

CHAPTER VI LAND REVENUE AND BUILDING TAX

6.1 Results of audit

Test check of records of the offices of the Land Revenue Department conducted during the year 2008-09 revealed underassessment and loss of revenue amounting to Rs. 325.62 crore in 91 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Recovery of arrears of revenue under the Revenue Recovery Act (A review)	1	317.21
2.	Underassessment and loss under other items	37	6.61
3.	Underassessment and loss under building tax	53	1.80
Total		91	325.62

During the year 2008-09, the department accepted and recovered underassessments and other deficiencies of Rs. 30.92 lakh involved in 15 cases, of which, one case involving Rs. 49,220 was pointed out during 2008-09.

A review on '**Recovery of arrears of revenue under the Revenue Recovery Act**' involving Rs. 317.21 crore and other audit observations involving Rs. 2.29 crore are mentioned in the succeeding paragraphs.

6.2 Recovery of arrears of revenue under the Revenue Recovery

Act

6.2.1 Highlights

- Revenue recovery requisitions/certificates covering an amount of Rs. 63.46 crore were seen returned without exhausting all means of recovery.

(Paragraph 6.2.12)

- Collection of revenue of Rs. 326.35 crore was blocked due to inordinate delay in RR action.

(Paragraph 6.2.13)

- Lack of co-ordination between Government Departments resulted in blocking up of revenue to the extent of Rs. 18.73 crore.

(Paragraph 6.2.14)

- Failure of the Excise Department to exercise the vested powers for recovery led to non-realisation of revenue of Rs. 102.69 crore.

(Paragraph 6.2.15)

- In the DCB Statement of *Tahsildar* (RR) Kochi, opening balance of 2004-05 was incorrectly carried forward from the closing balance of the previous year resulting in non-realisation of revenue of Rs. 8.41 crore.

(Paragraph 6.2.18.1)

- Bought-in-land valued at Rs. 11.98 crore was kept undisposed without conducting re-auction.

(Paragraph 6.2.19.3)

- Remission of demand for revenue recovery without the orders of the competent authority resulted in loss of revenue of Rs. 3.50 crore.

(Paragraph 6.2.20.1)

- Revenue recovery proceedings in respect of a defaulter having arrears of Rs. 1.12 crore was closed in Ernakulam District.

(Paragraph 6.2.20.2)

6.2.2 Introduction

The Kerala Revenue Recovery Act, 1968 (RR Act) governs the law relating to the recovery of arrears of public revenue in the State. The Act provides for recovery of arrears of public revenue together with interest and cost of process by attachment and sale of defaulter's movable and immovable property. Attachment can also be made either by appointing an agent for the management of defaulter's immovable property or arrest of the defaulter and his detention in prison. The Act is administered by Land Revenue Department (LRD).

A review on recovery of public revenue was incorporated in the Audit Report (Revenue Receipts) for the year ended 31 March 2000, Government of Kerala. The review has been discussed by the Public Accounts Committee. The present review on recovery of arrears of revenue under the Revenue Recovery Act covering the period from 2003-04 to 2007-08 revealed a number of deficiencies which are discussed in the succeeding paragraphs.

6.2.3 Organisational set-up

The LRD functions under the administrative control of the Principal Secretary (Revenue) at the Government level. The Commissioner of Land Revenue (CLR) is the head of the LRD who is assisted by District Collectors (DC) in 14 districts. The DCs are assisted by *tahsildars* at 63 *taluks*¹ and village officers at 1477 villages. In 20 *taluks*, where the number of revenue recovery cases are substantial, there are special revenue recovery units under the charge of special *tahsildars* (Revenue Recovery) exclusively for attending to revenue recovery proceedings.

6.2.4 Scope and methodology of audit

The review covering the period from 2003-04 to 2007-08 was conducted during December 2008 to June 2009 with reference to the records available with CLR, seven² out of 14 district collectorates and 18³ out of 63 *taluks*. One backward district, Idukki, was included as per the request of the Principal Secretary (Revenue).

6.2.5 Audit Objectives

The review was conducted to ascertain whether:

- any lacunae exists in the Act, Rules and accounting system;
- the provisions of the RR Act, Rules made thereunder and Government orders issued governing realisation of public revenue were properly complied with;
- revenue due to Government was recovered within the prescribed time frame and remitted to Government accounts;
- remission/write off allowed in respect of revenue recovery dues were under proper orders of the competent authority;
- timely follow up action was taken for vacation of stay orders of various authorities; and
- internal control mechanism existed and was effective.

¹ Sub-division of districts.

² Ernakulam, Idukki, Kollam, Kottayam, Kozhikode, Thiruvananthapuram and Thrissur.

³ Aluva (RR), Kanayannur (RR), Karunagappally, Kochi (RR), Kodungallur, Kollam (RR), Kottarakkara, Kottayam (RR), Kozhikode (RR), Koyilandy, Meenachil (RR), Neyyattinkara (RR), Thiruvananthapuram (RR), Thodupuzha, Thrissur (RR), Udumbanchola (RR), Vadakara and Vaikom.

6.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Land Revenue Department in providing necessary information and records for the review. An entry conference was conducted on 25 February 2009 in which the audit objectives were discussed with the Principal Secretary to Government. The review report was forwarded to the department and Government in June 2009. An exit conference was held with Principal Secretary (Revenue) and Commissioner of Land Revenue on 9 July 2009 wherein the department was informed of the audit findings. Replies of the department and Government have not been received (September 2009).

Audit findings

6.2.7 Trend of arrears under revenue recovery

The position of total demand for revenue recovery, demand settled and balance demand carried over to the next year from 2003-04 to 2007-08 as per the details furnished by the CLR, are furnished in table. Percentage vis-à-vis total demand is given in brackets.

(Rupees in crore)

Year	Demand		Demand settled/disposed			Total demand settled/disposed (col. 7 to 3)	Balance demand (col. 3 - 7)
	OB Demand for the year	Total	Remission/Write off etc.	RRC returned	Collection effected		
1	2	3	4	5	6	7	8
2003-04	1,067.61 736.74	1,804.35	185.26 (10.27)	445.08 (24.67)	63.89 (3.54)	694.23 (38.48)	1,110.12 (61.52)
2004-05	1,110.12 779.85	1,889.97	446.63 (23.63)	208.76 (11.05)	64.43 (3.41)	719.82 (38.09)	1,170.15 (61.91)
2005-06	1,170.15 603.54	1,773.69	271.95 (15.33)	229.67 (12.95)	63.28 (3.57)	564.90 (31.85)	1,208.79 (68.15)
2006-07	1,208.79 567.01	1,775.80	274.01 (15.43)	178.82 (10.07)	69.08 (3.89)	521.91 (29.39)	1,253.89 (70.61)
2007-08	1,253.89 480.98	1,734.87	213.89 (12.32)	288.96 (16.66)	70.38 (4.06)	573.23 (33.04)	1,161.64 (66.96)
Total		4,235.73⁴	1,391.74	1,351.29	331.06	3,074.09	1,164.64

The stage-wise break up of demand in arrears as shown in column 8 are given in table. (Percentage to total demand for the year is given in brackets).

