18,485 X Rs. 50 = Rs. 9,24,250; 42,989 X Rs. 75 = Rs. 32,24,175)

As per information collected from nine offices<sup>8</sup> of SSP/SP, it was observed that 950 vehicles were lying unclaimed with the district police stations as on 31 March 2008. The delay<sup>9</sup> in submission of inventory ranged between six and 106 months as shown in the table below:-

**Delay in submission of inventory of unclaimed vehicles**

Particulars	Exceeding 60 months	Between 48 and 60 months	Between 36 and 48 months	Between 24 and 36 months	Between 12 and 24 months	Less than 12 months	Total
Number of unclaimed vehicles	148	38	29	139	141	357	852
Percentage	17	5	3	16	17	42	

Due to delay in submission of inventory report, the disposal of these vehicles was also delayed resulting in deterioration of the condition of these vehicles consequently resulting in realisation of less revenue. Further, misuse of these vehicles also could not be ruled out.

During the exit conference, the department stated that the system would be streamlined.

**6.2.12 Internal Control**

Internal audit provides assurance to an organisation that the internal control system instituted by it for its efficient and cost effective functioning is adequate and effective. There was no internal audit cell upto March 2007. However, internal audit cell headed by an Accounts Officer and assisted by two Section Officers and one Junior Auditor had started functioning since April 2007.

As per information supplied by the office of the DGP Haryana, Panchkula, internal audit cell conducted audit of 16 (out of 45) units only resulting in shortfall of 64 *per cent* during the year 2007-08. The internal audit party raised only four objections in the audit of 16 units and settled two objections after compliance of the department. The irregularities discussed in this review can easily go undetected due to non-existence or ineffective internal control mechanism. It, therefore, needs to strengthen the internal audit cell to ensure timely detection and correction of errors in levy and collection of revenue.

During the exit conference, the department agreed to take up the matter with the State Government to strengthen the internal audit cell.

<sup>8</sup> SSP/SP: Ambala, Faridabad, Hisar, Karnal, Panchkula, Panipat, Sirsa and Yamunanagar and Deputy Commissioner of Police (HQ) Gurgaon.

<sup>9</sup> Delay calculated after allowing six months from the date of Daily Demand Register.

## Compliance deficiencies

### 6.2.13 Failure to raise/realise demands quarterly in advance

As per instructions issued by the GOI in September 1995, the borrowing State/UT/Authority should reimburse expenditure on the Armed Police Battalions loaned to them on quarterly basis to the extent of Rs. 50 lakh per quarter per battalion at the end of June, September, December and March every year. These provisional payments will be adjusted subsequently on the basis of audited figures and final payment, if any due, shall be released to the lending States immediately on receipt of audit certificates. The State Government whose battalions are deputed to ex-State may raise their claims for provisional payments/final payments in accordance with the aforesaid procedure to the State/UT. The payments shall be made by the borrowing States/UT within one month from the close of relevant quarter/receipt of audited figures. Failure in timely payment will lead to withdrawal of forces from the defaulting States.

During test check of the records of the office of the DGP Haryana in June 2008, it was noticed that the State Government had deployed police forces in six<sup>10</sup> States and UT Chandigarh between October 2005 and December 2007 for law and order duty at the request of borrowing States/UT. The department failed to raise the claims for provisional payments at the end of each quarter. The police forces were received back from these borrowing States/UT between November 2005 and December 2007. The department had raised their final claims amounting to Rs. 5.16 crore (out of total claims of Rs. 5.29 crore) between May 2007 and January 2008 i.e. after a delay<sup>11</sup> ranging between six and 15 months. Failure to raise and collect the demand timely on provisional basis quarterly as per GOI instructions resulted in non-realisation of revenue of Rs. 5.29 crore even after a lapse of three to 27 months.

After the cases were pointed out, the department stated in July 2008 that it was not possible to raise claims on provisional basis because police forces were deployed for uncertain duration in other States for law and order duty. The reply of the department is not in consonance with the instructions issued by the GOI in this regard. Moreover, the uncertainty in period of deployment could not be a hindrance in raising advance bills as these were to be raised on a provisional basis subject to their final adjustment on the basis of an audit certificate.

