

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.*, taxes on motor vehicles, land revenue, stamp duty and registration fee, state excise and other 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 audit of records during the year 2008-09, as well as, those noticed in earlier years but could not be included in the previous reports.

OVERVIEW

This Report contains 48 paragraphs including three reviews relating to non/short levy of tax, interest, penalty *etc.* involving Rs. 392.71 crore. Some of the significant audit findings are mentioned below:

I. General

The total revenue receipts of the Government of Rajasthan during 2008-09 were Rs. 33,468.85 crore as against Rs. 30,780.62 crore for the year 2007-08. The revenue raised by the Government amounted to Rs. 18,832.21 crore comprising tax revenue of Rs. 14,943.75 crore and non-tax revenue of Rs. 3,888.46 crore. The receipts from the Government of India were Rs. 14,636.64 crore (state's share of divisible Union taxes: Rs. 8,998.47 crore and grants-in-aid: Rs. 5,638.17 crore). Thus, the State Government could raise 56 *per cent* of the total revenue receipts. Taxes on sales, trade *etc.* (Rs. 8,442.02 crore), state excise (Rs. 2,169.90 crore), stamp duty and registration fee (Rs. 1,356.63 crore), taxes on vehicles (Rs. 1,213.56 crore) and non-ferrous mining and metallurgical industries (Rs. 1,275.59 crore) were the major sources of tax and non-tax revenue during 2008-09.

(Paragraph 1.1)

The arrears of revenue aggregating Rs. 4,751.83 crore remained unrealised under some principal heads of revenue at the end of 2008-09. The arrears were mainly in respect of taxes on sales, trade *etc.*, state excise, taxes on vehicles, stamp duty and registration fee, land revenue, non-ferrous mining and metallurgical industries, miscellaneous general services - sale of land, major and medium irrigation, taxes on immovable property other than agricultural land and police.

(Paragraph 1.4)

The departments/Government accepted audit observations involving Rs. 748.48 crore pertaining to the Audit Reports for the years from 2003-04 to 2007-08, out of which Rs. 143.38 crore had been recovered till September 2009.

(Paragraph 1.13)

Test check of the records of sales tax, motor vehicles tax, land revenue, electricity duty, stamps duty and registration fee, state excise and other non-tax receipts conducted during the year 2008-09 revealed underassessment, short levy and loss of revenue amounting to Rs. 808.41 crore in 23,583 cases. The concerned departments accepted underassessment and other deficiencies of Rs. 123.95 crore involved in 14,681 cases of which 6,372 cases involving Rs. 50.63 crore had been pointed out in audit during the year 2008-09 and the rest in earlier years. The departments recovered Rs. 16.33 crore in 4,095 cases at the instance of audit during the year 2008-09.

(Paragraph 1.15)

II. Taxes on Sales, Trade etc.

Review on 'Transition from Sales Tax to Value Added Tax' revealed the following:

- Department failed to make assessment of dealers who filed belated returns on the basis of their books of accounts.

(Paragraph 2.2.9.3(iii))

- Department failed to implement tax audit as provided in the RVAT Act.

(Paragraph 2.2.10.1)

- Against the provision/instruction for prior verification of VAT paid on purchases before allowing input tax credit (ITC), ITC of Rs. 121.94 crore in 810 cases was allowed without prior verification.

(Paragraph 2.2.11.3)

Incorrect grant of exemption to two dealers under RST Act resulted in non-recovery of tax and interest of Rs. 2.76 crore.

(Paragraph 2.4.1)

Application of incorrect rate of tax resulted in short levy of tax of Rs. 71.54 lakh in 16 cases.

(Paragraph 2.4.2)

Entry tax and interest aggregating to Rs. 49.81 lakh were not levied on purchases from out of the State.

(Paragraph 2.4.4)

Irregular exemption of tax and interest of Rs. 9.40 crore was granted to a dealer on transfer of goods.

(Paragraph 2.4.5)

Incorrect grant of concessional rate of tax under CST Act resulted in short levy of tax and interest of Rs. 5.24 crore in two cases.

(Paragraph 2.4.6)

Non-withdrawal of benefits of tax exemption on breach of condition by nine industrial units resulted in non recovery of tax of Rs. 8.77 crore.

(Paragraph 2.5.1)

III. Taxes on Motor Vehicles

Review on 'Levy and Collection of Tax by the Transport Department' revealed the following:

- Non/short recovery of tax and penalty of Rs. 9.40 crore from 2,924 vehicle owners was noticed in cases selected for audit through statistical sampling.

(Paragraph 3.2.10)

- Transport Vehicles were plying without obtaining mechanical fitness certificate resulting in non-recovery of fee of Rs. 27.77 crore.

(Paragraph 3.2.14)

- Extrapolation of the results of statistical sampling indicated that the total loss of revenue on account of non/short recovery of tax/fee/penalty could be Rs. 477.63 crore.

(Paragraph 3.2.16)

Special road tax and penalty amounting to Rs. 10.46 crore was not levied on 295 stage carriages of Rajasthan State Road Transport Corporation, found plying during the period of surrender of their registration certificates.

(Paragraph 3.3.1)

IV. Stamp Duty and Registration Fee and Land Revenue

Non-registration of lease deeds of immovable properties resulted in non-realisation of stamp duty and registration fee of Rs. 8.40 crore.

(Paragraph 4.3)

Stamp duty and registration fee aggregating to Rs. 93.14 lakh was levied short on registration of lease deeds.

(Paragraph 4.4.1)

Non-registration of developer agreements resulted in non-realisation of revenue of Rs. 77.62 lakh.

(Paragraph 4.4.3)

V. State Excise

Excise duty of Rs. 43.34 crore was short levied on sale of Indian made foreign liquor supplied in pints and nips.

(Paragraph 5.3.1)

Licence fee of Rs. 1.65 crore on 62 composite shops was short levied.

(Paragraph 5.3.2)

VI. Non-Tax Receipts

Public Health Engineering Department

Review on 'Receipts of Public Health Engineering Department' revealed the following:

- Outstanding demands against Nagar Nigams/Nagar Palikas amounting to Rs. 85.76 crore were not included in the details of arrears maintained by the Department.

(Paragraph 6.2.7.2)

- Non-functioning of water meters resulted in incorrect assessment of water charges.

(Paragraph 6.2.7.4)

- Interest on outstanding demands amounting to Rs. 55.15 crore was not levied.

(Paragraph 6.2.9.1)

- Non-levy of water charges against Nagar Nigam, Jodhpur resulted in non-recovery of Rs. 2.35 crore.

(Paragraph 6.2.9.2)

- Loss of revenue of Rs. 234.43 crore due to abnormal leakage of water.

(Paragraph 6.2.9.3)

- Short realisation of stamp duty of Rs. 87.58 lakh.

(Paragraph 6.2.9.5)

Mines, Geology and Petroleum Department

Non-levy of royalty in accordance with codal provisions resulted in short recovery of Rs. 13.56 crore.

(Paragraph 6.4.1)

Irregular allowance of handling and processing losses resulted in short recovery of royalty of Rs. 3.24 crore.

(Paragraph 6.4.2)

Cost of mineral amounting to Rs. 13.48 crore was not charged on unauthorised excavation.

(Paragraph 6.4.8)

Cost of mineral amounting to Rs. 4.80 crore was not charged on unauthorised excavation of mineral by contractors.

(Paragraph 6.4.9)

Non-realisation of cost of mineral dispatched without *rawanna* resulted in loss of revenue of Rs. 1.49 crore.

(Paragraph 6.4.10)

Non-raising of demand of licence fee resulted in non-recovery of Rs. 9.85 crore.

(Paragraph 6.5.1)

Home (Police) Department

Non-raising of demand for police cost led to loss of Rs. 84.98 lakh.

(Paragraph 6.8)

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Rajasthan during the year 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. no.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
I.	Revenue raised by the State Government					
	• Tax revenue	8,414.82	9,880.23	11,608.24	13,274.73	14,943.75
	• Non-tax revenue	2,146.15	2,737.67	3,430.61	4,053.93	3,888.46
	Total	10,560.97	12,617.90	15,038.85	17,328.66	18,832.21
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	4,305.61	5,300.08	6,760.37	8,527.60	8,998.47
	• Grants-in-aid	2,897.01	2,921.21	3,792.96	4,924.36	5,638.17
	Total	7,202.62	8,221.29	10,553.33	13,451.96	14,636.64
III.	Total receipts of the State (I and II)	17,763.59	20,839.19	25,592.18	30,780.62	33,468.85¹
IV.	Percentage of I to III	59	61	59	56	56

The above table indicates that during the year 2008-09 the revenue raised by the State Government was 56 per cent of the total revenue receipts (Rs. 33,468.85 crore). The balance 44 per cent of the receipts during 2008-09 were from the Government of India.

¹ For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Rajasthan for the year 2008-09. Figures under the head 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service tax - share of net proceeds assigned to State booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

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

(Rupees in crore)							
Sl. no.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	• Taxes on sales, trade etc.	4,500.78	5,245.41	6,272.15	7,345.84	8,442.02	(+) 15
	• Central sales tax	296.75	348.23	448.56	404.90	462.48	(+) 14
2.	State excise	1,276.07	1,521.80	1,591.09	1,805.12	2,169.90	(+) 20
3.	Stamp duty and registration fee	817.83	1,031.79	1,293.68	1,544.35	1,356.63	(-) 12
4.	Taxes and duties on electricity	442.76	471.35	515.88	584.23	654.05	(+) 12
5.	Taxes on vehicles	817.21	908.18	1,023.61	1,164.40	1,213.56	(+) 4
6.	Taxes on goods and passengers	144.01	236.71	247.60	160.61	189.87	(+) 18
7.	Other taxes on income and expenditure, tax on professions, trades, callings and employments	1.85	0.25	0.06	0.04	0.04	Nil
8.	Other taxes and duties on commodities and services	47.56	31.70	46.04	58.91	64.52	(+) 10
9.	Land revenue	68.86	84.30	116.71	155.29	162.52	(+) 5
10.	Other taxes	1.14	0.51	52.86	51.04	228.16	(+) 347
Total		8,414.82	9,880.23	11,608.24	13,274.73	14,943.75	(+) 13

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

Taxes on sales, trade etc.: The increase (15 per cent) was due to proper monitoring, check on tax evasion and recovery efforts of the department.

State excise: The increase (20 per cent) was due to implementation of excise policy and increase in sale of liquor.

Stamp duty and registration fee: The decrease (12 per cent) was due to decrease in registration of documents and rebate on stamp duty to women owners.

Taxes and duties on electricity: The increase (12 per cent) was due to more sale of electricity.

Taxes on goods and passengers: The increase (18 per cent) was due to proper monitoring, check on tax evasion and recovery efforts by the department.

Other taxes and duties on commodities and services: The increase (10 per cent) was due to increase in revenue from luxury tax and growing influx of tourists.

Other taxes: The increase (347 *per cent*) was due to increase in rates approved by District Level Committee for Rock Phosphate bearing land and realisation of arrears.

The commercial tax department did not furnish (October 2009) the reasons for increase (14 *per cent*) in central sales tax despite being requested (June 2009).

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

(Rupees in crore)							
Sl. no.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	Interest receipts	754.94	990.21	1,072.72	1,112.43	1,195.96	(+) 8
2.	Forestry and wild life	39.41	40.07	45.24	58.30	57.74	(-) 1
3.	Non-ferrous mining and metallurgical industries	645.35	814.08	1,196.52	1,226.61	1,275.59	(+) 4
4.	Miscellaneous general services	90.47	305.87	528.28	919.72	580.33	(-) 37
5.	Major and medium irrigation	56.50	46.79	60.56	57.92	54.16	(-) 6
6.	Medical and public health	29.84	16.70	30.62	39.11	36.87	(-) 6
7.	Co-operation	8.71	14.79	22.23	27.01	18.13	(-) 33
8.	Public works	17.85	27.86	47.47	53.41	93.43	(+) 75
9.	Police	54.04	75.86	42.61	94.81	71.43	(-) 25
10.	Other administrative services	91.79	54.02	54.84	54.71	49.57	(-) 9
11.	Other non-tax receipts	357.25	351.42	329.52	409.90	455.25	(+) 11
Total		2,146.15	2,737.67	3,430.61	4,053.93	3,888.46	(-) 4

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

Miscellaneous general services: The decrease (37 *per cent*) was mainly due to debt relief on repayment of consolidated loan, premium on issue of new Government stock, transfer of amount to Depreciation Reserve Fund and rectification of balances after reconciliation with the balance of Reserve Bank of India.

Co-operation: The decrease (33 *per cent*) was mainly due to less receipt of grant-in-aid from National Cooperative Development Corporation.

Public Works: The increase (75 per cent) was due to receipt of outstanding rent from Rajasthan Vidyut Vitran Nigam Limited.

Police: The decrease (25 per cent) was due to less receipt on account of police force provided to other Governments.

The other departments did not inform (October 2009) the reasons for variations despite being requested (June 2009).

1.2 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)					
Sl. no.	Heads of revenue	Budget estimates	Actuals	Variation excess (+) or shortfall (-)	Percentage of variation
1	2	3	4	5	6
Tax revenue					
1.	Taxes on sales, trade etc.	8,500.00	8,904.50	(+) 404.50	(+) 5
2.	State excise	1,910.00	2,169.90	(+) 259.90	(+) 14
3.	Stamp duty and registration fee	1,725.00	1,356.63	(-) 368.37	(-) 21
4.	Taxes and duties on electricity	635.34	654.05	(+) 18.71	(+) 3
5.	Taxes on vehicles	1,153.00	1,213.56	(+) 60.56	(+) 5
6.	Land revenue	212.06	162.52	(-) 49.54	(-) 23
7.	Taxes on immovable property other than agricultural land	66.88	228.16	(+) 161.28	(+) 241
Total		14,202.28	14,689.32	(+) 487.04	(+) 3
Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	1,400.00	1,275.59	(-) 124.41	(-) 9
2.	Interest receipts	1,006.87	1,195.96	(+) 189.09	(+) 19
3.	Miscellaneous general services	453.10	580.33	(+) 127.23	(+) 28
4.	Forestry and wild life	53.79	57.74	(+) 3.95	(+) 7
5.	Police	78.02	71.43	(-) 6.59	(-) 8
Total		2,991.78	3,181.05	(+)189.27	(+) 6

The concerned departments mentioned the following reasons for the variations between the budget estimates and actuals of revenue receipts for the year 2008-09:

State Excise: The increase (14 per cent) was attributed to change in fees structure.

Stamp Duty and Registration Fee: The decrease (21 per cent) was attributed to decrease in registration of documents and rebate in stamp duty to women.

Taxes on immovable property other than agricultural land: The increase (241 per cent) was attributed to increase in rates approved by District Level Committee for Rock Phosphate bearing land and realisation of arrears.

Interest receipts: The increase (19 per cent) was mainly attributed to token provision under the sub-head “interest realised on investment of cash balances” in the absence of pre-determination of its receipts and floating of additional loan.

Miscellaneous general services: Reasons for the increase (28 per cent) were not intimated by the department.

The other departments did not inform (October 2009) the reasons for variations despite being requested (June 2009).