⁴ Total demand for the period of five years is the aggregate of the opening balance for 2003-04 and fresh demand for 2004-05, 2005-06, 2006-07 and 2007-08.

(Rupees in crore)

Year	Demand in arrear	Stage-wise details of arrear demand				Balance demand remaining uncollected during the year
		Stay by				
		Court	Government	Appellate Authority		
1	2	3	4	5	6	
2003-04	1,110.12	590.80 (32.74)	220.95 (12.25)	267.44 (14.82)	30.93 (1.71)	
2004-05	1,170.15	573.19 (30.33)	262.84 (13.91)	284.84 (15.07)	49.28 (2.61)	
2005-06	1,208.79	562.15 (31.69)	285.92 (16.12)	319.75 (18.03)	40.97 (2.31)	
2006-07	1,253.89	550.18 (30.98)	273.44 (15.40)	351.91 (19.82)	78.36 (4.41)	
2007-08	1,161.64	461.91 (26.63)	328.44 (18.93)	311.91 (17.98)	59.38 (3.42)	

Though demand collection balance (DCB) statement is being maintained in the districts test checked, the age wise pendency of arrears was not available either with the CLR or with the respective DCs. Due to this, further analysis of the pendency of arrears is neither possible by the department nor could be done by audit.

Collection effected varied from 3.41 *per cent* to 4.06 *per cent* (column 6 of the first table above) only as compared to the total demand for respective years. Detailed analysis of efficiency of revenue recovery mechanism in the districts covered under the review is illustrated in para 6.2.11.

There is no provision in the RR Act/Rules for return of revenue recovery certificates (RRC)/requisitions other than in those cases in which recoveries have to be effected by RR officers of other districts. It was noticed that during 2003-04 to 2007-08, cases involving revenue of Rs. 1,351.29 crore (column 5 of the first table above) were returned by the RR officers which was 31.90 *per cent* of the total demand. Further analysis on this aspect in respect of selected *taluks* is shown in paragraph 6.2.12.

Even though Government has no powers under the RR Act to stay recovery proceedings, an amount of Rs. 328.44 crore (column 4 of second table above) remained unrealised as on 31 March 2008 due to stay by Government. Similarly, Rs. 311.91 crore (column 5 of second table above) remained outstanding as on 31 March 2008 due to stay by various appellate authorities. Reason for not realising the collectable balance of Rs. 59.38 crore as on 31 March 2008 was not available. Arrear as at the end of March 2008 stood at Rs. 1,161.64 crore due to various reasons like stay by Court/Government/appellate authority etc., which was 66.96 *per cent* of the total demand for the year.

6.2.8 Achievements against target fixed

Targets fixed for RR collection was made available from 2005-06 onwards only. However, it was seen that the target included both Government and

non-Government dues and there was no mechanism to ascertain the target set against the Government dues for the period covered under the review. Targets of revenue recovery for the State of Kerala (both Government and non-Government dues) for 2005-06, 2006-07 and 2007-08 against the total demand and actual collection at the end of the respective years are furnished in the table below:

(Rupees in crore)

Year	Opening balance	Fresh demand	Total	Cases under stay	Collectable demand	Target fixed (percentage with reference to collectable demand)	Collection effected	Percentage of collection with reference to	
								Target	Collectable demand
2005-06	2,079.01	924.29	3,003.30	1,915.43	1,087.81	300 (27.58)	208.70	69.57	19.18
2006-07	2,117.89	686.16	2,804.05	1,929.96	874.09	500 (57.20)	224.60	44.92	25.70
2007-08	1,941.66	942.76	2,884.42	1,797.90	1,086.52	500 (46.02)	253.46	50.69	23.33

It may be mentioned that, cases are referred to the RR authorities after the departmental machinery has ceased all possible scope of recovery. These dues are, therefore, already old and the LRD does not have a mechanism to watch the age-wise pendency and thus any further delay on the part of RR authorities may result in loss of revenue. Target should invariably be fixed at 100 per cent of the collectable dues and all out efforts should be made to recover these.

However, it can be seen from the table above that the targets fixed were very low and varied from 28 per cent to 57 per cent of the collectable demand. Collection varied from 45 per cent to 70 per cent of the target fixed and 19 per cent to 26 per cent of collectable demand. Norms for fixation of target and the reason for shortfall in collection were called for from the LRC and it was stated that no norms/criteria were laid down for fixing target.

6.2.9 Government dues pending recovery under RR Act

As mentioned in the preceding paragraph, though the target for recovery of Government dues cannot be separately shown, the demand and arrear position of Government dues as at the end of March 2008 in respect of 18 test checked taluk offices in seven districts were as follows:

(Rupees in crore)

Name of district (taluks involved)	Total demand 2007-08	Stage wise amount (percentage)					
		Stay by Court	Stay by Government	Stay by Appl. authority	Re-assessment pending	Collectable balance	Total
1	2	3	4	5	6	7	8
Ernakulam (Aluva, Kochi and Kanayannur)	450.14	177.46 (39.42)	10.25 (2.28)	110.37 (24.52)	43.83 (9.74)	21.92 (4.87)	363.83 (80.83)
Idukki (Thodupuzha and Udumbanchola)	25.63	7.23 (28.21)	2.23 (8.70)	8.01 (31.25)	2.11 (8.23)	0.06 (0.23)	19.64 (76.62)

Name of district (<i>taluks</i> involved)	Total demand 2007-08	Stage wise amount (percentage)					
		Stay by Court	Stay by Government	Stay by Appl. authority	Re- assessment pending	Collectable balance	Total
1	2	3	4	5	6	7	8
Kollam (Karunagappally, Kollam and Kottarakkara)	337.80	58.49 (16.35)	82.10 (24.30)	69.19 (20.48)	65.87 (19.50)	3.11 (0.92)	278.76 (82.52)
Kottayam (Kottayam, Meenachil & Vaikom)	76.73	29.79 (38.82)	4.64 (6.05)	9.77 (12.73)	-	0.46 (0.60)	44.66 (58.20)
Kozhikode (Kozhikode, Vadakara and Koyilandy)	42.33	7.33 (17.32)	4.10 (9.69)	4.51 (10.65)	1.44 (3.40)	1.62 (3.83)	19.00 (44.89)
Thiruvanantha puram (Thiruvanantha puram & Neyyattinkara)	136.79	7.98 (5.83)	71.31 (52.14)	15.89 (11.62)	-	6.49 (4.74)	101.67 (74.33)
Thrissur (Thrissur and Kodungallur)	75.44	45.35 (60.11)	0.67 (0.89)	17.99 (23.85)		2.96 (3.92)	66.97 (88.77)
Total	1,144.86	333.64 (29.14)	175.30 (15.31)	235.73 (20.59)	113.25 (9.89)	36.62 (3.20)	894.53 (78.13)

The above table shows that out of the total demand of Rs. 1,144.86 crore for the year 2007-08, an amount of Rs. 894.53 crore was pending collection while the balance amount of Rs. 250.33 crore was disposed by various procedures. Percentage of the arrear worked out to 78.13 *per cent* of demand which was on a higher side.