### 6.2.14 Non/short raising of bills

Rule 10.21 of the Punjab Police Rules, 1934 requires the Superintendent to raise bills one month in advance on parties and corporate bodies supplied with additional police force. Additional police shall not be supplied until the advance payment required by this rule has been received. Further, claim of police cost should include pay, dearness pay, pension and leave salary

<sup>10</sup> Bihar, Gujarat, Kerala, Tamil Nadu, Uttar Pradesh and West Bengal.

<sup>11</sup> Delay calculated after allowing three months from the date of return of police force.

contribution and other indirect charges in respect of establishment for the period of deployment.

**6.2.14.1** During test check of the records of five<sup>12</sup> police offices between February 2007 and January 2009, it was noticed that the police forces were deployed to PSUs, commercial companies, corporations and banks between April 1974 and March 2008. However, the department failed to recover the cost of police in advance for police personnel deployed to banks, Haryana Urban Development Authority (HUDA), Indian Oil Corporation (IOC) and departments of State Government/GOI, resulting in amount of Rs. 4.18 crore remaining blocked for long periods.

After the cases were pointed out, the SP Faridabad stated in February and September 2008 that efforts were being made to recover the amount of Rs. 1.32 crore from Thermal HPCCL and banks and action would be taken on receipt of orders from HUDA. The Commandant 1<sup>st</sup> Battalion Ambala city stated in October 2008 that the matter was being pursued with the IOC authorities for the early payment of outstanding dues. The SP/SSP Ambala, Karnal and Panchkula stated in September 2008 and January 2009 that the matter was under correspondence with the Government. Further reply has not been received (August 2009).

**6.2.14.2** During test check of the records in the offices of SP (GRP), Ambala Cantonment, SP Karnal and Sirsa between December 2007 and January 2009 for the year 2004-05 to 2007-08, it was noticed that a sum of Rs. 1.14 crore was claimed less due to non-inclusion of different elements at the time of claims lodged with the Railways, Civil Aviation Club and banks.

After the cases were pointed out, the SP Sirsa admitted the audit observations and stated in April 2008 that concerned parties had been asked to deposit the differential amount. SP Karnal stated in January 2009 that the matter regarding recovery of police cost of Rs. 80.61 lakh and less claim of Rs. 10.84 lakh was under correspondence with the Government. Reply from SP (GRP) Ambala has not been received (August 2009).

During the exit conference, the department stated that the Government had agreed to write off the amount due (Rs.10.84 lakh) from Civil Aviation Department.

### **6.2.15 Suppression of income**

As per Rule 10.11 of the Punjab Police Rules, 1934, all transactions to which an officer of Government is a party in his official capacity must, without reservation, be brought to account, and all money received shall be lodged in full in the Government treasury to be credited to its appropriate account, or shall be kept in the police cash chest. Thus Police Rules *ibid* strictly prohibit the appropriation of departmental income to the departmental expenditure.

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<sup>12</sup> SSP/SP Ambala, Faridabad, Karnal, Panchkula and Commandant, Ist Battalion, Ambala City.

The Commandant, 3<sup>rd</sup> Battalion, HAP, Hisar was holding Government land measuring 83 *acre*, out of which 45 *acre* was fit for agriculture as per site map.

A scrutiny of the records of the office of the Commandant, 3<sup>rd</sup> Battalion HAP, Hisar in August 2006 and July 2007 revealed that sale proceeds of 45 acres of land in possession of the battalion did not appear in the accounts books of the battalion since 2002. As per copies of *Girdawari*<sup>13</sup> for the years 2002-03 to 2006-07 supplied by the Tehsildar, Hisar in February 2008, it was observed that crops like wheat, cotton, barley, vegetables etc. were sown on the chunk of 45 acres of land since 2002. Forty five *acres* of land was leased out at the rate of Rs. 6,050 per acre for the year 2007-08. It was observed that Rs. 2.72 lakh was received as lease rent of the land for 2007-08. In reply to audit query regarding use of the land in the previous years, the Commandant replied (August 2007) that vegetables and other crops were sown by contributing free labour by jawans during 2002-07 and earnings were spent on the welfare of jawans on various counts and for making annual payment of canal water charges to the Revenue Department.