1.3 Cost of collection

The gross collection of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2006-07, 2007-08 and 2008-09 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2007-08 are as follows:

(Rupees in crore)

Sl. 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	6,720.71	60.05	0.9	0.83
		2007-08	7,750.74	53.76	0.7	
		2008-09	8,904.50	70.21	0.8	
2.	State excise	2006-07	1,591.09	42.52	2.7	3.27
		2007-08	1,805.12	48.51	2.7	
		2008-09	2,169.90	64.46	3.0	
3.	Taxes on vehicles	2006-07	1,023.61	15.56	1.5	2.58
		2007-08	1,164.64	17.44	1.5	
		2008-09	1,213.56	29.25	2.4	
4.	Stamp duty and registration fee	2006-07	1,293.68	19.21	1.5	2.09
		2007-08	1,544.35	22.80	1.5	
		2008-09	1,356.63	29.09	2.1	

1.4 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. 4,751.83 crore, of which Rs. 1,022.06 crore were

outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. no.	Heads of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than 5 years	Remarks
1	2	3	4	5
1.	Taxes on sales, trade etc.	3,683.13	680.64	Out of Rs. 3,683.13 crore, demands for Rs. 302.12 crore were stayed by judicial authorities, demands for Rs. 171.60 crore were covered under the Land Revenue Act (LR Act) and Revenue Recovery Act, demands of Rs. 36.34 crore were likely to be written off and demands of Rs. 304.28 crore were pending against the dealers who were not traceable. Recovery of Rs. 20.94 crore was pending against Government departments. Arrears of Rs. 2,847.85 crore were at various stages of recovery.
2.	State excise	222.17	194.28	Out of Rs. 222.17 crore, demands for Rs. 88.92 crore were stayed by the High Court/judicial authorities, recovery of Rs. 43.45 crore was likely to be written off and demands for Rs. 89.80 crore were covered by recovery certificates under the LR Act.
3.	Taxes on vehicles	42.97	16.29	Out of Rs. 42.97 crore, demands for Rs. 1.90 crore were stayed by the Courts/Government. Demands for Rs. 39.89 crore were covered under recovery certificates. Demands of Rs. 82 lakh were covered under the LR Act and the Public Debt Recovery Act (PDR Act). Arrears of Rs. 36 lakh were at other stages of recovery.
4.	Taxes on passenger and goods	1.90	1.90	Stage at which the recovery was pending was not intimated by the Transport Department.
5.	Stamp duty and registration fee	117.65	29.81	Out of Rs. 117.65 crore, demands for Rs. 66.34 crore were covered under recovery certificates. Demands for Rs. 51.31 crore were stayed by the High Court and other judicial authorities.
6.	Land revenue	83.74	12.97	Out of Rs. 83.74 crore, demands for Rs. 3.28 crore were stayed by the Government and Rs 22.39 crore stayed by the High Court and other judicial authorities. Arrears of Rs. 58.07 crore were at various stages of recovery.

1	2	3	4	5
7.	Non-ferrous mining and metallurgical industries	103.17	37.92	Out of Rs. 103.17 crore, demands of Rs. 60.32 crore were stayed by the High Court/other judicial authorities and recovery of Rs. 1.43 crore was stayed by the Government. Demands for Rs. 28.29 crore were covered under recovery certificates under LR Act and PDR Act. Arrears of Rs. 2.23 crore were likely to be written off. Demands of Rs. 10.90 crore were at various stages of recovery.
8.	Miscellaneous general services – sale of land	120.63	30.08	Stage at which the recovery was pending was not intimated by the Colonisation Department.
9.	Major and medium irrigation ²	79.99	16.56	Out of Rs. 79.99 crore, demands of Rs. 4.66 crore pertaining to the Board of Revenue were pending from cultivators. Stages of recovery of Rs. 75.33 crore were not intimated by the Chief Engineer, IGNP Bikaner, Commissioner CAD, Chambal, Kota, Chief Engineer, Irrigation Department, Jaipur and Chief Engineer, Mahi Bajaj Sagar, Banswara.
10.	Police	17.51	1.61	Out of Rs. 17.51 crore, Rs. 1.46 crore was pending collection from the Railways, Rs. 12.93 crore was pending collection from other States, Rs. 3.12 crore was pending collection from the Central Government.
11	Taxes on immovable property other than agriculture land.	278.97	Nil	Out of Rs. 278.97 crore, Rs. 101.47 crore were stayed by High Court and other judicial authorities. Demands for Rs. 177.50 crore were covered under the recovery certificates, under LR Act and PDR Act.
Total		4,751.83	1,022.06	

1.5 Arrears in assessments

The details of cases pending assessment during the years 2004-05 to 2008-09

² This information pertains to Board of Revenue, Rajasthan, Ajmer (Rs. 4.66 crore), Chief Engineer, IGNP Bikaner (Rs. 7.72 crore), Commissioner CAD, Chambal, Kota (Rs. 13.63 crore), Chief Engineer, Irrigation Department, Jaipur (Rs. 31.38 crore) and Chief Engineer, Mahi Bajaj Sagar, Banswara (Rs. 22.60 crore).

as furnished by the department are mentioned below:

Year	Opening balance	New cases due for assessment	Total	Cases disposed	Cases pending at the end of year
Sales tax					
2004-05	81,346	2,12,397	2,93,743	2,28,913	64,830
2005-06	64,830	1,90,787	2,55,617	2,54,740	877
2006-07	877	2,43,771	2,44,648	2,43,618	1,030
2007-08	1,030	2,57,923	2,58,953	2,57,609	1,344
2008-09	1,344	2,54,289	2,55,633	2,55,262	371
Entertainment tax					
2004-05	2,060	2,514	4,574	2,606	1,968
2005-06	1,968	2,996	4,964	3,619	1,345
2006-07	1,345	2,193	3,538	2,546	992
2007-08	992	1,772	2,764	1,642	1,122
2008-09	1,122	1,206	2,328	1,451	877

1.6 Evasion of tax

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

Sl. no.	Heads of revenue	Opening balance as on 1 April 2008	No. of cases detected	Total	No. of cases in which assessments/investigations completed and additional demands including penalty etc. raised		No. of cases pending as on 31 March 2009
					No. of cases	Amount of demand (Rs. in crore)	
1.	Taxes on sales, trade etc.	110	11,734	11,844	11,716	82.02	128
2.	Non-ferrous mining and metallurgical industries	7,556	1,612	9,168	1,531	Not intimated by the department	7,637
3.	Stamp duty and registration fee	4,664	7,364	12,028	7,101	51.21	4,927

Thus, 83 per cent of the evasion cases were pending as on 31 March 2009 under the revenue head "Non-ferrous mining and metallurgical industries". Steps need to be taken to dispose these cases expeditiously.

1.7 Write off and waiver of revenue

During the year 2008-09, demands for Rs. 6.07 crore in 801 cases were written off/waived/remitted as reported by the departments. The details are mentioned below:

Sl. no.	Name of the department	Number of cases	Amount (Rupees in crore)	Reasons
1.	Commercial taxes	440	1.58	Reasons not intimated by the department.
2.	Registration and stamps	361	4.49	Reasons not intimated by the department.
Total		801	6.07	

1.8 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 departments are mentioned below:

Name of the department	Number of cases Amount (Rupees in crore)			
	Opening balance	Claims received	Refunds allowed	Closing balance
Commercial taxes	<u>609</u> 15.30	<u>7,337</u> 175.90	<u>7,359</u> 164.46	<u>587</u> 26.74
Registration and stamps	<u>526</u> 0.86	<u>1,446</u> 2.99	<u>1,375</u> 2.50	<u>597</u> 1.35
Land revenue	<u>7</u> 0.10	<u>38</u> 0.39	<u>34</u> 0.43	<u>11</u> 0.06
Colonisation	<u>21</u> 0.05	<u>23</u> 0.07	<u>33</u> 0.09	<u>11</u> 0.03
Non-ferrous mining and metallurgical industries	<u>13</u> 0.10	<u>43</u> 0.11	<u>14</u> 0.14	<u>42</u> 0.07
Total	<u>1,176</u> 16.41	<u>8,887</u> 179.46	<u>8,815</u> 167.62	<u>1,248</u> 28.25

1.9 Failure of the senior officials to enforce accountability and protect the interest of the Government

Audit observations on underassessments, short determination/realisation of taxes, duties, fees *etc.* and defects in the maintenance of initial records, which are not settled on the spot, are communicated to the heads of the departments through inspection reports. Important irregularities are also reported to the Government/departments by the office of the Accountant General (Commercial & Receipt Audit) to which replies are required to be furnished by them within one month.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2008 which were pending with the departments as on 30 June 2009 alongwith figures for the preceding two years, are mentioned below:

Sl. no.	Particulars	As on 30 June		
		2007	2008	2009
1.	Number of inspection reports pending settlement	2,313	2,335	2,502
2.	Number of outstanding audit observations	6,428	6,435	6,918
3.	Amount of revenue involved (Rs. in crore)	1,527.75	1,554.58	1,391.66

Department wise break up of the inspection reports and audit observations outstanding as on 30 June 2009 is mentioned below:

Sl. no.	Department	Number of outstanding inspection reports	Number of outstanding audit observations	Amount (Rs. in crore)	Earliest year to which the reports relate	Number of inspection reports where even first compliance has not been received
1.	Commercial taxes	408	1396	474.35	2000-01	67
2.	Land revenue	292	427	144.03	1994-95	21
3.	Registration and stamps	741	1863	66.17	2000-01	82
4.	Transport	481	1582	71.38	1998-99	Nil
5.	Forest	141	274	2.22	1999-00	Nil
6.	Mines and geology	188	812	419.42	2000-01	2
7.	State excise	163	410	198.39	1998-99	Nil
8.	Land and buildings tax	8	10	0.52	1999-00	Nil
9.	Electrical inspectorate	49	84	1.70	1999-00	Nil
10.	Colonisation	31	60	13.48	1999-00	Nil
Total		2,502	6,918	1,391.66		172

Since the outstanding amount represents unrealised revenue and the period of pendency of audit comments ranged between 8 to 14 years, the Government needs to take speedy and effective action on the issues raised in the inspection reports.

1.10 Departmental audit committee meetings

Audit committees have been set up in different departments to discuss contentious issues with top management and to expedite settlement of audit observations. The Government, the concerned department and the office of the Accountant General (Commercial and Receipt Audit) Rajasthan are represented on this committee. Audit committee meetings are to be arranged by each department on quarterly basis. Department wise position of audit

committee meetings held during the year 2008 was as under:

Sl. no.	Name of the department	Number of meetings held during 2008				
		1 st quarter ending March 2008	2 nd quarter ending June 2008	3 rd quarter ending September 2008	4 th quarter ending December 2008	Total
1.	Commercial taxes	1	Nil	Nil	1	2
2.	State excise	1	Nil	1	1	3
3.	Transport	1	1	1	Nil	3
4.	Registration and stamps	Nil	Nil	Nil	1	1
5.	Land revenue	Nil	Nil	Nil	Nil	Nil
6.	Mines and geology	Nil	Nil	1	Nil	1
Total		3	1	3	3	10

The Government needs to take immediate measures to revive the system of audit committees which has become ineffective and non-functional.

1.11 Response of the departments to draft audit paragraphs

The Finance Department issued directions to all the departments in August 1969 to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within three weeks of their receipt. The draft paragraphs are forwarded to the Secretaries of the concerned department through demi-official letters drawing their attention to the audit findings and requesting them to send their response within three weeks. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Draft paragraphs proposed to be included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009 were forwarded to the Secretaries of the respective departments between July 2009 and December 2009. Out of 102 cases (clubbed into 48 paragraphs of this report) issued, the departments have accepted the audit observations in 58 cases.

1.12 Follow-up on Audit Reports - summarised position

According to the instructions issued by the Finance Department, all departments are required to furnish explanatory memoranda vetted by Audit to the Secretariat of State Legislature in respect of paragraphs included in the Audit Reports within three months of their being laid on the table of the House.

The position of paragraphs which appeared in the Audit Reports and those pending discussion as on 31 October 2009 is given in **Annexure 'A'**. A total of 143 paragraphs pertaining to the period 2002-03 to 2007-08 were pending discussion by the Public Accounts Committee (PAC).

As per the Rules and Procedures of the PAC of the Rajasthan State Assembly framed in 1997, the concerned departments have to take necessary steps to send their action taken notes (ATNs) on the recommendations of the PAC on the Audit Reports within six months from the date of its presentation to the House. The position of the outstanding ATNs is given in **Annexure ‘B’**.

1.13 Compliance with the earlier Audit Reports

In respect of Audit Reports pertaining to the years from 2003-04 to 2007-08, the Government/departments accepted audit observations involving Rs. 748.48 crore of which Rs. 143.38 crore had been recovered till September 2009 as mentioned below:

(Rupees in crore)			
Year of Audit Report	Total money value	Accepted money value	Recovery made
2003-04	381.48	234.77	49.50
2004-05	276.63	15.95	5.85
2005-06	352.81	113.52	18.56
2006-07	315.25	253.31	2.61
2007-08	666.55	130.93	66.86
Total	1,992.72	748.48	143.38

Thus, the recovery was 19 *per cent* of the amount accepted during the last five years.

1.14 Amendment in Acts/Rules

During the year 2008-09, the Government had amended the concerned Act in one case to address the concern raised by audit through Audit Report. The change is briefly mentioned in the following table:

Reference to Audit Report Paragraph	Issue raised in audit.	Amendment in Acts/Rules etc.
Paragraph 5.2 of Audit Report 2006-07 (Revenue Receipt).	Under the Rajasthan Excise Act, 1950, excise duty on Beer was leviable at the rate of 140 <i>per cent advalorem</i> . However, the duty on beer was levied either on value which was less than the sale value charged or the elements like differential cost was not included in the sale value.	The Government vide notification dated 31.05.2008, amended prospectively the existing expression of excise duty on beer “140 <i>per cent advalorem</i> ” by the expression “140 <i>per cent advalorem</i> of ex-brewery price (including export fee, incremental overheads and CST but excluding any other amount) as accepted by RSBCL”.

1.15 Results of audit

Test check of the records of sales tax, motor vehicles tax, land revenue, electricity duty, stamps duty and registration fee, state excise and other non-tax receipts conducted during the year 2008-09 revealed underassessment,

short levy and loss of revenue amounting to Rs. 808.41 crore in 23,583 cases. The concerned departments accepted underassessment and other deficiencies of Rs. 123.95 crore involved in 14,681 cases of which 6,372 cases involving Rs. 50.63 crore had been pointed out in audit during the year 2008-09 and the rest in earlier years. The departments recovered Rs. 16.33 crore in 4,095 cases at the instance of audit during the year 2008-09.