6.2.10 Recovery stayed by Government

The RR Act and rules do not prescribe any provision for stay by government. The Government have issued guidelines vide order dated 14 March 2002 regarding their interference in RR procedure. It was reiterated therein that Government's intention was not to grant stay against realisation of RR dues but to grant instalment facility in appropriate cases to avoid hardship and inconvenience to the parties. However, from column 4 of the table in paragraph 6.2.9, it is seen that the Government had stayed the collection of demand to the extent of Rs. 175.30 crore, which is not justifiable and defeated the very purpose of the RR machinery. It was also seen that while calculating the collectable balance, this amount was excluded from the DCB statements. Exclusion of amount under 'Government stay' from collectable balance while preparing the DCB statements was not justifiable since intervention of the Government was only a temporary measure. Cases detected during the course of review are mentioned below.

6.2.10.1 Stay cards are issued on the basis of the orders passed by the Minister (Revenue) on the petitions for stay orders or instalments. This system is intended to enable the defaulters to produce the same before revenue officials for keeping the RR action in abeyance till the receipt of formal orders

of the Government in the matter. Stay cards are normally issued for a period of one month.

In RR office, Kottayam, RRC for recovery of arrears amounting to Rs. 14.06 crore in respect of a public sector undertaking for the year 1999-2000 to 2004-05 was received from Commercial Tax Officer, Kottayam through the DC in February 2007. A notice was issued by the *tahsildar* in March 2007. It was, however, noticed that the demand was stayed by issuing stay cards for more than one month for several occasions as mentioned below:

Issuing authority	Date of issue of stay card/order	Period of stay allowed
Minister (Revenue)	7.3.2007	3 months (upto 6.6.07)
-do-	30.5.2007	3 months (upto 6.9.07)
-do-	24.8.2007	6 months (upto 6.3.08)
-do-	25.2.2008	6 months (upto 6.9.08)
Principal Secretary to Government	5.6.07	3 months
-do-	29.3.08	6 months
-do-	24.10.08	Unlimited (till decision of the Government in the matter).

The stay order issued by the Principal Secretary to Government in October 2008 has not been vacated till date (September 2009).

6.2.10.2 Two RRCs were issued by the DC, Thiruvananthapuram in the month of June 2004 and July 2004 for recovery of dues of Rs. 27.56 lakh from Kerala State Rural Women's Electronic Industrial Co-operative Federation Ltd., Thiruvananthapuram. Notices were served on the defaulter in July and August 2004. However, recovery has been blocked due to the continuous stay by Government from 9 November 2004 onwards.

Thus, the Government machinery itself has defeated the RR procedure for realisation of Rs. 14.34 crore by granting indiscriminate stay orders/stay cards.

6.2.11 Disposal of revenue recovery cases

The performance and efficiency of the revenue recovery system in settling the cases in 18 selected *taluk* offices in seven districts during the period 1 April 2003 to 31 March 2008 is shown in the table below (percentage to demand given in brackets).

(Rupees in crore)

Name of district (<i>taluks</i> involved)	Total demand from April 2003 to March 2008	Demand settled/disposed				
		Reduction in demand due to re-assessment	Remission/write off	Return of RRCs	Actual collection	Total
Ernakulam (Aluva, Kochi & Kanayannur)	826.33	Nil	Nil	380.27 (46.02)	73.80 (8.93)	454.07 (54.95)
Idukki (Thodupuzha & Udumbanchola)	73.18	Nil	Nil	48.03 (65.63)	5.50 (7.52)	53.53 (73.15)

Kollam (Karunagappally, Kollam & Kottarakkara)	575.58	118.97 (20.67)	3.56 (0.62)	124.44 (21.62)	50.95 (8.85)	297.92 (51.76)
Kottayam (Kottayam, Meenachil & Vaikom)	205.60	Nil	1.22 (0.59)	139.33 (67.77)	20.47 (9.96)	161.02 (78.32)
Kozhikode (Kozhikode, Vadakara & Koyilandy)	186.10	35.81 (19.24)	-	115.70 (62.17)	15.66 (8.41)	167.17 (89.82)
Thiruvananthapuram (Thiruvananthapuram & Neyyattinkara)	247.10	51.65 (20.90)	0.93 (0.38)	70.24 (28.43)	22.96 (9.29)	145.78 (59.00)
Thrissur (Thrissur and Kodungallur)	123.70	Nil	Nil	40.50 (32.74)	16.28 (13.16)	56.78 (45.90)
Total	2,237.59⁵	206.43 (9.22)	5.71 (0.26)	918.51 (41.05)	205.62 (9.19)	1,336.27 (59.72)

The collection effected in these *taluks* were meagre and the collection was 9.19 *per cent* of total demand and large part of the demand was found settled by return of RRC which was 41.05 *per cent* of the total demand. As mentioned in paragraph 6.2.8, since the target as regards to Government dues cannot be separately shown, the performance of the RR authorities in collecting Government dues could not be analysed vis-à-vis the target set.

6.2.12 Irregular return of RR requisitions/certificates

During the period of review, cases involving revenue of Rs. 1,351.29 crore were returned by various RR authorities, which was 31.90 *per cent* of the total demand during the same period. Of these, RR requisitions involving Government dues of Rs. 918.51 crore were returned by 18 RR authorities⁶ selected for the review against the total dues of Rs. 2,237.59 crore, whereas the collection effected by them during the same period was Rs. 205.62 crore. Thus, the return of RRCs was 41.05 *per cent* of demand whereas the collection was only 9.19 *per cent*. Return of RRCs involving revenue of Rs. 63.46 crore was test checked and found not in compliance with the Act and Rules and also without exhausting all the recovery modes and measures. The RRCs were mainly returned due to various factors like defaulter did not possess any movable/immovable property; defaulter expired; dues under modification/re-assessment; and correct address of the defaulter was not available or staying in other *taluks*/districts.

⁵ Total demand for the period of five years is constituted by aggregation of opening balance as on 1 April 2003 and fresh demand for 2003-04 to 2006-07.

⁶ Aluva, Karunagappally, Kanayannur, Kochi, Kollam, Kottarakkara, Kottayam, Kodungallur, Kozhikode, Koyilandy, Meenachil, Neyyattinkara, Thodupuzha, Thiruvananthapuram, Thrissur, Udumbanchola, Vadakara and Vaikom.

A few illustrative cases involved in the irregular return of RRCs are mentioned below.