DGP Haryana stated in August 2008 that crops had not been used for personal benefits of any individual rather they had utilised for the welfare of jawans and after being pointed out in audit the land had been leased out in 2007-08. The reply was not in consonance with the provision of the financial rules since they had neither deposited the Government revenue into Government treasury nor accounted for in the account books of the Department. In the absence of maintenance of proper record, veracity of the revenue realised, and its magnitude and utilisation could not be verified in audit.

#### **6.2.16 Non-disposal of arms and ammunition**

As per Rule XIV of Appendix to Rule 20.14 of the Punjab Police Rules, 1934 (Volume 2), arms and ammunition which can be utilised by the police or by any department under Government may be retained or brought into use with the sanction of local Government. Arms and ammunition not so retained may be sold to the licensed dealers or other persons entitled to possess them. State Government laid down the policy for allotment of fire arms in July 1994 of non-prohibited category to eligible person in specified proportion<sup>14</sup>. A committee headed by Chief Secretary Haryana with the Financial Commissioner and Principal Secretary, Home Department and DGP as members for the allotment of confiscated weapons was constituted in July 1994.

<sup>13</sup> Girdawari is the record of land cultivation and records the crop and ownership of the crop.

<sup>14</sup> Ministers (20 *per cent*); MP and MLA (15 *per cent*); Zila Parishads/District Councils and Municipal Corporations members (10 *per cent*); Police Officers (25 *per cent*); Retired/Retiring members of Central para-military forces (10 *per cent*); Private citizens (10 *per cent*), and Ministry of Home Affairs reserve (to be allotted by central Government) (10 *per cent*).



A scrutiny of the records of the State Fire Arms Bureau (SFAB) in the office of the SP Ambala in January 2009 revealed that 877 serviceable arms, confiscated between December 1970 and May 2007, were lying in stock as on March 2008. Out of these, 728 arms were valued as Rs. 29.89 lakh by the Valuation Committee. Though the quantum of arms was reported to the Government every month by means of a monthly statement, State Government did not sell even a single arm to the licensed dealer or dispose it off as per policy laid down during the years 2003-04 to 2007-08.

During the exit conference, the department stated that the reserve price of arms was kept on higher side to discourage the general public from acquiring the same. However, the fact remains that the Government had not made any efforts for their disposal.

#### **6.2.17 Non-disposal of condemned vehicles**

Financial Rules as well as instructions issued by the State Government from time to time stress upon the need to survey and dispose off quickly through auction, vehicles which become off-road due to aging and maintenance/repairs of which become uneconomical. Due to delay in their disposal after condemnation, the condition of the vehicles may deteriorate and they may not fetch the expected/reserve price fixed by the competent authority.

As per information supplied by 16 offices<sup>15</sup> during August 2008 and March 2009, it was observed that 81 vehicles were declared condemned between June 2002 and March 2008 and their reserve price was fixed at Rs. 42.35 lakh but these were not auctioned till March 2008. Thus, the Government was deprived of revenue to the extent of Rs. 42.35 lakh.

Thus, continued delay in auction will result in loss of Government revenue apart from blockage of departmental receipts.

During the exit conference, the department stated that condemned vehicles would be disposed off soon.

#### **6.2.18 Conclusion**

The State Police lends its personnel to other departments within the State, other Governments, Railways, Corporate bodies, institutions etc. on their requisitions and recovers the cost of such deployment from these parties. The onus of such recovery rests on the lending Police department. Audit observed that the systems in the department were not fully geared to ensure complete and timely recovery. There were delays in raising of bills and following them up, police personnel were deployed in Railways without obtaining their

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<sup>15</sup> SP: Ambala, Faridabad, Hisar, Jhajjar, 2<sup>nd</sup> Battallion Haryana Armed Police (HAP) Madhuban, FSL Madhuban, 3<sup>rd</sup> Bn Madhuban, Narnaul, Panipat, Palwal, Rewari, Sirsa, Yamunanagar, SP (Railway) Ambala, SP (Telecom) Panchkula, ADGP (CID) Panchkula and SSP Sonipat.

consent first, proper and efficient procedures were lacking for ascertaining the amount due to the department for issuing PVRs and for disposal of surplus arms and ammunition etc. Since the initial expenditure on deployment of police guards outside their core domain is borne by the State budget, there was a direct cost to the State in the event of delay in realising the payments. This underpinned the argument for introduction of a provision for levy of interest on delayed payments.