This report contains 48 paragraphs including three reviews pointing out non/short levy of taxes, duties, interest and penalties *etc.* involving Rs. 392.71 crore. The Government/departments accepted audit observations involving Rs. 207.67 crore of which Rs. 11.71 crore had been recovered upto October 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 of the offices of the Commercial Taxes Department conducted during the year 2008-09 revealed underassessment of tax amounting to Rs. 74 crore in 1,044 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
1.	Transition from Sales Tax to Value Added Tax (A review)	1	-
2.	Short levy of tax due to application of incorrect rate of tax	254	19.88
3.	Irregular grant of exemption	108	13.64
4.	Underassessment due to irregular or incorrect allowances of deduction	100	2.27
5.	Non-assessment of taxable turnover	157	1.58
6.	Non-levy of purchase tax	35	0.16
7.	Non-levy of penalty/interest	29	0.11
8.	Other irregularities	360	36.36
Total		1,044	74.00

During the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 38.90 crore involved in 437 cases, of which 66 cases involving Rs. 61.87 lakh had been pointed out in audit during 2008-09 and the rest in earlier years. The department recovered Rs. 88.51 lakh in 56 cases during the year 2008-09 of which eight cases involving Rs. 7.83 lakh related to the year 2008-09 and rest to the earlier years.

After issue of draft paragraph, the department recovered Rs. 5.92 lakh pertaining to a single observation pointed out during 2008-09.

A review on 'Transition from Sales Tax to Value Added Tax' and few illustrative audit observations involving Rs. 28.19 crore are mentioned in the succeeding paragraphs.

2.2 Review : Transition from Sales Tax to Value Added Tax

Highlights

- Department failed to make assessment of dealers who filed belated returns on the basis of their books of accounts.

(Paragraph 2.2.9.3(iii))

- Department failed to implement tax audit as provided in the RVAT Act.

(Paragraph 2.2.10.1)

- Against the provision/instruction for prior verification of VAT paid on purchases before allowing input tax credit (ITC), ITC of Rs. 121.94 crore in 810 cases was allowed without prior verification.

(Paragraph 2.2.11.3)

2.2.1 Introduction

The Government of India decided to implement state level Value Added Tax (VAT) in all the states on the basis of decision taken on 23.1.2002 in the empowered committee of the States' Finance Ministers. The empowered committee brought out on 17.1.2005 a white paper on state level VAT. The following are the main features of VAT:

- it would eliminate cascading effect due to credit of tax paid on purchase for resale or for use in production;
- other taxes will be abolished and overall tax burden will be rationalised;
- overall tax would increase and there will be higher revenue growth; and
- there would be self assessment by the dealers and set off will be given for input and tax paid on previous purchases.

The Government of Rajasthan repealed the Rajasthan Sales Tax Act, 1994 (RST) and enacted the Rajasthan Value Added Tax Act, 2003 (RVAT) effective from 1.4.2006. Some of the differences between the existing RVAT and RST were as under:

(i) VAT is a multi point system while sales tax was single point system. VAT system relies more upon the dealers to pay tax willfully. Thus the VAT system is based on self assessment whereas supporting documents were required alongwith the returns in RST;

(ii) Unlike the sales tax regime, there is no statutory assessment of dealers. Instead, the RVAT Act provides for identification of selected dealers annually for conducting tax audit by the department and finalising assessments thereafter;

(iii) There are six schedules being part of the Act. While in schedule-I & II exempted goods and persons are classified, schedule III, IV & V contain goods

taxable at the rate of 1 per cent, 4 per cent and 12.5 per cent respectively. Schedule VI contains goods taxable at special higher rates. Dealers other than manufacturers with annual turnover upto Rs. 50 lakh can opt for composition tax scheme. Besides, the Act also provides for lump sum payment in lieu of tax;

(iv) Percentage check is provided in the VAT Act whereas cent per cent check was provided in RST Act; and

(v) Reduced control of the executives on dealers is envisaged in RVAT unlike the RST.

2.2.2 Organisational set up

The receipts from Value Added Tax are administered by the Commissioner of Commercial Taxes (CCT) under the administrative control of Finance Department, the Government of Rajasthan. The CCT is assisted by six Additional Commissioners, 29 Deputy Commissioners (DC), 48 Assistant Commissioners (AC), 101 Commercial Taxes Officers (CTO) and 323 Assistant Commercial Taxes Officers (ACTO). The organisation of Commercial Taxes Department at the field level under the RST and RVAT regimes as mentioned below:

Units of tax administration	Under the RST regime (upto 2005-06)		Under the RVAT regime (2006-07 onwards)	
	Numbers	Headed by	Numbers	Headed by
Zones	12	Deputy Commissioners	14	Deputy Commissioners
Circles	106	Assistant Commissioners/CTO	124	Assistant Commissioners/CTO
Wards	171	Assistant Commercial Taxes Officers	190	Assistant Commercial Taxes Officers

2.2.3 Audit objectives

The review was conducted to ascertain whether the

- planning for implementation and transition from the RST Act to RVAT Act was effected timely and efficiently;
- organisational structure was adequate and effective for smooth transition to VAT;
- provisions of the VAT Act and the Rules made thereunder were adequate and enforced properly to safeguard the revenue of the State;
- internal control mechanism existed in the Department and was adequate and effective to prevent leakage of revenue;
- VAT system, after being in place for three years, was working effectively.

2.2.4 Scope of audit and methodology

The review was conducted in selected circles of four zones¹ out of 14 for the period 2006-07 to 2008-09 during June to July 2009. The selection of the zones was made on best judgment basis.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of the Commercial Taxes Department (CTD) and their officers and staff in providing necessary information and records for audit. An entry conference was held on 12.6.2009 in the office of the CCT, Jaipur wherein objectives of the review were explained. The draft review report was forwarded to the department and the Government in August 2009. An exit conference was held on 13.10.2009 with the Commissioner of Commercial Taxes in which the results of audit and recommendations were discussed. The replies of the department received during the exit conference and at other points of time have been appropriately included in the respective paragraphs.

Audit findings

2.2.6 Pre-VAT and post-VAT tax collection

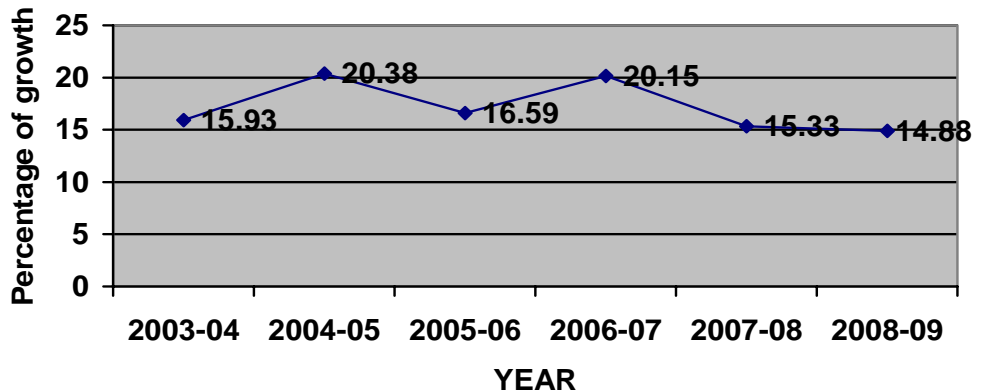
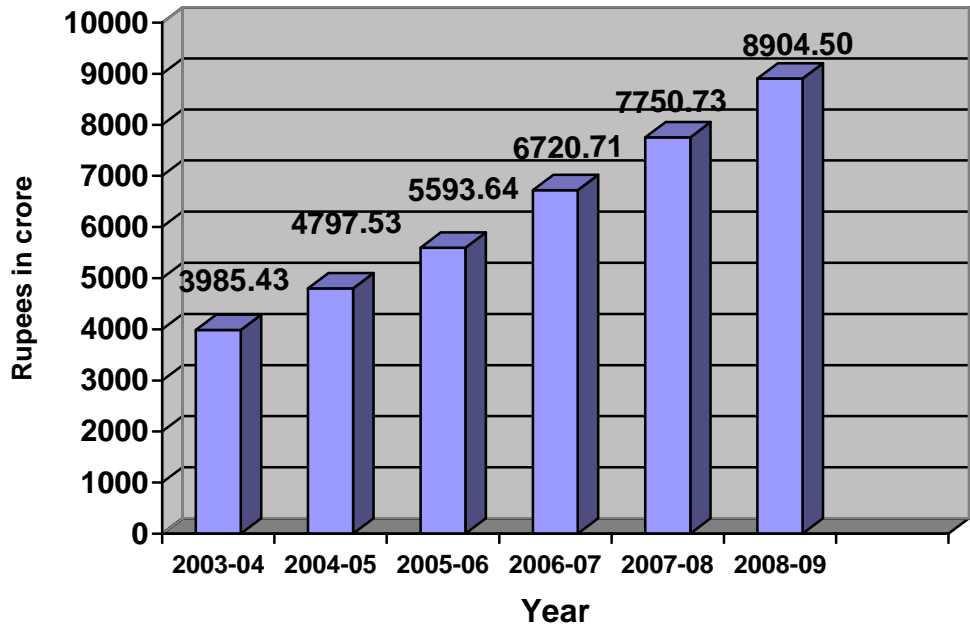
The comparative position of pre-VAT sales tax collection (2003-04 to 2005-06) and post-VAT (2006-07 to 2008-09) tax collection and the growth rate in each of the years is furnished below:

(Rupees in crore)

Pre-VAT			Post-VAT		
Year	Actual collection	Percentage of growth	Year	Actual collection	Percentage of growth
2003-04	3,985.43	15.93	2006-07	6,720.71	20.15
2004-05	4,797.53	20.38	2007-08	7,750.73	15.33
2005-06	5,593.64	16.59	2008-09	8,904.50	14.88

¹ Zone I (Circle 'E'), Zone II (Special Circle II), Zone III (Special Circle I) of Jaipur and Ajmer Zone (Circle Ajmer).

Collection of Tax

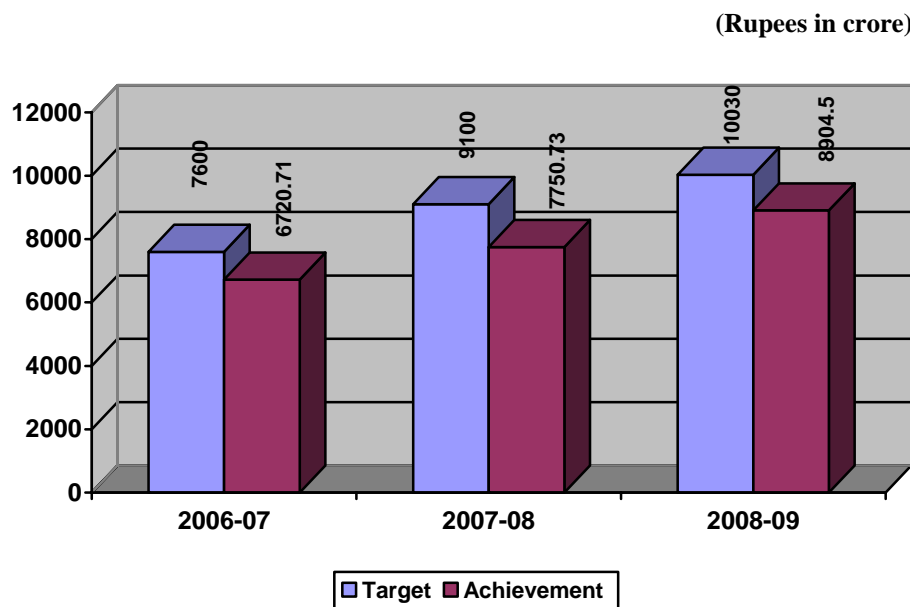


The average growth rate during 2003-04 to 2005-06 was 17.63 per cent while the average growth rate for 2006-07 to 2008-09 was 16.79 per cent. Thus, though the collections increased in absolute terms, the average growth rate in the post-VAT period registered a marginal decrease of 0.84 per cent.

2.2.6.1 Targets and achievement for collection of revenue

The targets fixed by the Government for collection of revenue under RVAT and

actual collection for the years 2006-07 to 2008-09 were as mentioned below:



From the above graph, it would be seen that every year there was shortfall in collection of revenue as compared to the targets fixed.

2.2.7 Preparedness and transitional process

2.2.7.1 Information and records relating to planning, enactment process, publicity, training on VAT *etc.* were called for by audit for scrutiny. However, these records were not made available by the department (September 2009). As a result, audit could not ascertain the department's preparedness for smooth and efficient transition from RST to RVAT.

2.2.7.2 Computerisation of the Taxation Department and the check gates and their interlinking

With a view to re-organising and computerising the tax related activities of the Department, an IT project christened RAJVISTA, was implemented in the Department which *inter-alia* provided facilities of e-payment, e-return, e-refund, online declaration forms of VAT *etc.*

Although a module for scrutiny of returns had been installed from 2.9.2007 under the computerised system 'RAJVISTA' for use by assessing authorities, during test check by audit it was noticed that none of the four circles were using it for the scrutiny of returns. Thus, the module developed for the purpose remained non-functional for about two years.

The department accepted (November 2009) the audit observation.

2.2.7.3 Date of implementation of VAT

Against the commitment of all the states as per paragraph 1.7 of the white paper for implementing VAT from 1 April 2005, VAT was implemented in Rajasthan from 1 April 2006 with a delay of one year. Though the Act had been passed in 2003, rules thereunder were framed only on 31 March 2006.

2.2.7.4 Creation of manuals and training of staff

It was noticed that no training was imparted to the Internal Check Parties (ICPs) in revenue audit. Department should make suitable arrangement for ICPs training on VAT. There is also no manual for proper guidance of ICPs. Whenever any serious irregularity is noticed, instructions are issued.

The department intimated (September 2009) that efforts were being made to compile a manual.

2.2.7.5 Completion of ST/CST assessments under the repealed Act

During the years 2006-07 to 2008-09, the transition from RST to RVAT had not gained momentum and was delayed *inter alia* due to finalisation of huge number of assessments under the repealed Act. It was seen that assessments of dealers pertaining to the year 2005-06 and earlier years under the repealed Act as well as the related assessments under CST Act, Entry Tax Act were finalised as below:

Circle	Assessment under RST	Assessment under CST	Assessment under Entry Tax	Total Assessment
2006-07				
Special-I Jaipur	330	280	20	630
Special-II Jaipur	432	273	42	747
E Circle Jaipur	4,890	1,510	21	6,421
Ajmer Circle	5,315	865	15	6,195
Total	10,967	2,928	98	13,993
2007-08				
Special-I Jaipur	293	214	37	544
Special-II Jaipur	352	163	27	542
E Circle Jaipur	384	46	0	430
Ajmer Circle	5,287	933	19	6,239
Total	6,316	1,356	83	7,755

After frequent extensions, the government decided in 2008 that assessments of the year 2006-07, the first year under RVAT Act, would be completed by 31.3.2009. This affected the smooth transition from RST to RVAT.