- Government dues of Rs. 27.26 crore involved in 75 RRCs of 11⁷ taluks were returned stating that the defaulter did not possess any movable/immovable property and the arrest of the defaulter would not yield the required result. For realisation of the dues, the Government can act upon any property even if transferred by the defaulter after the dues had fallen in arrears. However, these RRCs were returned merely based on the report of the concerned village officer and without any further probe at higher level.
- As per section 69(2) of the RR Act, recovery officer himself is empowered to modify the amount whenever the requisitioned amount is modified. However, Government dues of Rs. 13.29 crore involved in 62 RRCs of seven taluks were returned in order to modify the demand through fresh RRCs/requisitions consequent on revision/appellate decision.
- In the office of DC Kottayam, RRCs involving sales tax dues of Rs. 9.55 crore for the years 1994-95 and 1995-96 were returned stating that collection was not possible. However, as reported by the CTO Pala, the defaulter had some properties which were transferred after the demand had fallen in arrears.
- An arrear amount of Rs. 8.51 crore pertaining to a defaulter was returned by *tahsildar*, Thodupuzha stating that the defaulter was residing in another taluk. Audit scrutiny revealed that the defaulter had one-third share of ownership rights over 3.21 ares of landed property in the same taluk, but the *Tahsildar* did not take any action to attach the property.
- An arrear amount of Rs. 2.69 crore involved in 12 RRCs of four taluks⁸ were returned stating that the address was incorrect or the defaulter was absconding. Return of RRCs without ascertaining the correct address from the requisitioning department was not justified.
- Government dues of Rs. 94.28 lakh involved in one case was returned in March 2005 by the *Tahsildar*, Kozhikode stating that the defaulter firm could not be identified. The District Collector, Kozhikode again transferred the RRC to the *Tahsildar* in May 2005. Audit scrutiny revealed that the defaulter firm had approached the High Court against the RR proceedings. Hence, it was evident that the return of RRC at the first instance was without adequate enquiry about the defaulter.
- Recovery of arrears other than Land Revenue are effected as if they were arrears of land revenue. Under the RR Act landlord includes legal heirs. It was judicially held⁹ that RR can be effected against the legal heirs of the deceased defaulter.

⁷ Aluva (RR), Kanayannur, Karunagappally, Kochi (RR), Kodungallur, Kottayam (RR), Kollam (RR), Meenachil (RR), Thodupuzha, Udumbanchola (RR) and Vaikom.

⁸ Aluva (RR), Kanayannur, Meenachil (RR) and Vaikom.

⁹ Devi Vs State of Kerala 1977 KLT 781.

- Government dues of Rs. 1.22 crore involved in 10 RRCs in five *taluks*¹⁰ were returned stating that the defaulters had expired. But in none of these cases RR officer had ensured whether the legal heirs had inherited any property of the defaulter liable for attachment and auction.

Thus, it can be inferred from above that in all these cases further measures/action like whether the defaulter possesses landed property in other districts, the possibility of realising arrears from legal heirs, collection of arrears on the basis of revised assessments etc., were not resorted to by the RR officer in the best interest of revenue. It was further noticed that there was no mechanism to watch whether the requisitions returned were received back after modification for further recovery.

6.2.13 Delay in the implementation at various stages of RR Action

The LRD (erstwhile Board of Revenue) issued directives prescribing the periodicity for various stages of recovery procedure which stipulates that recovery process has to be completed within 20 weeks (maximum) from the date of registering a case.

The directives stipulated that on receipt of requisition from requisitioning authority, the DC concerned shall get it entered in the revenue recovery register and issue Revenue Recovery Certificate (RRC) to the *tahsildar* concerned within seven days. The *tahsildar* in turn shall prepare and forward the demand notice to village officer concerned in the second week after entering the details in the recovery ledger. The village officer shall take action to collect the dues.

While discussing the review included in the Audit Report for the year 1999-2000, the Public Accounts Committee in its report for 2006-08 has given strict instructions for supervision of issuance of RRCs and demand notices by DCs/*tahsildars*. However, Government have not prescribed any periodic return at different levels and a mechanism to ensure compliance of instructions issued on the subject from time to time. Audit scrutiny revealed that there was no internal control mechanism at any level to ensure compliance with the time schedule prescribed in the directives of LRD. Huge pendency of cases were noticed at all districts test checked which are discussed in succeeding paragraphs.

Test check of records of seven¹¹ district collectorates, 18¹² *taluk* offices and 10¹³ commercial tax offices revealed the following:

- A cross verification of records of the DC, Ernakulam with those of Deputy Commissioner of Commercial Taxes (Appeals), Ernakulam revealed that 399 appeal cases involving revenue of Rs. 105.29 crore were pending disposal as on 31 March 2008 and the delay ranged from one to four years.

¹⁰ Aluva (RR), Karunagapally, Kottarakkara, Kottayam (RR) and Meenachil (RR).

¹¹ Ernakulam, Idukki, Kollam, Kottayam, Kozhikode, Thiruvananthapuram and Thrissur.

¹² Aluva (RR), Kanayannur (RR), Karunagappally, Kochi (RR), Kodungallur, Kollam (RR), Kottarakkara, Kottayam (RR), Kozhikode (RR), Koyilandy, Meenachil (RR), Neyyattinkara (RR), Thiruvananthapuram (RR), Thodupuzha, Thrissur (RR), Udumbanchola (RR), Vadakara and Vaikom.

¹³ Special circles I, II & III Ernakulam, special circle Mattancherry, circles I, II & III Thiruvananthapuram, special circle Thrissur and special circle I & II Kozhikode.

There was no effective follow-up action by the department for expeditious disposal of cases which resulted in non-realisation of arrears of revenue of Rs. 105.29 crore.

- In District Collectorate, Kollam, it was noticed that the Government in October 2006 directed to keep in abeyance the recovery of the dues of Rs. 32.62 crore till disposal of the appeal petition before the appellate authority. Neither any action was taken by the RR officer to enquire about the fate of the case nor was any intimation given by the requisitioning department about further developments in the case.
- In the office of the *Tahsildar* (RR), Kollam, revenue recovery action on arrears of sales tax of Rs. 64.87 crore covered by 40 RRCs pertaining to the assessment years 1972-73 to 2000-01 in respect of Kerala State Cashew Development Corporation Ltd., Kollam was still pending (January 2009). Of this, an amount of Rs. 25.87 crore was under stay by the appellate authority and an amount of Rs. 28.84 crore was under stay by Government until disposal of appeal petitions by the appellate authority. Latest position of the appeal petition was not available with the RR officer and the entire amount was pending collection even though the RRCs were issued during the period 1998-99 to 2007-08.
- In two collectorates¹⁴, undue delay in issuing RRCs upto 11 months was noticed in respect of 88 cases resulting in non-realisation of revenue of Rs. 33.35 crore.
- In four¹⁵ districts, it was noticed that an amount of Rs. 33.19 crore involved in 149 cases was not pursued by the revenue authorities as the defaulters resided in other States.
- In 11 *taluks*, it was noticed that in 28 cases there was delay in sale of attached properties covering 6.28 hectares resulting in non-realisation of revenue of Rs. 15.52 crore.
- In the case of a cashew dealer, sale tax arrears amounting to Rs. 12.67 crore was pending collection in the RR office Kollam for more than 38 years on which no action was taken by the department.
- In 11 *taluks*¹⁶ in respect of 55 cases involving revenue of Rs. 10.32 crore, there was delay upto six years in issuing demand notices. In District Collectorate, Ernakulam it was noticed that sales tax dues of Rs. 1.09 crore could not be realised even after a period of five years of the issue of RRCs, as the department delayed issue of demand notice. Delay ranged between 8 to 16 months. Consequently, the demand notice could not be served as the defaulter shifted to Rajasthan.