#### **6.2.19 Recommendations**

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:-

- introduce a monitoring system for the deployment of police force only on requisition from Railways/other States;
- prescribe a periodical return from district police offices and devise ways to ascertain the correctness of the assessment and collection of incentive money received from MEA for PVRs;
- include a provision in the Police Act/Rules for levy of interest which may act as a deterrent for belated payment of dues so that blockage of revenue and loss of interest can be avoided;
- prescribe a specific time limit for submission of inventory of unclaimed vehicles to the DM and also time limit for disposal of unclaimed vehicles;
- strengthen the internal control cell for timely detection and correction of errors; and
- issuing specific guidelines to raise claims of police cost to borrowing States/UT on provisional basis quarterly.

### **6.3 Other Audit observations**

*Scrutiny of records in departmental offices relating to Medical and Public Health, Mines and Geology and other departments revealed several cases of non-observance of provisions of Government order, non-compliance of provisions of the Punjab Financial Rules and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. There is need for the Government to improve the internal control system including strengthening of internal audit.*

## **PUBLIC HEALTH DEPARTMENT**

### **6.4 Non-recovery of water charges**

*The Department did not observe some of provisions of Government order of November 2006 in some cases which resulted in non-recovery of water charges of Rs. 73.44 lakh.*

As per Haryana Government, Urban Development Department order dated 10 November 2006, all the existing water supply un-metered connections in commercial, institutional or industrial establishment shall be converted into metered connections by the occupants in a period of three months from the date of order otherwise the rate charged shall be minimum of Rs. 1,000 per month and as assessed by the concerned Executive Engineer (EE) of the Public Health (PH) department.

During test check of records of the offices of six<sup>16</sup> EE of PH/Water Supply and Sanitation (WSS) Divisions for the years from 2002-03 to 2007-08 between October 2007 and October 2008, it was noticed that there were 576 un-metered water supply connections of commercial, institutional and industrial establishments as of 10 November 2006. All these existing un-metered connections were required to be converted into metered connections by the occupants of these establishments by 10 February 2007. Neither the occupants of these establishments had got their un-metered connections converted into metered connections even up to March 2008 nor the department made any efforts to raise water charges at the prescribed minimum rate. This resulted in non-recovery of water charges at minimum rate, aggregated to Rs. 73.44 lakh for the period between December 2006 and March 2008.

After the cases were pointed out between October 2007 and October 2008, the EE, PH Division No. 1 and 2, Karnal and EE, WSS Division, Jind and Panipat stated in January and June 2009 that a sum of Rs. 4.23 lakh had been recovered in 136 cases and notices had been issued (between October 2007 and January 2008) to recover the balance amount of Rs. 38.13 lakh. Further

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<sup>16</sup> Executive Engineer, Water Supply and Sanitation (WSS) Division, Ambala Cantonment; Executive Engineer, WSS Division, Fatehabad; Executive Engineer, Engineering Division No. 1, Karnal; Executive Engineer, Engineering Division No. 2, Karnal; Executive Engineer, WSS Division, Jind and Executive Engineer, WSS Division, Panipat

they had installed metered connections in 44 cases and disconnected connections in 21 cases between November 2007 and March 2009. The EE, WSS Division, Fatehabad stated between October 2008 and June 2009 that notices had been issued to the concerned parties to recover the dues. The EE, WSS Division, Ambala Cantonment stated in April and June 2009 that efforts were being made to recover the amount of Rs. 15.12 lakh and in 13 connections meters had been installed during April and May 2009. Further report has not been received (August 2009).

The matter was pointed out to the Engineer-in-Chief, Public Works (PH) Department between October 2007 and October 2008 and reported to the Government in May 2009; their reply has not been received (August 2009).