2.2.8 Registration and database of dealers

2.2.8.1 Under the RVAT, registered dealers under the repealed Act had been assigned unique taxpayers' identification number (TIN) of 11 digits, and database of registered dealers was being kept on TIN basis. On introduction of VAT, the database was adopted for VAT regime with already allotted TIN. The database was kept under RAJVISTA. New dealers registered under VAT Act were also allotted TIN. As on 31.03.2006, there were 2,58,614 registered dealers. This number had gone up to 3,44,852 at the end of 2008-09 as seen from the table below:

Period	No. of dealers	Increase in the number of dealers with reference to the previous year	Percentage increase of dealers with reference to the previous year
2005-06	2,58,614	42,152	19.47
2006-07	3,00,098	41,484	16.04
2007-08	3,16,404	16,306	5.43
2008-09	3,44,852	28,448	8.99

2.2.8.2 Periodical analysis of dealers below the threshold limit was undertaken by the department by conducting scrutiny of books of accounts of such dealers to ascertain whether they had crossed the limit prescribed under section 3(2) *i.e.* dealers under composition scheme whose annual turnover did not exceed Rs. 50 lakh. Instructions were issued by the department on 15.12.2008 to conduct such verification.

Pursuant to these instructions a campaign was made during 5.01.2009 to 31.01.2009 by the CTD. The department intimated that it had scrutinised 2,408 dealers registered under section 3(2) of the Act and had registered 157 dealers whose turnover was found to exceed Rs. 50 lakh, under section 3(1) of the VAT Act. However, the data of risky, dubious and dormant dealers was neither produced to audit nor was it intimated whether the data was prepared. The data is essential for monitoring the movement of risky, dubious and dormant dealers.

The department stated that the progress of campaign regarding registration of dealers was being regularly monitored by the CTD. However, reply in respect of risky, dubious and dormant dealers was not furnished.

2.2.9 Returns

2.2.9.1 Deficiencies in forms for submitting returns

Audit scrutiny of the form of return (VAT-10) revealed that against the name of commodity, no provision was made for giving schedule number and serial number of classified commodity. In the absence of correct classification of the goods, correct rate of tax charged by the dealer is not verifiable.

The department replied (November 2009) that this problem was spread over all the states and would be solved with the preparation of VAT related HSN.

2.2.9.2 Monitoring of returns

Receipt of returns is watched through Assessments Pending Register. Where return is not received, notice is issued to the dealer.

2.2.9.3 Scrutiny and verification of returns

(i) Dealers not filing returns

During audit scrutiny, it was noticed that a number of dealers in the test checked circles as mentioned below had not filed the returns during the three years 2006-07 to 2008-09:

Circle	2006-07		2007-08		2008-09		Remarks
	Total No. of dealers	No. of dealers not filing returns	Total No. of dealers	No. of dealers not filing returns	Total No. of dealers	No. of dealers not filing returns	
Special-I Jaipur	330	36	296	29	348	47	Notices were issued
Special-II Jaipur	280	Nil	267	Nil	264	30	Notices issued to 30 dealers
E Jaipur	4,890	Nil	4,997	312	4,599	-	Notices issued to 312 dealers
Ajmer Circle	9,020	Nil	9,731	Nil	9,542	Nil	-

The department replied (November 2009) that the outstanding returns had been filed and assessment orders passed for the year 2006-07.

(ii) Non-existence of provision for annual return for the year 2006-07

The RVAT Act or the rules did not provide for furnishing of annual return for the year 2006-07 by the dealer or statement of opening and closing stock, declaration forms received and utilised *etc.* in respect of transactions carried out by them during the financial year, although a provision was made vide section 73 of the Act *ibid* for furnishing of audited accounts by the dealers having gross turnover of more than Rs. one crore in a particular financial year duly certified by a Chartered Accountant. In absence of annual returns, the correctness of purchases and sales with relation to the opening and closing stock pertaining to a particular accounting period was not ascertainable by the Assessing Authorities while finalising the assessments. Further, the Assessing Authorities were not able to correlate the annual turnover of the dealers with the annual audited accounts. Due to this, the audited accounts submitted by the dealers could not be utilised during assessments. However, provision for annual return was made in late 2008 effective for the year 2007-08 and onwards.

(iii) Non-compliance with the provisions of the Act for assessment

As per provisions of section 24(4) of RVAT Act, where the dealer files returns after the due date, the assessing authority shall assess the dealer on the basis of his books of accounts.

It was noticed that assessment of dealers who had filed returns late were not made on the basis of their books of accounts. After this was pointed out, the AC, Special Circle-II, Jaipur stated that due to time constraint assessments could not be made in accordance with section 24(4) of the Act.

The department replied (November 2009) that keeping in view the policy that there should be minimum interaction with the dealers, the assessment were finalised on best judgment basis in such cases.

However, the fact remains that the provisions of the Act were not complied with.

2.2.9.4 Inadequacy of the documentation

As per provisions of section 73 of RVAT Act, every registered dealer, if his turnover exceeds Rs. 100 lakh in any year, is required to get the accounts of such year audited by a Chartered Accountant within the prescribed period from the end of that year and furnish within the prescribed period the report of such audit in the prescribed form. For the year 2006-07, the date for furnishing the audit report was prescribed as 31.3.2008. As per sub-section 2 of section 73 of the Act, if any dealer fails to furnish a copy of such report within the time as aforesaid, the Assessing Authority may impose a penalty equal to 1/10 *per cent* of the total turnover of the year or rupees one lakh, whichever is less.

In 'E' Circle, Jaipur, it was noticed (July 2009) that two dealers whose total turnover during 2006-07 was Rs. 9.76 crore and Rs. 1.13 crore, did not furnish the report of such audit for the year.

After this was pointed out, the Assessing Authority replied (July 2009) that the audit reports had already been filed by the dealers on or before due date. However neither was such report produced to audit nor was it found on record.

2.2.10 Tax audit

2.2.10.1 Process of selection of dealers for tax audit

As per section 27 of RVAT Act, with a view to promoting compliance with the provisions of the RVAT Act, the Commissioner may arrange for audit of the business of such of the registered dealers who are selected on the basis of any criteria or on a random selection basis or in respect of whom the Commissioner has reasons to believe that detailed scrutiny of their business is necessary. The audit of the dealer shall be conducted by the auditor in the prescribed manner.

It was seen in audit that no procedure/criterion for tax audit had been prescribed. The CCT while confirming the fact stated (October 2009) that circular dated 07.06.2008 provides for selection of dealers for the year 2006-07, the list of which was required to be sent by 20.06.2008 by DCs (Admn.) to Addl. Commissioner (Tax). However, it was noticed in Audit that the instructions of CCT were not complied with. Thus, tax audit which was a vital part of VAT administration, as it provides a credible deterrence to willful suppression of assessable turnover and evasion of tax by the dealers, was not implemented in the State.

2.2.11 Input Tax Credit (ITC)

2.2.11.1 Deficiency in the provision for ITC

Rule 18(2) of the RVAT Rules, 2006 deals with ITC on capital goods. The rule, however, is deficient as it does not prescribe the minimum period for utilisation of capital goods as condition for utilisation of ITC availed on such goods.

2.2.11.2 Deficiency in return forms

Form VAT-07 and VAT-09 prescribed for purchases and sales respectively and to be submitted with the return do not contain column for name of commodity, in the absence of which the department will not be able to ascertain the goods purchased/sold.

Department replied (November 2009) that column for name of commodity was added in the forms, however, on demand of trade association it was subsequently deleted.

2.2.11.3 Irregular allowance of ITC without verification

As per section 18(2) of RVAT Act, the claims of ITC shall be allowed on the tax deposited on the basis of original VAT invoice within three months from the date of issuance of such invoice. Thus, verification of tax deposited after collection as per VAT invoice is necessary before allowing ITC. The CCT also instructed the Assessing Authorities to verify such ITC while allowing such credit.

It was noticed that the ITC claims of Rs. 16.62 crore in 125 claims were being withheld subject to verification by AC, Special Circle-II, Jaipur, and in other three circles 810 claims out of 1,269 claims of Rs. 121.94 crore were allowed without prior verification. Therefore, there is need to ensure strict compliance with CCT's instructions.

2.2.12 Absence/deficiencies in provisions for cross verification of records with other departments/sources like, Central Excise and Income Tax Department etc.

The empowered committee in its white paper envisaged a comprehensive cross checking computerised system with a view to reduce tax evasion. The system was to be based on coordination between the state tax and central excise (CE) and income tax (IT) authorities by comparing the tax returns of these departments. The system has not yet come into existence in the department. Thus the department had not undertaken cross verification of returns with the CE and IT departments. As a result, the possibility of the department not taking action against tax-evaders can not be ruled out.

The department replied (November 2009) that computerised system of verification was not in existence in the department. However, instructions were

issued on 24.7.2009 to all circles to undertake cross verification by collecting information from IT & CE, Service Tax, Electricity Board and Banks etc.

2.2.13 Provisions governing tax deducted at source

Section 20(2) of the RVAT Act provides for deduction by an awarder of an amount *in lieu* of tax from every bill of payment to a works contractor at such rate as notified. Rule 40 of the RVAT Rules, 2006 further provides that if the gross value of such contract exceeds Rs. five lakh, the awarder shall furnish within one month from the date of contract the particulars of the contract in form VAT-40 to the concerned AC/CTO of the area of the awarder and also to the AC/CTO of the contractor. Where the amount is not deducted, the awarder shall be liable to penalty as provided for in the Act.

Audit, however, noticed that no mechanism existed to identify the awarders including unregistered awarders who failed to comply with the said provisions. Further, no record in this regard was produced to audit. Audit could not, therefore, ascertain whether tax was deducted correctly from the contractors.

2.2.14 Acceptance and disposal of appeal cases

2.2.14.1 Slow pace of disposal of appeal cases

Under the RVAT Act and Rules made thereunder, any dealer aggrieved by an order of assessment or an order levying interest or penalty passed by the prescribed authority against him may appeal to the DC (Appeal) authorised in this behalf, within 60 days of the receipt of the notice of demand. Though the Act provides a time frame for admission or rejection of appeal, no time frame for issue of final orders has been prescribed. As a result large number of cases are pending with the appellate authorities as mentioned below:

Year	Opening balance	No. of appeals filed during the year	Total	No. of appeals disposed off during the year	Balance at the close of the year
2005-06	11,112	3,396	14,508	7,245	7,263
2006-07	7,263	3,287	10,550	4,870	5,680
2007-08	5,680	3,278	8,958	4,934	4,024
2008-09	4,024	3,122	7,146	2,383	4,763

It would be seen from the above table that the pace of disposal of appeal cases has slowed down during VAT regime.

The department intimated (November 2009) that appeal cases pending for more than one year would be disposed off by March 2010.

2.2.15 Deterrent measures

2.2.15.1 The department's prime object is to collect the declared tax revenue as well as to prevent the leakage of revenue. The tax is collected as per notified rates

and deposited by the dealer themselves. To prevent the leakage of revenue following control systems have been devised in the department:

I. Checking of goods while in transit: The possible leakages of revenue by not recording the transactions of sale or purchases are being prevented by checking of goods in transit by flying squads, anti-evasion wing and other officers.

II. Surveys in case of evasion/avoidance of revenue: Whenever there is a complaint against any dealer or any information to this effect is gathered by the department that any dealer is attempting to avoid/evade tax, their business premises/residence/godown is surveyed/searched by the departmental officers to prevent leakage of revenue.

III. In place of “VAT FRAUD TASK FORCE”, anti-evasion wing works in the CTD under the charge of an Additional Commissioner. The wing conducts search/raid against tax evaders.

IV. Absence of minimum penalty for offences

The penal provisions in RVAT Act provides for penalty on various offences, but at the discretion of the tax authorities. In the liberal milieu of VAT, there must be a minimum penalty for each and every offence, and its imposition should not be left to the discretion of tax authorities.

2.2.16 Internal control

2.2.16.1 The offices working under the CTD had maintained various manual registers prescribed under the earlier law. Though the RVAT Act was implemented from April 2006, neither the sufficiency related to registers prescribed under the earlier law were analysed nor instructions to continue maintenance of such registers under the RVAT law was issued by the CTD. In absence of these, the unit offices continued to maintain the registers under earlier law, according to their own convenience. Thus, there was no control mechanism in respect of important areas under the RVAT law *viz.*, ITC on capital goods, return scrutiny, submission of audited accounts, self/deemed assessment, option to pay lump sum amount *in lieu of tax etc.*

2.2.16.2 For monitoring of status of various areas of activity of the department at unit level, a monthly return called monthly Demi-Official (D.O) is prescribed to be submitted by units to their zonal DCs, who compiles the information and further submits to CCT. The information contained in the D.O. covers various areas such as revenue targets and achievements, assessment done and pending, top tax payers, pending refund cases, recovery position, number of registered dealers, anti-evasion activities, composition schemes *etc.*

2.2.17 Internal audit

2.2.17.1 Internal audit is an important part of internal control mechanism of any organisation. In the Commercial Taxes Department, internal audit exists with

13 Internal Check Parties (ICP) working in the year 2008-09. There are 14 zones (13 Administrative + 1 Anti Evasion) in the department; one ICP posted in each zone. The ICP, besides checking revenue accounts/assessments, also audits expenditure accounts, disposes tenders and does pay fixations of employees.

It was noticed that at the end of the year 2007-08, 1760 objections were pending for settlement. These needed to be expeditiously settled.

2.2.17.2 CCT is the head of the department. It was seen, however that no periodical return/report *etc.* on the results of activities of ICPs was submitted to him by the Financial Advisor of the department who steered the internal audit. This shows that there was no monitoring of internal audit at the Commissioner's level.

Department intimated (September 2009) that henceforth results of activities of ICPs would be submitted to the Commissioner.

2.2.18 Conclusion

VAT is the biggest source of revenue of the state. In the VAT system, 100 *per cent* reliance is placed on the dealers to willfully pay the tax and file returns. Possibilities of evasion of tax by tax-evaders are immense. To provide a credible deterrence against such unfair practices, certain percentage of dealers are required to be brought under effective tax audit which the department has failed to do for the year 2006-07. In addition, the input tax credit (ITC) is being allowed without prior cross verification with the selling dealers. ITC being a very important aspect of VAT, in the absence of verification, the possibility of fake ITC claims getting allowed cannot be ruled out. Department does not seem to be alert in this regard.

2.2.19 Summary of recommendations

The Government may consider taking the following action:

- **in the return (VAT-10) alongwith commodity, its classification, schedule No. and S. No. in the schedule should also be mentioned;**
- **the Government may make tax audit mandatory for effective implementation of VAT;**
- **prior cross verification of input tax credit should be made mandatory;**
- **a computerised mechanism should be introduced for cross verification of records with Central Excise and Income Tax authorities;**
- **disposal of cases in appeal should be expedited; and**
- **minimum penalty for offences may be prescribed.**

2.3 Other audit observations

Test check of the assessment records of sales tax/entry tax in Commercial Taxes Department revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/interest, incorrect computation of tax, non-levy of entry tax, incorrect levy of concessional rate of tax under RST/CST Acts 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 RST/CST/Entry Tax Acts and Rules provide for:-

- (a) levy of tax at prescribed rates;*
- (b) correct computation and levy of tax;*
- (c) levy of entry tax at prescribed rates; and*
- (d) levy of concessional rate of tax under CST on submission of 'C' and 'F' forms as prescribed.*

The AAs, while finalising the assessments, did not observe some of the rules in cases mentioned in the paragraph 2.4.1 to 2.4.6. This resulted in non/short levy/non-realisation of tax/interest of Rs. 18.79 crore.