¹⁴ Kollam and Thrissur.

¹⁵ Ernakulam, Kozhikode, Thiruvananthapuram and Thrissur.

¹⁶ Kanayannur, Kodungallur, Koyilandy, Kozhikode, Meenachil, Neyyattinkara, Thiruvananthapuram, Thodupuzha, Thrissur, Udumbanchola and Vadakara.

- In four offices¹⁷ delay ranging from one to seven years was noticed in the disposal of 12 cases. Consequently, revenue of Rs. 7.14 crore remained unrealised.
- Delay in attachment of property ranging from 1 to 80 months was noticed in 10 *taluks*¹⁸ in 65 cases. This resulted in non-realisation of revenue of Rs. 6.56 crore.
- Cross verification of entries in commercial tax offices in Thiruvananthapuram and Ernakulam with RR register of revenue recovery authorities revealed that 18 RRCs involving Rs. 3.73 crore were not traceable in revenue offices.

6.2.14 Lack of co-ordination between the Government departments resulted in blocking up of revenue

As per the timeframe prescribed by the LRD, recovery of arrears should be completed within maximum of 20 weeks. Cases of inordinate delay in processing the cases resulting in non-realisation of revenue had been pointed out in preceding paragraph. Scrutiny of records revealed that mechanism for periodic reconciliation of figures between the requisitioning departments and the recovery officers has not been prescribed. Though some of the departments were found to have taken up reconciliation in a few cases, there was no system for periodic reconciliation of these figures. Due to this lack of co-ordination, cases of non-realisation of revenue were noticed, which are mentioned in the following paragraphs.

- In a case involving revenue of Rs. 4.99 crore, Revenue Divisional Officer, Thiruvananthapuram returned the request for confirmation of sale of 10.40 ares of land in Parasuvackal village in August 2007 stating that the value of the property was not properly estimated and details of proceedings in connection with attachment and auction sale were not forthcoming in the files. However, the rectification report has not been received back even after a lapse of two years (September 2009).
- In Kanayannur, Thiruvananthapuram and Udumbanchola RR offices, it was noticed that 13 cases involving revenue of Rs. 4.87 crore were still pending (August 2009) for want of correct address/survey number of landed property on which RR action was discontinued between July 2003 and March 2007.
- In certain cases, recovery was kept in abeyance awaiting the details of re-assessment/modification. In four¹⁹ RR offices, 20 such cases involving revenue of Rs. 2.15 crore were pending (August 2009). However, timely information was not furnished by the requisitioning department.
- In *taluk* office (RR) Kanayannur, one RR case involving revenue of Rs. 1.28 crore was closed in the RR ledger as irrecoverable. However, as

¹⁷ CTOs : Special circle I Kozhikode and Thiruvananthapuram, second and third circle Thiruvananthapuram.

¹⁸ Kottayam, Kanayannur, Udumbanchola, Thodupuzha, Kodungallur, Thrissur, Kozhikode Vadakara, Koyilandy and Thiruvananthapuram.

¹⁹ Aluva, Kozhikode, Thrissur and Vadakara.

per records of the sales tax department, the case was still alive awaiting recovery particulars from LRD.

- Property transferred by the defaulter after government dues had fallen in arrears (in the requisitioning department), is liable for attachment. For this, RR Officer has to ascertain the date of issue of demand notice by the requisitioning department. Any transfer of property after this date, to defeat the recovery of arrears, is not binding on the Government. However, a test check conducted in Udumbanchola RR office revealed that in two cases involving revenue of Rs. 72.80 lakh, such enquiry was not conducted.
- *Tahsildar* (RR) Neyyattinkara in November 2004 attached property to the extent of 20.24 ares of land in Pallichal village to realise government dues of Rs. 40.25 lakh. The property was already attached by the RR officer, Kerala Financial Corporation Ltd. (KFC), for its dues. The DC, Thiruvananthapuram in June 2005 addressed the Manager, KFC to include Government dues also while selling the attached property. Further action for realisation of arrears of Government dues of Rs. 40.25 lakh was not taken by the RR officer.
- In nine *taluks*²⁰, the High Court had stayed RR proceedings involving Rs. 3.71 crore in 13 cases, till the disposal of appeal/revision. However, all these cases, stayed between March 2000 and February 2008 were still pending (July 2009) for want of disposal particulars from the requisitioning departments. In two cases involving revenue of Rs. 39.70 lakh in *Tahsildar* (RR) Kottayam and Kozhikode, present position of the court cases was not furnished by the Advocate General.
- In one case involving an arrear amount of Rs. 20 lakh, the village officer reported that the firm stopped business. *Tahsildar* (RR), Kanayannur addressed the Commercial Tax Officer, second circle, Thrippunithura in December 2004 seeking more details about the defaulter firm/partners, but no reply has been received from CTO even after lapse of almost five years (September 2009).

6.2.15 Failure of the Excise Department to exercise the vested powers for recovery of *abkari* revenue through RR action

By a notification issued in July 1970, Government had appointed the Deputy Commissioners of Excise and all Assistant Commissioners to exercise the powers and perform the functions of a 'Collector' under the RR Act for the purpose of collection of *abkari* revenue.

As per the DCB statement in CLR for the year 2007-08, total amount of excise dues pending collection through RR action as at the end of March 2008 amounted to Rs. 102.69 crore which remained pending for the period prior to 2003-04.

As the excise authorities have the powers to act as recovery officers, the cases were irregularly sent to the LRD, which also accepted the cases instead of

²⁰ Aluva, Kochi, Kodungallur, Koyilandy, Kollam, Kottarakara, Kottayam, Kozhikode, Neyyattinkara and Vadakara.

returning to the requisitioning department for further action as per the RR Act. It was also seen that the RR authorities had collected some revenue out of the requisitions as detailed below.

(Rupees in crore)

Year	Total demand	Amount recovered	Amount settled by remission/write off/RRC returned	Arrear dues
2003-04	127.29	3.36	7.09	116.84
2004-05	132.66	4.17	8.83	119.66
2005-06	123.22	4.92	21.69	96.61
2006-07	123.06	4.37	7.43	111.26
2007-08	128.41	8.89	16.83	102.69

It was seen that though the DCBs of respective districts were sent to CLR, even the CLR could not detect such irregular requisition and realisation of dues of excise department by its recovery machinery. As there was no system of periodic reconciliation of figures between the requisitioning and recovering departments, the Excise Department remained unaware of the position of recovery of dues.

Thus, there was failure of control mechanism at both the departments which ultimately led to non-realisation of revenue of Rs. 102.69 crore for such a long time.

6.2.16 Irregular mutation of ‘attached property’

Under Rule 7(2)(ii) of the Transfer of Registry Rules, 1966, the village officer shall check whether the property is under attachment by Government while preparing form ‘A’ statement for effecting transfer of registry (mutation) and facts should be reported to the *tahsildar*. Where a notice of attachment was issued to a defaulter, the defaulter shall restrain from transferring or charging²¹ the property.