## CIVIL AVIATION DEPARTMENT

### **6.5 Unauthorised retention of Government revenue outside Consolidated Fund of the State**

*Non-compliance of provisions of the Punjab Financial Rules Volume I by the Haryana Institute of Civil Aviation resulted in unauthorised retention of Government revenue of Rs. 69.36 lakh outside the Consolidated Fund of the State. This action is against budgetary control and it tantamount to by passing the legislative authority of the State assembly.*

Under Rule 7 (1) of the Punjab Financial Rules, Volume I, as applicable to Haryana, all moneys received by or tendered to Government Servant on account of the revenues of the Government or public money raised or received by the State Government shall, without undue delay be paid in full into the treasury/bank and shall be included in the 'Consolidated Fund of the State'. Moneys received as aforesaid shall not be appropriated to meet departmental expenditure nor otherwise kept apart from the Consolidated Fund of the State. No department of the Government may require that any moneys received by it on account of the revenues of the State be kept out of the Consolidated Fund of the State.

Haryana Institute of Civil Aviation (HICA), Karnal was registered as a society on 10 September 1998 under the Society Registration Act, 1860 for promoting 'Art and Science of Aviation and Aeronautics' in all its aspects and all matters connected therewith. The Executive Committee of HICA in its meeting held in May 2000 decided to lease the surplus land of five<sup>17</sup> Civil Aerodromes for agricultural purposes by open auction for one year immediately. It was also desired that a proposal for allotting the land of aerodromes to HICA should be sent to the Government so that the income to be received from the lease of surplus land could be retained by HICA. But no such proposal was sent to the Government.

During test check of the records of the office of the Advisor, Civil Aviation Haryana, Chandigarh in January 2005 and January 2006 and information collected in April 2008 revealed that these civil aerodromes, which had

<sup>17</sup> Bhiwani, Hisar, Karnal, Narnaul and Pinjore.

243 acre<sup>18</sup> surplus land, were maintained by the Department from its budget. HICA leased out surplus land through auction for agricultural purposes and received auction money of Rs. 69.36 lakh during the period 2000-01 to 2007-08. HICA retained the auction money of surplus land instead of depositing the same into treasury. This resulted in unauthorised retention of Government revenue of Rs. 69.36 lakh outside the Consolidated Fund of the State in violation of the Treasury Rules and General Principle of Budgeting.

After the case was pointed out, the Advisor, Civil Aviation Haryana stated in February 2009 that HICA had refunded Rs. 25.34 lakh to the Department which was deposited into Government treasury between April 2008 and January 2009. Efforts were being made to recover the outstanding lease money. Further report on recovery has not been received (August 2009).

The matter was reported to the Government in December 2007, the Special Secretary to Government Haryana, Civil Aviation Department stated in June 2008 that HICA retained income received from surplus land amounting to Rs. 69.36 lakh on the basis of decision of its meeting in May 2000. HICA refunded Rs. 18.63 lakh to the Department in April 2008 and the delay in refunding the lease money was due to their lean financial position. HICA was expected to refund more amount during 2008-09.

## **MINES AND GEOLOGY DEPARTMENT**

### **6.6 Non-recovery of royalty and interest**

*The Mines and Minerals (Development and Regulation) Act and Punjab Minor Mineral Concession Rules provide for levy of royalty on mineral removed from leasehold area and levy of interest on belated payment of royalty.*

*The Mining Officers did not observe some of the provisions of the above Rules in some cases which resulted in non-realisation of royalty/interest of Rs. 33.56 lakh.*

Rule 24 of the Punjab Minor Mineral Concession Rules, 1964, as applicable to Haryana, provides that brick kiln owners (BKO) shall pay annual amount of royalty at the prescribed rate in advance by 30<sup>th</sup> April of every year. State Government revised the rates of fixed royalty of various categories of BKOs from June 2005. In case of default, interest at the rate of 24 *per cent* per annum is chargeable for the period of default. BKOs register is maintained at each mining office for levy and collection of royalty. The permits of such BKOs, by giving one months notice are required to be cancelled by the department, who do not pay royalty and any sum due from the permit holders on account of royalty and interest thereon is recoverable as arrears of land revenue. The Assistant Mining Engineers (AMEs)/Mining Officers (MOs) are responsible for monitoring recovery of outstanding dues.