2.4.1 Incorrect grant of exemption from tax

Under section 2(38)(ii) of the RST Act, 1994 read with sub clause (b) of clause 29(A) of Article 366 of the Constitution of India, transfer of property in goods involved in the execution of works contract is sale and is therefore, exigible to sales tax. Even if the dominant intention of the contract is rendering of service, it will amount to be a works contract. Further, the Apex court, vide their order dated 16 August 2002, disposing of the Commercial Taxes Department, Rajasthan's SLP filed against the Rajasthan High Court decision dated 7 March 2001 in the case of STR No. 709/99 M/s Ajmer Colour Lab V/s ACTO, Anti Evasion II, Ajmer, decided that job work of making photographic prints falls in the category of works contract and was therefore exigible to sales tax at the rate prescribed.

During test check of the assessment records of two CTOs², for the year 2002-03 and 2003-04, it was noticed between February 2004 and January 2005, that two dealers purchased photographic paper of Rs. 12.12 crore outside the state during the years 1999-2000, 2000-01 and 2001-02 and used the same in the job work of making of photo prints. The rate of tax prescribed for photographic paper was

² WT-1, Jaipur and 'F' Jaipur.

8 per cent with 15 per cent surcharge thereon. Moreover, interest at the prescribed rates was also leviable under section 58 of the RST Act, 1994. However, the AAs, while finalising the assessments between July 2001 and February 2004 allowed exemption from tax as claimed by the assesseees. This resulted in incorrect grant of exemption from tax and surcharge of Rs. 1.11 crore, besides interest of Rs. 1.65 crore.

After this was pointed out between February 2004 and January 2005, the department intimated (January 2009 and March 2009) that a demand for Rs. 1.46 crore (tax and surcharge Rs. 65 lakh and interest Rs. 81 lakh) had been raised (December 2008 and March 2009) on the basis of the actual taxable purchases of Rs. 6.96 crore from out side the state. A report on the progress of recovery has not been received (October 2009).

The Government to whom the matter was reported in November 2008; confirmed the reply of the department in August 2009.

2.4.2 Short levy of tax due to application of incorrect rate of tax

By issue of notifications under RST Act and CST Act, the State Government has prescribed different rates of tax for different commodities. The commodities for which no specific tax rate had been prescribed, are to be taxed at the general rate of tax as prescribed in these notifications. Further interest under section 58 of the RST Act, 1994 is also leviable for default in making payment of tax.

Test check of the assessment records of four CTOs revealed that in 16 cases due to application of incorrect rate of tax, there was short levy of tax and interest aggregating to Rs. 71.54 lakh as mentioned below:

(Rupees in lakh)							
Sl. no.	Name of circle/No. of units	Assessment year/month of assessment	Commodity	Turnover	Tax and interest leviable	Tax and interest levied	Short levy of tax, surcharge and interest
1.	Circle 'A' Jaipur (1)	2005-06/27.3.2008	Morning Walker	70.46	10.99	1.41	9.58
2.	Circle- I Jaipur (11)	2004-06/ November 2006 and March 2008	Various goods	182.31	28.79	11.15	17.64
3.	Special Circle Bhilwara (2)	2005-06/19.3.2008	Cement	106.93	37.45	9.62	27.83
		2005-06/30.3.08	Railway Sleepers	832.59	44.71	33.30	11.41
4.	Special Rajasthan Circle Jaipur (2)	2005-06/February 2008	Branded Electrical fans	101.65	14.23	9.15	5.08
Total					136.17	64.63	71.54

After this was pointed out, the Government intimated (August 2009) that a demand of Rs. 43.25 lakh (tax: Rs. 28.64 lakh and interest: Rs. 14.61 lakh) has been raised in both the cases pertaining to Special Circle, Bhilwara. In case of

Special Rajasthan Circle, Jaipur a demand of Rs. 5.37 lakh has been raised of which Rs. 0.86 lakh has been recovered. Report on recovery of remaining amount and reply in the remaining cases have not been received.

2.4.3 Under-assessment due to error of computation

Under section 29 of the RST Act, 1994 and section 8 of the CST Act, 1956, the leviable tax at the prescribed rate is determined by the assessing authority on the taxable turnover of different commodities. The net recoverable amount is worked out after deducting the advance tax deposited by the dealer from the total amount of tax so determined. Moreover, interest at the prescribed rates was also leviable under section 58 of the RST Act, 1994.

Test check of the records of CTO, Special Circle, Kota, for the year 2007-08, it was noticed (December 2008) that the assessing authority while finalising (March 2008) the assessment of a dealer for the year 2005-06 incorrectly computed the amount of tax as Rs. 1.83 lakh. The correct amount works out to Rs. 18.99 lakh on the sale of Rs. 1.58 crore. This resulted in short levy of tax of Rs. 17.16 lakh.

After this was pointed out (December 2008), the assessing authority raised (December 2008) a demand of Rs. 20.99 lakh (tax: Rs. 17.16 lakh and interest: Rs. 3.83 lakh). Report on recovery has not been received (October 2009).

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

2.4.4 Non-levy of entry tax

Under section 3 (1) of the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999, the State Government by issue of notifications on 22 March 2002, 12 July 2004 and 24 March 2005 specified that every dealer who brought goods from other State into local areas for consumption or use or sale, shall pay entry tax of one *per cent* on oilseed, Low Sulphur High Stocks (LSHS), pet coke and two *per cent* on furnace oil. The rate of tax on furnace oil was subsequently revised to three *per cent* with effect from 12 July 2004. Further, under section 2(r) of the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999, purchase price includes all statutory duties. Moreover, interest at the prescribed rates was also leviable under section 58 of the RST Act, 1994.

2.4.4.1 During test check of the assessment records of CTO, Circle 'K', Jaipur for the year 2007-08, it was noticed (September 2008) that four manufacturing units of cattle feed purchased cotton seed valuing Rs. 11.49 crore and Rs. 11.44 crore during the years 2004-05 and 2005-06 respectively from out of the state which were liable to entry tax at the rate of one *per cent*. The assessing authority while finalising the assessments of the dealers for the years 2004-05 and 2005-06 did not levy the tax. This resulted in non-levy of entry tax of Rs. 22.93 lakh. Besides interest amounting to Rs. 9.41 lakh was also leviable.

After this was pointed out to the department in October 2008, the department intimated (May 2009) that a demand of Rs. 33.09 lakh has been raised in all the cases. Report on recovery has not been received (October 2009).

The matter was reported to the Government in December 2008; their reply has not been received (October 2009).

2.4.4.2 During test check of the assessment records of CTO, Special Circle II, Jodhpur for the year 2007-08, it was noticed (January 2009) that an industrial unit purchased different goods viz. LSHS, pet-coke, furnace oil *etc.* from out of the state during 2003-04 and 2004-05 and claimed refund/adjustment of entry tax paid on the element of CENVAT (2003-04: Rs. 2.72 crore; 2004-05: Rs. 2.93 crore). The assessing authority while finalising the assessments in April 2007 and April 2008 allowed the same and issued refund adjustments as claimed. This resulted in short levy of entry tax and interest of Rs. 6.63 lakh during 2003-04 and Rs. 10.84 lakh during 2004-05.

After this was pointed out in March 2009, the Government intimated (September 2009) that a demand of Rs. 19.07 lakh has been raised. Report on recovery has not been received (October 2009).

2.4.5 Irregular exemption from tax on transfer of goods

Under section 6A of the Central Sales Tax Act, 1956 (CST Act) burden of proving that the movement of goods was occasioned by reason of transfer of such goods to any other place of his business or to his agent or principal, as the case may be and not by reason of sale, for availment of tax exemption, shall be on the dealer. For this purpose he may furnish to the assessing authority, within the prescribed time a declaration in form 'F' duly filled and signed by the principal officer of the other place of business, alongwith the evidence of dispatch of such goods. Further, as per amendment in section 6(A)(1) of the Act, *ibid* with effect from 11 May 2002, if the dealer fails to furnish such declaration, the movement of such goods shall be deemed for all purposes of the Act to have been occasioned as a result of sale. In terms of rule 12(5) of the CST Rules, 1957 one declaration form may cover transactions which are affected during the period of one calendar month. Moreover, interest at the prescribed rates was also leviable under section 58 of the RST Act, 1994.

During test check of the records of CTO, Circle A, Bhilwara for the year 2007-08, it was noticed (September 2008) that a dealer transferred his stock of goods valued at Rs. 77.18 crore to his depot out of the state against declaration form 'F'. Scrutiny of the declarations submitted by the assessee, however, revealed that 43 'F' forms covered transactions for more than one month as against the limit of one calendar month in respect of goods valuing Rs. 49.72 crore. The assessing authority, however, while finalising (March 2008) the assessment of the dealer for the relevant year accepted these forms. This resulted in irregular exemption of tax of Rs. 6.96 crore; besides, interest of Rs. 2.44 crore was also leviable.

After the case was pointed out, the department intimated (May 2009) that a demand of Rs. 9.95 crore (tax : Rs. 6.96 crore and interest : Rs. 2.99 crore) has been raised (May 2009). Report on recovery has not been received (October 2009).

The Government to whom the matter was reported in December 2008; confirmed the reply of the department in August 2009.

2.4.6 Short levy of tax on inter-state sales

In exercise of powers conferred by section 8(5) of the CST Act, 1956, the State Government by issue of a notification on 21 January 2000 prescribed a concessional tax rate of 6 *per cent* on the inter-state sale of cement without furnishing of declaration in 'C' form. The Central Government amended the section 8(5) w.e.f 11 May 2002 which stipulated that submission of 'C' form was mandatory for claiming concessional rate of tax on inter-state sales. Thus, after the above amendment, the inter-state sales of cement without 'C' form were liable to tax at state rate. The rates were (i) 19 *per cent* from 12.7.2004 to 1.12.2005 (ii) 28 *per cent* from 2.12.2005 to 31.3.2006 and (iii) 12.5 *per cent* from 1.4.2006. However, the State Government vide notification dated 13 May 2008 decided to write off the difference of tax on inter state sale without 'C' form for the period from 26.9.2005 to 31.3.2007 over and above the prescribed state rate. Moreover, interest at the prescribed rates was also leviable under section 58 of the RST Act, 1994.

During test check of the records of CTO, Special Circle, Pali for the year 2007-08, it was noticed (January 2009) that two industrial units (one of which was a beneficiary of Sales Tax Exemption Scheme, 1998) sold cement valuing Rs. 17.43 crore during 2005-06 (2.12.2005 to 31.3.2006) and Rs. 65.90 lakh during 2006-07 in the course of inter-state trade and commerce without furnishing declaration in form 'C' and paid tax at the rate of 6 *per cent*. The assessing authority while finalising the assessments of the dealer did not levy the correct state rate of 28 *per cent* during 2.12.2005 to 31.3.2006 and 12.5 *per cent* thereafter. This resulted in short levy of tax of Rs. 387.80 lakh out of which Rs. 10.19 lakh was adjustable towards the exemption benefit under the scheme and balance tax of Rs. 377.61 lakh and interest of Rs. 135.87 lakh was payable.

After this was pointed out (March 2009), the Government stated (October 2009) that the demand for difference of tax beyond the prescribed rate and interest thereon as pointed out by audit had been raised on 31.3.2009 and written off with reference to the Government notification dated 13 May 2008. However, the fact remains that the said notification does not apply to cement as the prescribed state rate is higher than the applicable CST rate without 'C' form.

2.5 Non-compliance with Government notifications/schemes

- (a) *The Government notified the 'Sales Tax Exemption Scheme for Industries 1998' whereunder industrial units were exempted from payment of tax on*

sale of goods manufactured by them subject to the maximum quantum and period of benefit prescribed in the scheme.

- (b) *The Government notified the Rajasthan Investment Promotion Scheme, 2003 whereunder new investments and investments made by the existing units and enterprises going in for modernisation/expansion/diversification subject to certain conditions as prescribed in the scheme shall be eligible for subsidy.*

Non-compliance with some of the provisions in the above notifications/scheme in cases as mentioned in paragraphs 2.5.1 to 2.5.3 resulted in excess grant of exemption/subsidy of Rs. 9.40 crore.

2.5.1 Non-withdrawal of benefits on breach of condition

Under the ‘Sales Tax Exemption Scheme for Industries 1998’, industrial units were exempted from payment of tax on sale of goods manufactured by them subject to the maximum quantum and period of benefit prescribed in the scheme. The scheme further provided that the beneficiary industrial units shall, after having availed of the benefit of the scheme, continue their production for the next five years failing which the units were liable to be taxed on the sale of finished goods as if there was no exemption.

In five Commercial Taxes Offices (CTOs)³, it was noticed between June 2008 and December 2008, that nine industrial units were granted eligibility certificates between July 1998 and March 2002. These units availed the benefit of tax exemption of Rs. 8.77 crore during 1998-1999 to 2005-06 and were required to continue their production for a further period of five years after the expiry of the period during which exemption from tax under the scheme was availed. These units stopped production within five years from the date of availing exemption between 2002-03 and 2006-07. They were filing nil returns which were accepted and assessed by the department. In four cases registration certificates were cancelled by the department and in one case, the unit was taken over by the bank. However, the exemption benefits availed by these units were not withdrawn by the assessing authorities. Audit also observed the absence of mechanism in the department to ensure compliance of the conditions of eligibility certificate as despite the fact that these units were filing nil returns, no action was taken to recover the exempted amount of sales tax. This resulted in non-recovery of tax of Rs. 8.77 crore as no demand for payment of exempted tax was raised.

The cases were reported to department between July 2008 and January 2009 and reported to the Government between November 2008 and March 2009; their replies have not been received (October 2009).

³ Special Alwar (1), ‘B’ Bikaner (1), Churu (3), Jalore (2) and Sirohi (2).

2.5.2 Excess grant of exemption

Under the “Sales Tax Exemption Scheme for Industries, 1998” industrial units were exempted from payment of tax on the sale of goods manufactured by them within the state or in the course of inter-state trade and commerce in the manner and to the extent and period as covered by the scheme. The exemption was admissible annually on reducing percentage basis viz. 100 *per cent* for the first year, 90 *per cent* for the second year and so on. Moreover, interest at the prescribed rates was also leviable under section 58 of the RST Act, 1994.

During test check of the assessment records of the CTO, Special Circle, Bhilwara for the year 2006-07, it was noticed (November 2007) that an industrial unit was sanctioned tax exemption benefit under the scheme with effect from 15.12.2003. It was, however, allowed 100 *per cent* exemption upto 31 December 2004 during 2004-05 being first year of its operation instead of correct period upto 14.12.2004 and 90 *per cent* exemption upto 31 December 2005 during 2005-06 against the correct period upto 14.12.2005. Thus, exemption was allowed in excess for 17 days in each year. This resulted in excess grant of tax exemption of Rs. 7.07 lakh and Rs. 12.60 lakh during 2004-05 and 2005-06. Further, interest of Rs. 2.41 lakh and Rs. 2.77 lakh respectively was also leviable.

After the case was pointed out (December 2007), the department intimated (July 2009) that a demand of Rs. 28.74 lakh had been raised (May 2009) and the amount would be adjusted against exemption limit available to the unit. Further progress has not been received (October 2009).