In the office of *Tahsildar*, Kottarakkara, one-half share of a property of 15.6 ares was attached by a proceedings initiated in January 2002 for recovery of sale tax arrears of Rs. 9.33 lakh. This property was finally posted for sale in auction in December 2008. In the meantime, the property was sold between July and October 2007 by the defaulters and the purchasers got mutation of the property in their names in the village records nullifying the effect of attachment. Consequently, revenue of Rs. 9.33 lakh remained unrealised.

6.2.17 Internal control mechanism

Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, safeguarding resources against irregularities, adhering to laws, regulations and management directives and developing and maintaining reliable data. Effective internal control system both in the manual as well as computerised environments are a pre-requisite for the efficient functioning of any department. The following deficiencies are noticed in internal control mechanism.

²¹ Creating an interest in the property in favour of another person.

Reconciliation of remittances into treasury was not done during the review period. Departmental inspection by LRC was pending and annual inspection by DC was not completed in many *taluk* offices. Reconciliation of RRCs issued by DCs and acknowledged by *tahsildars* was not done.

6.2.18 Lapses in the preparation of DCB statements of RR

The DCB statement is a consolidated statement of figures of RR compiled from primary records and is the essential basis for assessing the achievements/shortfall of the system. As such these statements should project a true picture of all transactions and the correctness of figures is essential for proper review by the higher authorities. The Public Accounts Committee (2006-08) in their 68th report has given strict instructions for the proper maintenance of DCB statements. The statement for March represents the consolidated figure for the whole year. The closing balance for a year should be the opening balance for the next year. The lapses noticed in the maintenance of DCB statements are given below:

6.2.18.1 Variation between closing balance and opening balance

Audit scrutiny of DCB statements of the *Tahsildar* (RR), Kochi for the year 2003-04, revealed that the closing balance for 2003-04 was Rs. 48.25 crore whereas the opening balance noted for 2004-05 was Rs. 39.84 crore only thereby the department had lost track of the RR action in respect of Rs. 8.41 crore.

The lapse was due to absence of an effective internal control mechanism for scrutiny of the entries in the DCB statement.

6.2.18.2 Variation between the figures of RR collection as per DCB statement and as per collection register

Details of all the RR collection effected in a month are entered in the RR collection register maintained in each *taluk* office. Monthly total of this register should agree with the collection figures as noted in the DCB statement for the month. Test check of these figures for a selected month in respect of sales tax (major item) in eight *taluks* revealed that in four *taluks* there were variations between the figures as mentioned below:

(Rupees in lakh)

Name of <i>Taluk</i>	Month	RR collection figures		Figures inflated in the DCB statement
		DCB statement	Collection register	
Kochi RR	March 2006	50.70	20.18	30.52
Kollam RR	April 2007	141.61	129.06	12.55
Vaikom	March 2008	13.69	1.36	12.33

After this was pointed out, all *tahsildars* stated between December 2008 and June 2009 that collections directly effected by the concerned requisitioning department (after commencement of RR actions) were ascertained and accounted in the DCB as collection of the concerned *tahsildar* under RR. The reply was not correct as the procedure adopted was not in order.

6.2.18.3 Amounts of unencashed cheques and revenue deposit accounted as sales tax collections

Figures of sales tax collections for the month of April 2007 as per the concerned registers of *Tahsildar* (Revenue Recovery), Kollam was Rs. 27.48 lakh.

Audit scrutiny revealed that cheque receipts are instantly accounted as collection for the month without waiting for realisation by the treasury. This is not in order as evidenced in the case of cheque No. 667940 dated 30 April 2007 of ICICI Bank Ltd. Tirupur for Rs. 33,334. This cheque was subsequently dishonoured by the Bank but the amount was already accounted as sales tax collection.

The *Tahsildar* (RR), Kollam accounted the bid amount of Rs. 20.59 lakh kept in revenue deposit (RD) in the month of April 2007 as sales tax collection for April 2007, pending confirmation of the auction sale. The amount was stated to be under RD and pending transfer credit to sales tax or refund to the bidder, as the case may be till date (September 2009).

6.2.18.4 Discrepancy between the figures of District DCB and the consolidated figures of the taluk DCBs

Consolidated amount under 'remission', 'write off' in the DCB statement of District Collector, Kollam for the month of March 2008 was Rs. 3.30 crore whereas the total of individual figures furnished by the respective *taluks* was Rs. 3.50 crore.

This discrepancy was a pointer to the lack of diligence in the preparation of DCB statements.

6.2.18.5 Revenue recovery figures of Land Revenue dues

DCB statements of RR should include the details of all the dues 'to be recovered/recovered' under the provisions of the RR Act. However, demand and collection in respect of land revenue dues covered by RR action was not incorporated in the DCB statement of RR in none of the districts test checked.

6.2.19 Bought-in-land

Under the RR Act, when land is put up for auction sale for recovery of dues, if there is no bidder or if the highest bid is insufficient to cover the arrears, the officer conducting the sale may bid the property on behalf of Government for a nominal amount or for the highest amount of bid increased by nominal amount, as the case may be. After confirmation of sale and issue of sale certificate, the property vests with the Government, free of all encumbrances and its possession is taken up to treat it as any other Government land. On confirmation of sale, collector is duty bound to issue the sale certificate. The deficiencies in maintenance of registers, lapses in possession, irregular management of bought-in-land etc., noticed during scrutiny of records are mentioned below.

6.2.19.1 Maintenance of registers

In the Government Order²² issued in June 1965, it was directed that all bought-in-land would be entered in a register used for the purpose in the *taluk* office and their disposal should be watched by the *tahsildar*. However, register for watching bought-in-land was not maintained properly in all the test checked *taluks*. Besides, it was also noticed that the *tahsildar*, Kottayam had not maintained records of 1.97 ares in Muttambalam and 585 ares in Nattakam village.

6.2.19.2 Lapses in possession

Government in the aforesaid Government order had ordered that possession of the bought-in-land shall be taken immediately after the issue of sale certificate and in no case delay should exceed more than one month from the date of sale certificate.

Audit scrutiny revealed that an extent of 3.25 ares was in possession of the defaulter in Kollam District. Similarly, 2.280 cents and 1.067 cents in Thopumpady, 2.40 cents and 34.50 cents in Rameswaram village and 123 cents in Edakochi village were in possession of the encroachers. This showed poor management of bought-in-land.

6.2.19.3 Irregular management of bought-in-land

During scrutiny of records of 18 *taluk* offices, it was noticed that 198 hectare 53 ares 77 sq. mtrs of land in respect of 278 RR cases were kept as bought-in-land in these *taluks*. Estimated value of 86.5093 hectares only was available which comes to Rs. 11.98 crore. Revenue department had not taken any step to examine the feasibility of re-auctioning the property to augment the revenue/reconvey the land to defaulters if they were ready to clear the arrears and pay the market value of the land within two years/assignment of the land on lease basis.