During test check of records of the offices of MOs, Rohtak and Jind for the years 2006-07 and 2007-08 between May 2007 and September 2008, it was noticed that 150 BKOs were issued permits between April 2005 and April 2006 for the period of two years. The BKOs were required to pay

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<sup>18</sup> Bhiwani: 70 acre; Hisar 100 acre; Karnal: 48 acre and Pinjore: 25 acre.

royalty for the year 2006-07 and 2007-08 by 30 April 2006 and 30 April 2007 respectively. Though a period ranging between 21 and 33 months had elapsed yet royalty of Rs. 21.95 lakh was neither paid by the BKO's nor was it demanded by the MO's. No action to cancel the permits and/or to recover the dues as arrears of land revenue was taken. Lack of action on the part of the department resulted in non-realisation of revenue of Rs. 33.56 lakh (including interest of Rs. 11.61 lakh).

After the cases were pointed out between May 2007 and September 2008, MO Rohtak and Jind intimated in October 2008 and May 2009 that royalty of Rs. 2.41 lakh (including interest of Rs. 64,119) had been recovered in 12 cases between May 2007 and March 2009 and sincere efforts were being made to recover the balance amount from the BKO's. A report on recovery of balance amount has not been received (August 2009).

The matter was pointed out to the Director, Mines and Geology Department between July 2007 and September 2008 and reported to the Government in January 2009; their reply has not been received (August 2009).

**Chandigarh  
The**

**(SUSHAMA V. DABAK)  
Principal Accountant General (Audit) Haryana**

**Countersigned**

**New Delhi  
The**

**(VINOD RAI)  
Comptroller and Auditor General of India**

## Annexure-I

(Refer paragraph No. 1.15)

Position of paragraphs which appeared in the Audit Reports and those pending discussion/replies not received as on 30 June 2009.

Name of tax		2003-04	2004-05	2005-06	2006-07	2007-08	Total
Taxes on Sales, Trade etc.	Paras appeared in the AR/pending discussion in the PAC	11	8	9	8	9	45
	Paras replies not received	0	0	9	8	9	26
Taxes on Motor Vehicles	Paras appeared in the AR/pending discussion in the PAC	1	1	3	4	8	17
	Paras replies not received	0	0	0	4	8	12
Stamp duty and Registration fee	Paras appeared in the AR/pending discussion in the PAC	6	4	3	3	5	21
	Paras replies not received	6	4	3	3	5	21
State Excise	Paras appeared in the AR/pending discussion in the PAC	1	4	1	2	2	10
	Paras replies not received	0	0	1	2	2	5
Others	Paras appeared in the AR/pending discussion in the PAC	10	4	4	4	7	29
	Paras replies not received	1	1	2	4	7	15
<b>Total</b>	<b>Paras appeared in the AR/pending discussion in the PAC</b>	<b>29</b>	<b>21</b>	<b>20</b>	<b>21</b>	<b>31</b>	<b>122</b>
	<b>ATNs to Paras included in AR not received</b>	<b>7</b>	<b>5</b>	<b>15</b>	<b>21</b>	<b>31</b>	<b>79</b>

**Annexure-II**

**(Refer paragraph No. 1.15)**

Details of outstanding recommendations of Public Accounts Committee on which the Government is yet to take final decision

<b>Sr. No.</b>	<b>PAC Report No.</b>	<b>Total number of outstanding recommendations</b>	<b>Period of Audit Report</b>
1.	19	1	1977-78
2.	22	5	1979-80
3.	23	5	1980-81
4.	25	4	1981-82
5.	26	3	1982-83
6.	28	2	1983-84
7.	29	8	1984-85
8.	32	7	1985-86
9.	34	13	1986-87
10.	36	7	1987-88
11.	38	15	1988-89
12.	40	26	1989-90
13.	42	33	1990-91, 1991-92, 1992-93
14.	44	45	1990-91
15.	46	10	1991-92
16.	48	10	1992-93
17.	50	44	1993-94
18.	52	32	1996-97
19.	54	47	1997-98
20.	58	65	1998-99, 1999-2000
21.	60	42	2000-01
22.	62	47	2001-02
23.	63	55	2002-03
<b>Total</b>		<b>526</b>	