The Government to whom the matter was reported in March 2009; confirmed the reply of the department (August 2009).

2.5.3 Excess grant of subsidy

Under the Rajasthan Investment Promotion Scheme, 2003 wherein new investments and investments made by the existing units and enterprises going in for modernisation/expansion/diversification subject to certain conditions as prescribed in the scheme shall be eligible for subsidy. Further, as per clause 7 (iii) of the scheme, *ibid*, in case of expansion/modernisation/diversification, the unit shall be eligible for subsidy under the scheme from the date of payment of sales tax over and above the highest sales tax paid in the immediately preceding three years before such expansion/modernisation/diversification. Moreover, interest at the prescribed rates was also leviable under section 58 of the RST Act, 1994.

During test check of the assessment records of CTO, Special Circle, Ajmer for the year 2007-08, it was noticed (January 2009) that benefit of subsidy of Rs. 44.81 lakh was granted to an assessee from 16 July 2004, the date on which the unit commenced its commercial production after expansion as per Note 4 of the entitlement certificate issued to the unit whereas the benefit of subsidy actually was admissible from 1.12.2004 the date on which tax was paid by it over and above the highest tax paid before expansion as per clause 7(iii) of the scheme

as aforesaid. This resulted in excess grant of subsidy of Rs. 24.09 lakh which will also attract interest for Rs. 14.09 lakh.

After this was pointed out (February 2009) the department stated (March 2009) that (a) as per Note-4 of entitlement certificate and clause 4(b) of the scheme, the subsidy was admissible from the date of commercial production; and (b) as per the Government clarification dated 10 October 2008, the computation of subsidy under the scheme was to be made on quarterly basis.

The fact, however, remains that the provisions of Note 4 of entitlement certificate are not in conformity with the provisions of the scheme in clause 7(iii).

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

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of the records in the offices of the Transport Department conducted during the year 2008-09 revealed short realisation of taxes, fees and penalty *etc.* amounting to Rs. 81.01 crore in 9,805 cases, which fall under the following categories:

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
1.	Levy and collection of tax by the Transport Department (A Review)	1	37.29
2.	Non/short payment of tax, penalty, interest and compounding fees	9,677	43.51
3.	Non/short computation of motor vehicle tax/special road tax	96	0.17
4.	Other irregularities	31	0.04
Total		9,805	81.01

During the year 2008-09, the department accepted non/short computation of road tax, special road tax *etc.* of Rs. 30.33 crore involving 10,005 cases, of which 4,889 cases involving Rs. 14.81 crore had been pointed out in audit during the year 2008-09 and the rest in the earlier years. The department recovered Rs. 1.59 crore in 989 cases, of which 894 cases involving Rs. 1.48 crore were pointed out in audit during the year 2008-09 and the rest in earlier years.

A review on ‘**Levy and collection of tax by the Transport Department**’ and few illustrative audit observations involving Rs. 47.75 crore are mentioned in the succeeding paragraphs.

3.2 Review: Levy and Collection of Tax by the Transport Department

Highlights

- Non/short recovery of tax and penalty of Rs. 9.40 crore from 2,924 vehicle owners was noticed in cases selected for audit through statistical sampling.

(Paragraph 3.2.10)

- Transport Vehicles were plying without obtaining mechanical fitness certificate resulting in non-recovery of fee of Rs. 27.77 crore.

(Paragraph 3.2.14)

- Extrapolation of the results of statistical sampling indicated that the total loss of revenue on account of non/short recovery of tax/fee/penalty could be Rs. 477.63 crore.

(Paragraph 3.2.16)

3.2.1 Introduction

The Transport Department of Government of Rajasthan is responsible for exercising control over the work of registration and regularisation of motor vehicles which ply in the state. The department also issues licences to drivers, conductors and traders. Levy and collection of taxes, penalties and fees under the provisions of the Motor Vehicles Act, 1988 (MV Act), the Central Motor Vehicles Rules, 1989, the Rajasthan Motor Vehicles Taxation Act, 1951 (RMVT Act), the Rajasthan Motor Vehicles Rules, 1951 and the Rajasthan Motor Vehicles Rules, 1990 is also the responsibility of the department.

The performance audit of levy and collection of tax by the Transport Department was conducted to ascertain whether the department was enforcing effectively the rules framed under various act and whether the system of recovery of tax, fee and other charges was effective. The performance audit also evaluated the effectiveness of internal control mechanism of the department in order to prevent leakage of revenue.

Audit reviewed the system of levy and collection of Tax by Transport Department. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

3.2.2 Organisational set up

The Transport Department is headed by the Transport Commissioner cum Secretary to the Government. He is assisted by three Additional Transport Commissioners and seven Deputy Commissioners at headquarter level. The entire State is divided into 11 regions, headed by Regional Transport Officers (RTO) cum *ex-officio* Member Regional Transport Authority. There are 37 vehicles

registration districts headed by District Transport Officers (DTO) cum taxation officers.

3.2.3 Audit objectives

Performance review was carried out with the objectives to ascertain whether:

- the rules framed under various acts were enforced effectively;
- an effective system for recovery of tax, fee and other charges exists in the department; and
- effective internal control mechanism was in place to prevent leakage of revenue.

3.2.4 Scope of audit

The review covers the performance of transport department with regard to registration of vehicles, levy and collection of tax, fees, penalty besides issue of permits and licences. Audit findings are based on the test check of the records of Transport Commissioner office and five Regional Transport Offices and seven District Transport Offices¹ (out of total 37 RTOs/DTOs) for the period 2003-04 to 2007-08. The review was conducted between November 2008 and July 2009.

3.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing necessary information for audit. An entry conference with Transport Commissioner was held on 10 December 2008, wherein objectives and methodology of review were explained. An exit conference with the Transport Commissioner was held on 29 September 2009 to discuss the major audit findings and recommendations. The response of the Commissioner to the audit findings has been included in the performance audit.

3.2.6 Audit methodology

The review is based on two stage sampling. At first stage, sampling of RTO/DTO was made on the basis of Probability Proportional to Size With Replacement (PPSWR) method with reference to the revenue realised by the units (**Annexure 'C'**). At the second stage, sampling of records was done by adopting Systematic Random Sampling Method (SRSM) (**Annexure 'C'**). For selection of records, all vehicles were divided into following four categories:

Category-I: - Non-Transport Vehicles on which One Time Tax is leviable:
(Two-wheeler, Jeep, Car, Tractor, Trailer)

Category-II: - Transport Passenger Vehicles (Bus, Auto Rikshaw, Tempo)

Category-III: - Transport Goods Vehicles (Truck, Tempo and Other)

Category-IV: - Transport Vehicles (Taxi/Maxi Cab)

¹ RTO Alwar, Chittorgarh, Jaipur Kota and Udaipur; DTO Baran, Beawar, Bhilwara, Jaisalmer, Kotputli, Sirohi, and Sriganganagar.

For selection, the records in the Regional Transport Offices/District Transport Offices were serially numbered. The records for detailed audit were to be picked up at a regular interval which was calculated by dividing vehicle population of particular category from sample size of that category and then this interval was added to the first number selected from the random number table. The details of sampling method adopted are given in **Annexure 'D'**. The audit observations have been extrapolated for the state as a whole (**Annexure 'E'**). A meeting with Financial Advisor and Assistant Director (Statistics) of the Department was held on 30 July 2009 in which the technique of sampling and extrapolation used in the performance audit was explained.

3.2.7 Trend of revenue

Tax receipt of state and receipt of transport department for the last five years were as under:

(Rupees in crore)

Year	Tax revenue of State	Revenue of Transport Department	Percentage of Tax Revenue
2003-04	7,246.18	727.21	10.04
2004-05	8,414.82	817.21	9.71
2005-06	9,880.23	908.18	9.19
2006-07	11,608.24	1,023.61	8.82
2007-08	13,274.73	1,164.39	8.77

Though in actual terms, the motor vehicle tax receipts registered marginal increase every year, the proportionate percentage of revenue of transport department as compared to total revenue collection in the state is decreasing every year. During 2003-04, motor vehicle tax receipts accounted for 10 *per cent* of total state revenue. By the year 2007-08 MVT receipts accounted for 8.77 *per cent*.

Audit findings

System deficiencies

3.2.8 Non-levy of Temporary Registration Fee

As per provision contained in section 43 of MV Act, temporary registration (TR) is valid only for a period not exceeding one month and shall not be renewable. Further it provides that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month, the period, on payment of such fees, may be extended by further period or periods as the registering authority may allow.

Audit observed that no mechanism has been evolved in the department by way of periodical returns to ensure compliance of above provisions of the MV Act.

Test check of the records of one RTO and one DTO of registration of vehicles revealed that 14 temporary registration certificates (TRC)² were granted to transport vehicles which were valid for one month. After the expiry of the period of TRC, neither did the vehicle owners apply for extension of period of temporary registration certificate nor did the department initiate any action to issue notices to the vehicle owners. The owners applied for permanent registration which was granted to these vehicles. However, while giving permanent registration, Registration Authorities did not levy and collect the TR fee for the intervening period *i.e.* from the date of lapse of temporary registration period to the date of grant of permanent registration. This resulted in non-recovery of TR fees amounting to Rs. 6,000.

The Transport Commissioner, while accepting the audit finding, stated that a circular would be issued to RTOs/DTOs to ensure levy of fee.

The Government may consider putting in place a monitoring mechanism by way of periodical returns to ensure collection of temporary registration fee.

3.2.9 Registration of vehicles

As per Rule 47 of the CMVR, an application for registration of motor vehicle shall be made within seven days from the date of taking delivery of the vehicle. Further under section 41 of MV Act, Compounding Fee (CF) of Rs. 100 is leviable for late registration of vehicle. **Audit observed that no system by way of periodical inspection was in place for ensuring imposition of penalty in case of late registration and charging of CF before grant of registration certificate.**

Test check of the records of four RTOs and five DTOs revealed that 136 vehicles³ were registered after the expiry of the prescribed period. The Registration Authorities while granting the registration did not levy and collect CF from these vehicle owners. This resulted in non-levy of CF of Rs. 13,600. In absence of any system for periodical inspection by departmental officers the Transport Commissioner was unaware of non levy of CF.

It was also observed from the records that in 12 cases⁴ the vehicles were registered even after a gap of three to fifteen months from the date of taking delivery.

The department accepted the audit finding and informed that the CF has been increased.

² RTO Kota (2) and DTO Sirohi (12).

³ RTO Alwar (23), Chittorgarh (19), Kota(8) and Udaipur(6); DTO Baran (16), Beawar (29), Jaisalmer (2), Kotputali (25) and Sirohi (8).

⁴ RTO Alwar (5) and Chittorgarh (1); DTO Jaisalmer (4) and Sirohi (2).

The Government may consider evolving a system by way of periodical inspections for ensuring imposition of penalty in case of late registration.

3.2.10 Non/short levy of tax/penalty

Motor Vehicle Tax (MVT) and/or Special Road Tax is leviable on all motor vehicles at prescribed rates under the provisions of section 4 of the RMVT Act. Further, section 6 provides that where due tax is not paid within the period allowed, penalty at the rate of 1.5 *per cent* per month is payable in addition to the tax due. **Audit observed that no system exists in the department to monitor the maintenance of tax ledgers of registered vehicles to ensure the recovery of tax. Besides, no return was prescribed to show the number of vehicles from which tax was due.**

3.2.10.1 Non-levy of MVT/SRT

Test check of the records of five RTOs and seven DTOs revealed that the MVT and SRT amounting to Rs. 6.71 crore had not been paid in respect of 2,277 vehicles⁵ during the period 2003-04 to 2007-08. Further, penalty amounting to Rs. 2.30 crore was also leviable as detailed below :

(Rupees in crore)					
Sl. no.	Type of vehicles	No. of vehicles	Tax not paid	Penalty leviable	Total amount recoverable
1.	Passenger vehicles	1,018	3.93	1.31	5.24
2.	Goods vehicles	826	1.72	0.65	2.37
3.	Taxi/Maxi cabs	433	1.06	0.34	1.40
Total		2,277	6.71	2.30	9.01

After the cases were pointed out the Department stated (September 2009) that the possibility of such a heavy amount of non-levy of tax was very remote. The Department accepted that due to paucity of staff, the tax ledgers are not being filled up, due to which it appeared that the motor vehicle tax/special road tax had not been collected. Fact remains that the evasion of motor vehicle tax/special road tax could not be ruled out due to lacunae in maintaining the records.

3.2.10.2 Short recovery of tax

It was further revealed that motor vehicle tax/special road tax of Rs. 30 lakh was recovered short from vehicle owners in 600 cases. Besides this penalty of Rs. 8 lakh for default in making full payment of tax was also leviable

⁵ RTO Alwar (93), Chittorgarh (119), Jaipur (294), Kota (113) and Udaipur (170); DTO Baran (220), Beawar (119), Bhilwara (168), Jaisalmer (151), Kotputli (174), Sirohi (383) and Sriganganagar (273).

as detailed below:

(Rupees in lakh)

Sl. no.	Type of vehicle	No. of vehicles	Tax paid short	Penalty leviable	Total amount recoverable
1.	Non transport vehicles	22	0.44	0.14	0.58
2.	Passenger vehicle	42	2.90	0.85	3.75
3.	Goods vehicle	442	19.45	5.13	24.58
4.	Taxi/Maxi cab	94	7.67	1.54	9.21
Total		600	30.46	7.66	38.12

After the cases were pointed out the Department accepted the possibility of short recovery of tax but wanted more time for verification of each case pointed out by audit.

3.2.10.3 Non-levy of penalty for late deposit of tax

Test check of the records of three RTOs and six DTOs revealed that in 47 cases⁶ tax was deposited late by the vehicle owners and same has been accepted by the department but penalty was not imposed for delay. This resulted in non-recovery of penalty of Rs. 71,000.

During the exit conference, the department agreed to take action to levy the penalty.

The Government may consider putting in place a monitoring mechanism to ensure collection of MVT/SRT at prescribed rates and levy of penalty in cases of non/short payment of tax.

3.2.11 Internal audit

Internal audit is an essential part of internal control mechanism. The position of last five years of internal audit was as under:

Year	Pending units	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained un-audited	Shortfall in percent
2003-04	11	77	88	74	14	18
2004-05	14	77	91	91	-	-
2005-06	-	77	77	77	-	-
2006-07	-	79	79	75	4	5
2007-08	4	79	83	67	16	20

There was a shortfall in internal audit ranging between 5 to 20 *per cent* in the years 2003-04, 2006-07 and 2007-08.

⁶ RTO Alwar(2), Jaipur(15) and Kota(2); DTO Baran(3), Beawar(4), Bhilwara(5), Kotputli(1), Sirohi(10) and Sriganganagar(5).

It was noticed that department had not made serious efforts to settle the 871 Inspection Reports containing 9,852 paras which were outstanding at the end of the year 2007-08. Year wise break up of outstanding paras is as under:

Year	1991-92 to 2003-04	2004-05	2005-06	2006-07	2007-08	Total
Paras	6,257	881	1,021	928	765	9,852

Thus, the purpose of internal audit was defeated as the issues raised by internal audit were not paid any attention.