6.2.19.4 Irregular sale of bought-in-land

As per the guidelines, bought-in-land shall be resold in public auction if it is likely to fetch a bid amount more than or atleast equal to the amount of arrears involved with interest and other charges and the sale proceeds shall be credited to Revenue Department.

An extent of 1 acre 7 cents in Muttuchira village was sold in auction by Revenue Divisional Officer, Pala in September 2006 for Rs. 38,600 against the arrears of Rs. 8.22 lakh.

It was stated (March 2009) that the value of the said property was ascertained by the village officer and the property was included in '*Karinilam*' which was suitable only for one seasonal paddy cultivation. As per the guidelines, if the amount realised through auction was not sufficient to clear the arrears, the sale should not have been confirmed. As such, the department could have opted for re-auction to fetch a better price.

²² No. 578/Revenue dated 30 June 1965.

In another case, an extent of 19.20 Ares at Kondor village under Meenachil *taluk* was converted as bought-in-land in June 1995. However, a Co-operative Bank auctioned the same property in November 2002 to realise the dues from the same defaulter and sale certificate issued in December 2003. The purchaser sold the property to another person in March 2004. Irregular sale of bought-in-land came to the notice of revenue authorities only when the last purchaser applied for transfer of registry in village records. Thus, laxity in the management, possession and supervision of bought-in-land resulted in repeated sale of the same property by third parties.

6.2.19.5 Re-conveyance/surrender of bought-in-land

As per the modification issued in February 1968, to the Government order dated 30 June 1965, the Government ordered that reconveyance of bought-in-land to the original owner will be considered only if applied within two years from the date of confirmation of sale. As per Government order issued in March 1996, current market value of the land has also to be paid along with the arrears, interest, cost of process etc.

- In Meenachil *taluk*, a defaulter filed application (July 2005) for reconveyance of 2 ares and 7.38 ares of land in Lalam village which was converted as bought-in-land in October 2000 and November 2002 respectively. Government sanctioned reconveyance in these cases in January 2009 and November 2008 respectively on payment of entire arrears in April 2008. However, market value of Rs. 20 lakh in respect of the above land was not collected.
- In another case, application for reconveyance filed (September 2000) by a defaulter for reconveyance of 4.8 ares of land in Vellilappilly village, which was converted as bought-in-land in April 1989, was reconveyed to the defaulter in April 2005 on payment of arrears only without collecting market value (not available) of the land.
- In one case in Manakkadu village, an extent of 5.90 ares was bid in favour of Government as bought-in-land and the auction confirmed by Revenue Divisional Officer, Idukki in November 2001. However, DC Idukki in October 2002 ordered *Tahsildar*, Thodupuzha to release the bought-in-land to the defaulter on payment of arrears only. Consequently the bought-in-land was released without realising the market value (not available).
- In another case, an extent of 57.51 ares of land in Vizhinjam village was converted as bought-in-land in public auction conducted in January 2001 by *Tahsildar* (RR), Neyyattinkara. Auction sales were confirmed in May 2002. District Collector, in January 2003 ordered to release the bought-in-land on payment of dues. The bought-in-land was released to the defaulter in 2003 itself after realising *abkari* dues of Rs. 10.76 lakh, without realising balance ST dues of Rs. 4.87 lakh and market value thereof (not available).

6.2.20 Irregular remission of public revenue

Under the existing Government orders, heads of department can sanction remission/write off departmental dues limited to Rs. 10,000 in each case subject to a maximum of Rs. 50,000 in a year.

6.2.20.1 It was noticed during scrutiny of records of remission/write off of Government dues under RR for the year 2007-08 in *taluk* office, Kottarakkara that a total demand of Rs. 3.50 crore was irregularly disposed as remission/write off, though there was no proper order for the same.

The *Tahsildar* stated (January 2009) that irrecoverable cases were shifted to this category for clearing the arrears from the books of accounts. The reply was not in order as it was against the Government directions.

6.2.20.2 On the basis of request from the DC (land acquisition), the DC, Ernakulam issued an RRC against M/s Cochin International Airport Ltd. for an amount of Rs. 2.68 crore along with interest and collection charges. Revenue recovery action initiated by *Tahsildar* (RR), Aluva in March 2001 was withdrawn as Government had stayed the collection temporarily. Fresh RR action was initiated by special *tahsildar* in September 2003. Government finally vacated the temporary stay and decided to convert the dues as shares of the Government. An amount of Rs. 3.62 crore was adjusted as shares against the total amount of Rs. 4.74 crore (dues, interest and other charges) leaving a balance of Rs. 1.12 crore as outstanding. Even though arrears shown above was outstanding, *Tahsildar* (RR) closed the RR files resulting in non-realisation of revenue of Rs. 1.12 crore.

6.2.20.3 The *Tahsildar* (RR) Meenachil converted an extent of 81 ares of land as bought-in-land for nominal amount (Re.1) in the public auction held in January 2004 for realisation of sale tax arrears of Rs. 21.60 lakh and RRCs were cleared from the register without realising the arrears resulting in loss of revenue of Rs. 21.60 lakh.

6.2.21 Short levy of collection charges

Under the Kerala Revenue Recovery Rules 1968, collection charges are leviable on arrears collected at the rate of five *per cent* when the arrears do not exceed Rs. 5 lakh and at the rate of 7.5 *per cent* when the arrears exceed Rs. 5 lakh. Collection charges (CC) are leviable in respect of arrears recoverable on behalf of any institution and shall be deducted from the amount recovered and the balance alone shall be payable to the institution.

Under the RR Act, the requisitioning authority cannot collect the dues from the defaulters directly after giving requisition for initiating RR action. Audit checked the figures of total RR collection under Section 68 & 71 of the RR Act and the CC levied thereof for 2006-07 & 2007-08. It was found that in 11 *taluks*²³ CC levied was short to the extent of Rs. 1.97 crore even when the CC due was calculated at the minimum rate of five *per cent*.

²³ Aluva, Karunagapally, Kochi, Kodungallur, Koyilandy, Kollam, Kottarakkara, Kozhikode, Thrissur, Udumbanchola and Vadamakara.

6.2.22 Conclusion

The Revenue Recovery Act is a law intended to enable the State to recover the dues with utmost expedition and without undue expenses. However, the collection effected was only 3.41 *per cent* to 4.06 *per cent* of the total demand during 2003-2004 to 2007-08. The department had not installed any mechanism for analysing the outstanding balance at periodical intervals and to take up the matter at appropriate level for write off in cases of irrecoverable dues. Revenue recovery certificates ranging from 10.07 *per cent* to 24.67 *per cent* of the demand were returned by the department due to various reasons. Uncollected demand as on 1 April 2008 worked out to Rs. 1,161.64 crore. Of this, an amount of Rs. 328.44 crore was under Government stay without any authority. Lack of prompt and sufficient action to get the court stay vacated, irregular stay by Government, delay in deciding appeal petitions and vacating stay of appellate authorities were the main contributing factors for the heavy arrears and poor performance of the RR system. Revenue recovery cases for Rs. 63.46 crore were returned without exhausting all means of recovery procedure. Collection of revenue of Rs. 326.35 crore was held up due to delay in various stages of RR proceedings. Lack of co-ordination between various departments had resulted in blocking up of revenue of Rs. 18.73 crore. Due to non-perusal of RR cases, Rs. 102.69 crore was not recovered. Records relating to bought-in-land were not properly maintained.