Government may consider strengthening functioning of Internal Audit Wing in order to take appropriate measures for plugging the leakage of revenue and comply with the provisions of the Act.

Compliance deficiencies

3.2.12 Issue/renewal of permits

Under section 66 of the MV Act, motor vehicle owner shall not use any vehicle as a transport vehicle⁷ without permit, granted or countersigned by a Regional or State Transport Authority.

Test check of the records of two RTOs and two DTOs revealed that 80 vehicles⁸ (Auto-rickshaw) were plying without permits. This resulted in non-levy of permit fee of Rs. 12,000.

The Transport Commissioner stated that the issue of plying of vehicle without permit is largely limited to auto-rickshaws and suitable instructions in this regard would be issued.

3.2.13 Non-levy of penalty on the vehicles plying after expiry of registration

Under the provisions of rule 4.2 of RMVR, 1990 a transport vehicle shall not be deemed to be validly registered for the purpose of section 39 of MV Act after the expiry of 15 years from the date of first registration until the vehicle is re-registered. Further as per section 192 *ibid*, driving of a motor vehicle in contravention of provision of section 39 shall be punishable.

Test check of the records of RTO, Alwar revealed (April 2009) that MVT/SRT of five vehicles was collected/deposited by the owners of the vehicles though registration of these vehicles had expired but the department failed to detect the irregularity. This resulted in non-levy of penalty of Rs. 55,000.

After the cases were pointed out RTO stated that practically it is not possible for motor vehicle inspector to physically verify vehicles and documents. The fact, however, remains that as per provision of Para 5.6.10 of Manual of Transport

⁷ 'Transport Vehicle' means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle.

⁸ RTO Alwar(22) and Chittorgarh(23); DTO Bhilwara(4) and Sirohi(31).

Department, motor vehicle inspector is required to physically check the vehicles and documents at the time of inspection.

3.2.14 Fitness of vehicles

Section 56 of the MV Act provides that a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness. As per rule 62 of the CMVR, fitness certificate granted under the Act in respect of a newly registered transport vehicle is valid for two years and thereafter required to be renewed every year after on payment of prescribed fee.

As per the information supplied by the department the comparative position of transport vehicles along with fitness certificates issued is given below:

Year	Mechanical fitness due		Fitness certificate issued		Shortfall		
	New	Renewal (two years old)	New	Renewal	New	Renewal	Total
2003-04	35,417	3,41,259	27,378	1,24,275	8,039	2,16,984	2,25,023
2004-05	37,538	3,66,554	31,420	1,26,042	6,118	2,40,512	2,46,630
2005-06	38,368	4,01,971	36,451	1,27,403	1,917	2,74,568	2,76,485
2006-07	52,823	4,39,509	48,776	1,39,333	4,047	3,00,176	3,04,223
2007-08	47,636	4,77,877	40,847	1,48,698	6,789	3,29,179	3,35,968
G. Total	2,11,782	20,27,170	1,84,872	6,65,751	26,910	13,61,419	13,88,329

The above table shows that 22,38,952 transport vehicles were due for mechanical inspection during the period 2003-04 to 2007-08, against which only 8,50,623 fitness certificates were issued. Thus, 13,88,329 vehicles were plying without obtaining mechanical fitness certificates. This resulted in non-recovery of fitness fee of Rs. 27.77 crore calculated at the rate of Rs. 200 per vehicle.

Further scrutiny of records of two RTOs⁹ revealed that in respect of 400 vehicles the department has accepted payment of MVT/SRT without ensuring fitness of the vehicles. Non-initiation of any action against vehicles plying without mechanical fitness certificate is not only violation of provision of MV Act but also a serious threat to the public at large.

The Transport Commissioner indicated that such a large number of vehicles not having fitness certificate is very remote. There may be a lacunae in the figure maintained by the Department as the fitness certificate can be obtained by vehicles owners from other RTOs/DTOs.

3.2.15 Non-renewal of trade certificate

Rules 37 and 81 of the CMVR, 1989 provide that every trader in vehicles needs to obtain the trade certificate to be renewed annually on payment of prescribed fee. As per notification dated 31 March 2000, tax is leviable at prescribed rate from

⁹ RTO Alwar and Kota.

the manufacturer/dealer having possession of motor vehicles in a financial year under the authorisation of trade certificate.

Test check of the records of four RTOs and two DTOs revealed that 178 dealers/financer/body builders¹⁰ etc. having trade certificates, did not deposit the prescribed tax in respect of vehicles sold/financed by them. It was also revealed that six dealers financing the vehicles in DTO, Sirohi had neither obtained the trade certificates nor deposited the chargeable tax. This resulted in non-realisation of tax amounting to Rs. 12 lakh.

After the cases were pointed out the Department agreed to take action to rectify the situation.

3.2.16 Non-recovery of revenue in the State

An attempt was made by the Audit to extrapolate the findings of the performance audit in order to estimate the likely leakage of revenue on this account on the basis of statistical sampling. Audit estimated that in case the actual amount of non-levy of temporary registration fee, compounding fee and permit fee and non-recovery of motor vehicle tax and penalty (including penalty on late deposit of tax and on vehicles plying without registration) is extrapolated for the State, the likely leakage could amount to Rs. 477.63 crore as mentioned below:

(Rupees in lakh)

Type of irregularity	Non transport vehicles		Transport passenger vehicles		Transport goods vehicles		Taxi/Maxi cabs		Total	
	Amount	Estimate	Amount	Estimate	Amount	Estimate	Amount	Estimate	Amount	Estimate
Non-levy of temporary registration fee	-	-	0.02	0.60	0.04	3.12	-	-	0.06	3.72
Non-levy of compounding fee	0.13	134.15	0.01	0.21	-	-	-	-	0.14	134.36
Non-levy of permit fee	-	-	0.12	5.13	-	-	-	-	0.12	5.13
Non-recovery of tax and penalty	-	-	524.20	22,425.29	237.18	17,608.20	140.13	4,576.81	901.51	44,610.30
Short recovery of tax and penalty	0.58	591.37	3.75	160.31	24.58	1,825.04	9.21	300.68	38.12	2,877.40
Non-levy of penalty on late deposit of tax	0.04	42.51	-	-	0.65	48.11	0.02	0.59	0.71	91.21
Non-levy of penalty on vehicles plying without re-registration	-	-	-	-	0.55	40.83	-	-	0.55	40.83
Total	0.75	768.03	528.10	22,591.54	263.00	19,525.30	149.36	4,878.08	941.21	47,762.95

¹⁰ RTO Alwar(54), Chittorgarh(16), Kota(22) and Udaipur(27); DTO Bhilwara(37) and Sirohi(22).

Test check of the records, based on sampling indicated leakage of revenue of Rs. 9.41 crore under various categories indicated above.

Based on the test check of selected sample (as indicated in para 3.2.6), the most likely estimate of non-recovery/short recovery of MVT/SRT/CF/Permit Fee/Penalty *etc.* for the state is worked out to Rs. 477.63 crore.

During the exit conference, the Department accepted that the amount not collected on account of above could be to the tune of Rs. 300 to Rs. 400 crore.

3.2.17 Conclusion

Performance of the department in levying and collecting taxes on vehicles needs to be improved considerably. Statistical sampling and extrapolation of the audit results from the samples drawn indicated that the department failed to recover revenue of the order of around Rs. 400 crore from temporary registration fee, compounding fee, permit fee, motor vehicle tax, tax from trade certificate holders and penalty on account of late deposit of tax and vehicles plying without re-registration. During the exit conference the department had also agreed to this finding. The department also did not have control over mechanical fitness of vehicles and did not pay attention to the reports given by the internal audit.

The matter was brought to the notice of the department and reported to the Government in May 2009; their replies have not been received (October 2009).

3.2.18 Summary of recommendations

The Government may consider:

- **putting in place a monitoring mechanism by way of periodical returns to ensure collection of temporary registration fee;**
- **evolving a system by way of periodical inspections for ensuring imposition of penalty in case of late registration;**
- **putting in place a monitoring mechanism to ensure collection of MVT/SRT at prescribed rates and levy of penalty in cases of non/short payment of tax; and**
- **strengthening functioning of Internal Audit Wing in order to take appropriate measures for plugging the leakage of revenue and comply with the provisions of the Act.**

3.3 Other audit observations

Scrutiny of records in Transport Department revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of fees, tax and penalty as mentioned in the succeeding paragraphs. Some omissions were pointed out in earlier years but not only the irregularities persist; these remain undetected till an audit is conducted. 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.

3.3.1 Non-realisation of special road tax and penalty

The Regional Transport Officers/District Transport Officers did not observe some provisions of the Acts and rules in cases mentioned below. This resulted in non-levy of special road tax/penalty of Rs. 10.46 crore.

Under Rajasthan Motor Vehicles Taxation Act, 1951 and Rules made thereunder, vehicles are not liable to pay tax for the period during which their registration certificates (RC) are surrendered to the department. However, where a vehicle is found plying during the period of surrender of RC, the tax on such vehicle shall be payable for entire period of surrender alongwith a penalty equal to five times of the amount of tax due.

Cross verification of records relating to such surrender of RC in the 25 RTOs/DTOs¹¹ with returns/records maintained by Rajasthan State Road Transport Corporation (RSRTC) for the period 2006-07 and 2007-08 revealed that 295 stage carriages plied during the period of surrender of RC but special road tax amounting to Rs. 1.74 crore and penalty equivalent to five times of the said tax i.e. Rs. 8.72 crore was not levied. This resulted in non-realisation of revenue of Rs. 10.46 crore.

After the cases were pointed out (May 2009), the Government stated (June 2009) that the RSRTC has been directed to deposit the objected amount.

3.3.2 Pollution control

Rule 115 (7) of CMVR, 1989 provides that after the expiry of a period of one year from the date on which the motor vehicle was first registered, every such vehicle shall carry a valid 'Pollution Under Control Certificate' (PUC) issued by an agency authorised for this purpose by the State Government. The validity of the certificate shall be for six months or any lesser period as may be specified by the State Government from time to time.

As per the information obtained from the department the details of vehicles for

¹¹ RTO, Jodhpur, Sikar, Pali, Kota, Jaipur, Bikaner, Dausa and Chittorgarh; DTO, Dungarpur, Sirohi, Bhilwara, Banswara, Dholpur, Nagaur, Churu, Kotputali, Barmer, Tonk, Karauli, Bharatpur, Bundi, Jhunjhunu, Sriganganagar, Baran and Beawar.

which PUCC was due and issued are as under:

Year	No. of Vehicles registered up to the end of previous year	PUCC due for issue (twice in a year)	PUCC issued	Percentage
2003-04	34,86,679	69,73,358	3,96,609	5.69
2004-05	38,33,806	76,67,612	3,84,994	5.02
2005-06	42,60,729	85,21,458	4,05,648	4.76
2006-07	47,54,027	95,08,054	3,69,734	3.89
2007-08	53,36,213	1,06,72,426	4,17,229	3.91

Above table indicates that only 3.89 to 5.69 *per cent* PUCC were issued during the year 2003-04 to 2007-08 and was decreasing continuously.

Further, during test check of the records of RTO Jaipur it was noticed that only 0.19 *per cent* vehicles were checked with the purpose for ensuring pollution under control requirement by 7 flying squads during the year 2003-04 to 2007-08 as mentioned below:

Year	Vehicle population	PUCC due	Vehicles checked during the year	Percentage of vehicles checked
2003-04	7,62,885	15,25,770	2,410	0.16
2004-05	8,37,412	16,74,824	3,663	0.22
2005-06	9,40,883	18,81,766	3,712	0.20
2006-07	10,72,287	21,44,574	3,288	0.15
2007-08	12,05,830	24,11,660	5,412	0.22
Total	48,19,297	96,38,594	18,485	0.19

CHAPTER-IV: STAMP DUTY AND REGISTRATION FEE AND LAND REVENUE

4.1 Results of audit

Test check of the records of the Departments of Registration and Stamps and Land Revenue conducted during the year 2008-09 revealed short realisation of stamp duty and registration fee and underassessment and loss of land revenue amounting to Rs. 55.38 crore in 9,955 cases which broadly fall under the following categories:-

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
A. Stamp Duty and Registration Fee			
1.	Undervaluation of properties	7,532	9.69
2.	Misclassification of documents	24	0.06
3.	Other irregularities	1,070	33.38
B. Land Revenue			
4.	Non-regularisation of cases of trespassers on Government land	329	0.14
5.	Non-recovery of conversion charges from <i>khatedars</i>	182	0.43
6.	Non-recovery of premium and rent from Central/State Government departments/ undertakings	105	3.55
7.	Non-recovery of price of command/uncommand/custodian ceiling land <i>etc.</i>	193	1.22
8.	Other irregularities	520	6.91
Total		9,955	55.38

During the year 2008-09, the departments accepted underassessment and other deficiencies amounting to Rs. 33.68 crore pertaining to 3,434 cases, out of which 849 cases involving Rs. 19.47 crore were pointed out during 2008-09 and the rest in the earlier years. The department recovered Rs. 9.33 crore in 2,103 cases, out of which 219 cases involving Rs. 19.81 lakh related to the year 2008-09 and the rest to earlier years.

After the issue of two draft paragraphs of Land Revenue department, the Government intimated (July 2009) recovery of Rs. 1.13 crore pertaining to these observations.

A few illustrative audit observations involving Rs. 10.47 crore are discussed in the following paragraphs.

Stamp Duty and Registration Fee

4.2 Audit observations

Scrutiny of records of various registration offices revealed several cases of non-compliance of the provisions of the Rajasthan Stamp Act, 1998 (RS Act) and Indian Registration Act, 1908 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 did 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.

4.3 Non-realisation of stamp duty and registration fee

The Rajasthan Housing Board and Urban Improvement trusts, as public offices, did not bring unstamped documents to the notice of the Collector (Stamps) resulting in non-realisation of revenue of Rs. 8.40 crore.

Under section 17(1) (d) of the Registration Act, 1908, leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent shall be compulsorily registered. Further, under Article 33 (c)(ii) of the schedule of the Rajasthan Stamp Act, 1998 where lease purports to be for a term in excess of twenty years, the stamp duty is chargeable as on conveyance on the market value of the property which is the subject matter of the lease. As per Government Notification, stamp duty is chargeable on consideration instead of market value in cases of allocation by way of sale/auction/allotment by Rajasthan Housing Board (RHB) and Urban Improvement Trusts (UITs). The Government had declared (December 1997) RHB & UITs as public offices to bring unstamped documents to the notice of the Collector (Stamps).

Scrutiny of records of eight offices¹ for the year 2003-04 to 2007-08 between August 2008 and March 2009, revealed that in 40 cases, where properties were allotted by these institutions, lease deeds of immovable properties were not registered even though the lease term were for more than 20 years. Though the RHB and the UITs were declared public offices yet they did not bring the matter of non-registration to the notice of the Collector (Stamps). This resulted in non-realisation of stamp duty of Rs. 8.33 crore and registration fee of Rs. 6.67 lakh aggregating to Rs. 8.40 crore.