6.2.23 Recommendations

Government may consider implementation of following recommendations for rectifying the system and compliance deficiencies.

- prescribe time limit/procedure to be followed by the RR officers for follow-up action on stay cases;
- evolve a rational/scientific method in fixing targets and any shortfall in collection may be viewed critically to improve the efficiency of the system and collection of revenue;
- insist that RRC should be returned only after exploring all means of realising the arrears by the requisitioning departments;
- direct the requisitioning department to resort to revenue recovery action only after the expiry of appeal period;
- insist that the Excise Department should take care of the realisation of arrears under RR Act;
- enforce the timeframe prescribed strictly and periodic reconciliation of the RR cases to ensure that all requisitions are acted upon and sharing of information with other offices where the defaulters reside in other districts/states;
- serve a copy of the notice to the concerned Sub Registrar under his acknowledgment so as to comply with the provisions of the Transfer of Registry Rules 1966; and
- dispense with the system of direct collection by requisitioning department after the commencement of RR action and in special schemes enabling direct collection, RRC should be recalled from the RR department.

6.3 Other Audit observations

Scrutiny of records of various Taluk Offices revealed several cases of non-compliance of the provisions of the Rules for Assignment of Land within Municipal and Corporation Areas 1995 (RALMCO) and Kerala Revenue Recovery Rules 1968, (KRR Rules), Kerala Building Tax Rules (KBT) 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 the tahsildars 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.

6.4 Non-compliance of provisions of Acts/Rules

The provisions of the KBT Act/Rules, RALMCO and KRR Rules require:-

- i) levy of lease rent on land assigned to various persons at the prescribed rates;
- ii) levy of collection charges on the amount recovered under RR Act; and
- iii) assessment of building tax and luxury tax.

It was noticed that the tahsildars, did not observe some of the above provisions at the time of levying tax. This resulted in short levy of lease rent/building/collection charges of Rs. 2.29 crore as mentioned in the paragraphs 6.4.1 to 6.4.5.

6.4.1 Short levy of lease rent

Under the provisions of RALMCO, land held under lease, either current or time expired, and granted under any rule or orders at the time of such grant shall at the time of incorporation within the corporation limits, be granted fresh lease for a period not exceeding three years subject to the condition laid therein. The rule further prescribes the rate at which the land is to be leased out based on the purpose for which it is required and arrears, if any for the period upto the coming into force of the revised rate i.e., 1 April 2004, was to be settled by remitting 25 per cent of such amount.

During scrutiny of records in taluk office, Thrissur in August 2008, it was noticed that no action was taken to execute fresh lease with seven lease holders of land in the erstwhile panchayats, which were brought under the corporation limits in October 2000. This resulted in short levy of lease rent of Rs. 1.59 crore.

After the case was pointed out, the Tahsildar stated in August 2008 that action to collect the lease rent is in progress and that the collection particulars will be intimated in due course. A report on recovery has not been received (September 2009).

The matter was reported to the department in September 2008 and Government in January 2009; their reply has not been received (September 2009).

6.4.2 Short realisation of collection charges

Under the KRR Rules, collection charges at the rate of five *per cent* of the arrears not exceeding Rs. 5 lakh, collected on behalf of any Government department/notified institutions, are to be recovered from the defaulters.

During scrutiny of records in eight *taluk* offices²⁴ between September 2007 and September 2008, it was noticed that collection charges amounting to Rs. 33.85 lakh were short realised from the defaulters while recovering the arrears amounting to Rs. 20.82 crore during the period from April 2005 to March 2008.

After the cases were pointed out, the *tahsildars* stated between September 2007 and September 2008 that detailed reply would be furnished later. Further reply has not been received (September 2009).

The matter was reported to the department between November 2007 and October 2008 and Government in February 2009; their reply has not been received (September 2009).

6.4.3 Non-levy of irrigation cess

Under the village office manual, irrigation cess is leviable on the beneficiaries of irrigation projects at the rates specified therein.

During scrutiny of records of *taluk* office, Chengannur in August 2008, it was noticed that even though irrigation cess was leviable on 4,974 hectares of land under the Pamba Irrigation Project, it was levied on 453 hectares of land only from 1 April 1999. This resulted in non-levy of irrigation cess of Rs. 25.23 lakh.

After the case was pointed out, the Additional *Tahsildar* stated in August 2008, that joint verification of the areas has not been completed and all out efforts are made to finalise the assessment. Further development had not been reported (September 2009).

The matter was reported to the department in September 2008 and Government in January 2009; their reply has not been received (September 2009).

6.4.4 Non-assessment of building tax

Under the KBT Rules, every village officer shall transmit to the assessing authority, within five days of the expiry of each month a monthly list of buildings liable to assessment, together with extracts from the building application register of the local authority within whose area the buildings included in the list are situated.

During audit of records of two *taluk* offices²⁵ between December 2006 and March 2008, cross verification of records of one *panchayat*²⁶ and two village

²⁴ Cherthala, Chengannur, Moovattupuzha, North Parur, Ponnani, Thaliparamba, Thiruvalla and Vythiri.

²⁵ Sulthan Bathery and Thalapilly.

²⁶ Sulthan Bathery.

offices²⁷ with that of the respective *taluk* offices was done and it revealed that 22 buildings completed between 2004 and 2007, escaped assessment as the details of the buildings to be assessed were not furnished by the village officers concerned to the assessing authorities. This resulted in non-assessment of building tax of Rs. 6.04 lakh.

After the cases were reported to the department between December 2006 and March 2008 and Government in January 2009 and February 2009, the Government stated in June 2009 that in two cases in Thalapilly *taluk*, building tax has been assessed based on audit observation and an amount of Rs. 2.34 lakh collected and the balance amount is pending collection. Regarding the other 20 buildings mentioned in the report, 13 buildings have since been assessed, three buildings were functioning as soap factories with SSI licence and the remaining will be identified and assessed to tax. Further development has not been reported (September 2009).

6.4.5 Non-levy of luxury tax

Under the KBT Act as amended by the Finance Act, 1999, luxury tax at the rate of Rs. 2,000 is leviable each year on all residential buildings having a plinth area of 278.7 square metre or more and completed on or after 1 April 1999.

During scrutiny of records in four *taluk* offices²⁸ between August 2007 and May 2008, it was noticed that luxury tax was not demanded/realised on 106 residential buildings of plinth area exceeding 278.7 square metres, completed after 1 April 1999. This resulted in non-levy of luxury tax of Rs. 4.98 lakh.

After the case was reported to the department between September 2007 and May 2008 and Government in February 2009, the Government stated in July 2009 that an amount of Rs. 1.78 lakh has since been collected. A report on recovery of balance amount has not been received (September 2009).

²⁷ Kunnamkulam and Kanipayoor.

²⁸ Karthikappally, Kochi, Thiruvalla and Vythiri.