After this was pointed out by audit between October 2008 and March 2009, the department stated in July 2009 that out of eight cases of lease deeds in respect of sub-registrar Kota-II, in three cases, the documents have been registered with the sub-registrar Kota-II. The remaining five cases pertaining to Kota, as well as four cases of Jaipur have been registered with the Collector (Stamps) for adjudication. In remaining cases replies have not been received (October 2009).

The Government, to whom the matter was reported between December 2008 and March 2009, confirmed (September 2009) the reply of the department in

¹ RHB Circle I and III Jaipur, Jodhpur, Kota, Udaipur and UIT, Jodhpur, Udaipur and District Collector Udaipur.

respect of Kota and Jaipur. In remaining cases their replies have not been received (October 2009).

4.4 Non-compliance of provisions of the Acts/Rules

The provisions of the Rajasthan Stamp Act, 1998 (RS Act) and Indian Registration Act, 1908 require:

- (i) levy of duty as on conveyance on the market value of the property in cases of lease deeds pertaining to period of more than 20 years;
- (ii) levy of duty on market value of the property; and
- (iii) levy of duty on market value of the property on developer agreements.

The registering authorities did not observe some of the above provisions at the time of registration of documents in cases mentioned in the paragraph 4.4.1 to 4.4.3. This resulted in short levy/evasion of Stamp Duty of Rs. 2.07 crore.

4.4.1 Short levy of stamp duty and registration fee on registration of lease deeds

4.4.1.1 Under the Rajasthan Stamp Act, 1998, where a lease purports to be for a term in excess of 20 years, stamp duty is chargeable as on conveyance on the market value of the property. The term of a lease shall include not only the period stated in the document but shall be deemed to be the sum of such stated period alongwith all immediately preceding period without a break for which the lessee and lessor remained the same. Further as per clarification issued under Government circular No. 8/2004, for computing period of more than 20 years, the periods of renewal shall also be counted. Registration fee was to be charged at the rate of one *per cent* of the value or consideration subject to maximum of Rs. 25,000 as per notification dated 21 March 1998.

In three sub registrar offices (SROs), test checked between October 2008 and December 2008, it was noticed that in six cases of lease deeds pertaining to a period of more than 20 years registered between June 2005 and December 2007, stamp duty was recovered on the basis of average rent instead of as on conveyance on the market value of property. This resulted in short levy of stamp duty and registration fee aggregating to Rs. 56.61 lakh as per the details given in the table:

(Rupees in lakh)

Sl. no.	Name of SROs/ No. of documents	Name of lessee	Market value	Value adopted	SD and RF		Short levy of SD and RF
					Leviable	Levied	
1	2	3	4	5	6	7	8
1.	Udaipur-I 2	(i) Takshila Vidyapeeth Sansthan	155.80	3.00	10.38	0.09	10.29
		(ii) Udaipur Mahila Samradhi Urban Co-operative Bank Ltd.	156.78	2.65	10.44	0.08	10.36
Remarks:- (i) Lease deed for 19 years and to be extended for 11 years. (ii) Lease of 13 years expired on 31.3.07 and new lease for another 12 years extended from 1.4.2007.							

1	2	3	4	5	6	7	8
2.	<u>Kotkhavda</u> (Jaipur) 3	(1) IBP Company Limited, Calcutta (2) Sunil Jain s/o late Shri Phool Chand Jain	173.63 170.08	2.50 5.60	14.14 14.11	0.08 0.17	14.06 13.94
Remarks:- (i) Lease deed of 19 years and 11 months to be automatically renewed for a further period of five years. (ii) Lease deed for 10 years 11 months with effect from 17.1.2024 but its possession was given on 15.6.2005. (iii) Lease deeds for 19 years and 11 months and another lease extended for the same property for future renewal for next 10 years and 11 months.							
3.	<u>Jodhpur-I</u> 1	Vijaya Bank, Jodhpur	120.79	4.72	8.10	0.14	7.96
Remarks:- Lease deed for 10 years from 1.11.06 to 30.10.2016 with option to continue for another 10 years. Further the lessee was already a tenant on the same property with effect from 22.11.1984.							
Total			777.08	18.47	57.17	0.56	56.61

After this was pointed out between December 2008 and March 2009, the Government stated in September 2009 that all cases had been registered with the court of Collector (Stamps) for adjudication.

4.4.1.2 In two sub-registrar offices² test checked in May and November 2008 it was noticed that, in two cases of lease deeds pertaining to a period for more than 20 years registered in April and December 2007, the stamp duty was not recovered as on conveyance on the market value of property. This resulted in short levy of stamp duty and registration fee aggregating to Rs. 25.12 lakh.

After these irregularities were pointed out in December 2008 and March 2009, the Government stated in September 2009 that all cases had been registered with the court of Collector (Stamps) for adjudication. One case of Rs. 19.14 lakh in respect of sub-registrar Pahari (Bharatpur) had been decided on 6.1.09 in favour of the department with the directions to recover the amount.

4.4.1.3 Under the provision of Article 33(c)(i) of the schedule of the Rajasthan Stamp Act, 1998, where the lease purports to be for a term of not more than twenty years and such lease is granted for a fine or premium or for money advanced or development charges advanced or security charges advanced in addition to rent reserved, the stamp duty is chargeable as on conveyance for a consideration equal to the amount or value of such fine premium or advance and amount of average rent of two years as set forth in the lease.

Scrutiny of records of sub-registrar, Neemrana (district Alwar), it was noticed (February 2009) that one lease deed was registered initially for the period of three years on initial fixed rent of Rs. 5.50 lakh per month and security deposit of Rs. 66 lakh. The stamp duty of Rs. 12.87 lakh was chargeable on consideration amount of Rs. 1.98 crore, whereas sub-registrar, Neemrana charged Rs. 1.46 lakh only treating the document liable to stamp duty under Article 35(a)(ii) of the schedule of the Rajasthan Stamp Law (Adaptation) Act 1952. This resulted in short levy of stamp duty of Rs. 11.41 lakh.

² Pahari (Bharatpur), Sambhar lake (Jaipur).

After this was pointed out in April 2009, the Government stated in September 2009 that case had been registered in the court of Collector (Stamps) for adjudication.

4.4.2 Short levy of stamp duty and registration fee due to undervaluation of property

Under provisions of the Rajasthan Stamp Act, 1998 stamp duty on an instrument of conveyance of immovable property shall be chargeable on the market value of the property. Further, as per rule 58 of the Rajasthan Stamps Rules, 2004, the market value of immovable property shall be determined on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by the Inspector General of Stamps, whichever is higher. Registration fee is also to be charged at the rate of one *per cent* of the value or consideration subject to maximum of Rs. 25,000 as per amendment made vide notification dated 21 March 1998.

Scrutiny of the records of four sub-registrar offices³, between June 2008 and November 2008, revealed that in 12 cases the properties were undervalued by Rs. 5.27 crore. The value of the properties were determined at rates lower than those approved by the DLC. This resulted in short levy of stamp duty and registration fee aggregating Rs. 36.26 lakh.

After these irregularities were pointed out between December 2008 and March 2009, the Government stated in September 2009 that all cases had been registered in the court of Collector (Stamps) for adjudication.

4.4.3 Non-registration of developer agreements

Under provisions of Article 5 (bbbb) of the schedule to the Rajasthan Stamp Act, agreements or memorandum of agreements, if relating to giving authority or power to a promoter or a developer, by whatever name called, for construction on or development of any immovable property are chargeable to stamp duty at the rate of one *per cent* of the market value of the property and registration fee at the prescribed rates.

Test check of the records of sub-registrar (Jaipur-I and Jaipur-V) in September and October 2008 revealed that 12 instruments were executed between venders and vendees for the purchase of ready built flats between January 2007 and December 2007. The recital of the deeds revealed that multistoried flats were constructed by developers and sale proceeds of these were to be shared by the developers and owners of the land. However, neither was any separate agreement registered in this regard nor was duty levied by the sub-registrars on this distinct item. This resulted in non-realisation of revenue of Rs. 77.62 lakh.

After this was pointed out in December 2008, the Government stated in September 2009 that cases have been registered in the court of Collector (Stamps) for adjudication.

³ Deoli (Tonk), Kota-II, Ramgarh (Alwar) and Sojat City (Pali).

CHAPTER-V: STATE EXCISE

5.1 Results of audit

Test check of the records of the State Excise offices, conducted during the year 2008-09 revealed non/short recovery of excise revenue amounting to Rs. 60.28 crore in 172 cases, which fall under the following categories:

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
1.	Non/short realisation of excise duty and licence fee	68	55.70
2.	Loss of excise duty on account of excess wastage of liquor	44	0.48
3.	Other irregularities	60	4.10
Total		172	60.28

During the year 2008-09, the department accepted short realisation and other deficiencies in 96 cases involving Rs. 3.58 crore of which 40 cases involving Rs. 1.91 crore had been pointed out in audit during 2008-09 and the rest in earlier years. The department recovered Rs. 1.36 crore in 50 cases of which 10 cases involving Rs. 34.43 lakh had been pointed out in audit during the year 2008-09 and the rest in earlier years.

After issue of a draft paragraph, the department intimated (July 2009) recovery of Rs. 8 lakh pertaining to a single observation pointed out during 2008-09.

Few illustrative audit observations involving Rs. 45.36 crore are discussed in the following paragraphs.

5.2 Audit observations

Test check of the records in State Excise Department revealed non/short recovery of excise revenue as mentioned in the succeeding paragraphs in this chapter. Such omissions were pointed out in earlier years but not only did the irregularities persist, these remain undetected till an audit is conducted. 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 in order to avoid re-occurrence of such cases.

5.3 Non-observance of the provision of excise policy

The Rajasthan Excise Act and Rules provides for:

- (a) levy of excise duty at prescribed rates;*
- (b) levy of licence fee at prescribed rates; and*
- (c) levy of excise duty on excess wastage of spirit/non-potable beer*

The District Excise Officers did not observe some of the rules in cases mentioned in the paragraph 5.3.1 to 5.3.4. This resulted in non/short levy of excise duty/licence fee of Rs. 45.36 crore.

5.3.1 Short levy of excise duty

Non-prescribing of excise duty to be levied on Indian made foreign liquor (IMFL) on the selling price per carton of pints and nips declared by the manufacturers, resulted in loss of revenue of Rs. 43.34 crore.

As per the Excise Policy 2005-06, the rate of excise duty on Indian made foreign liquor (IMFL) was to be charged on the selling price per carton declared by the manufacturers. The Government notified the rates of excise duty with effect from 1 April 2005 on the selling price of quart¹ bottles as declared by the manufacturers. These rates were retained by the Government for the year 2007-08 also. The Government did not notify the excise duty leviable on the selling price of pints and nips².

Test check of the records of 32 District Excise Offices³ viz. verification of details of duty paid on liquor *vis-a-vis* invoices issued by the manufacturers between May 2008 and February 2009 revealed that 16,47,832 cartons of pints and nips were sold at higher rates than the declared price of quart bottles. Due to failure on part of the Government to declare rates of excise duty on pints and nips in the notification, the department charged excise duty on pints and nips on the basis of declared price of quart bottles, which resulted in loss of revenue of

¹ A unit of liquor equal to a quarter of a gallon or two pints.

² Pouches/bottles in which liquor is sold. Pint: 375 ml, nips: 180 ml.

³ Ajmer, Alwar, Baran, Banswara, Barmer, Bharatpur, Bhilwara, Bikaner, Bundi, Chittorgarh, Churu, Dausa, Dholpur, Dungarpur, Hanumangarh, Jaipur, Jaisalmer, Jalore, Jhalawar, Jhunjhunu, Jodhpur, Karauli, Kota, Nagaur, Pali, Rajsamand, Sawaimadhupur, Sikar, Sirohi, Sriganganagar, Tonk and Udaipur.

Rs. 43.34 crore. Summarised position is mentioned below:

Range of declared price of IMFL cartons of pints and nips	No. of cartons of pints (P) and nips(N)	Total LPL ⁴ involved	Excise duty leviable per LPL (Rs)	Excise duty charged per LPL (Rs)	Difference of excise duty per LPL (Rs.)	Short levy of excise duty (Rs. in crore)
Above Rs. 400 but upto Rs. 600	P- 4,08,205 N- 11,34,414	1,01,06,386.47	210	170	40	40.42
Above Rs. 600 but upto Rs. 900	P- 22,482 N- 70,615	6,09,338.70	250	210	40	2.44
Above Rs. 900 but upto Rs. 1500	P- NIL N- 4,880	31,622.40	280	250	30	0.09
Above Rs. 1500 but upto Rs. 3000	P- 534 N- 5,625	40,054.50	350	280	70	0.28
Above Rs. 3000	P- 454 N- 623	7,101.54	500	350	150	0.11
Total	16,47,832 (P- 4,31,675 N- 12,16,157)	1,07,94,503.61	-	-	-	43.34

After the case was pointed out, the department stated (July 2009) that the excise duty was levied according to notification issued by the Government. However, the fact remains that the excise policy provided for charging of excise duty on the declared selling price of liquor per carton.

Similar observations were also included as paragraph nos. 6.2.16, 5.3 and 6.2 in the Reports of the Comptroller and Auditor General of India (Revenue Receipts), Government of Rajasthan for the year 2005-06, 2006-07 and 2007-08 respectively.

The matter was reported to the Government between January 2009 and March 2009; their reply has not been received (October 2009).

5.3.2 Short levy of licence fee

Non-levy of licence fee at prescribed rate resulted in short recovery of Rs. 1.65 crore.

As per the terms and conditions of licence for retail sale of country liquor issued under the Rajasthan Excise Act, 1950 (RE Act), the annual licence fee payable for composite shops⁵ located within 5 kilometres of municipal limit or its urban agglomeration limit was more than the composite shops located beyond such limit.

Test check of the records of seven District Excise Offices⁶ between June 2008 and January 2009 revealed that 62 composite shops were located either in urban area or within 5 kilometres of the municipal limit as verified from the Urban Development Department and Land Revenue Department. The licensees of these shops were liable to pay licence fee of Rs. 1.82 crore but the department levied

⁴ London Proof Litre.

⁵ Country liquor shops having licence for retail sale of IMFL and beer also.

⁶ Ajmer, Jaipur (City), Jaipur (Rural), Jhunjhunu, Kota, Sirohi and Udaipur.

licence fee of Rs. 17.05 lakh at the rate applicable for shops located beyond 5 kilometres of municipal limit. This resulted in short levy of Rs. 1.65 crore.

After the case was pointed out, the department stated (July 2009) that determination of urban agglomeration limit was done under Urban Land (Ceiling and Regulation) Act, 1976, which was repealed on 11 January 1999. The fact remains that the cases pointed out by Audit are located in urban area and within 5 kilometres of municipal limit which have no relevance to "Urban agglomeration".

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

5.3.3 Non-levy of excise duty on non-potable beer

Conditions and Restrictions on establishment of Bonded Warehouse provide that Government shall not be responsible for loss of liquor in bond during the currency of licence period. In case of loss, an enquiry shall be held by the Excise Commissioner. If it is found that the loss could have been prevented by reasonable precautions on the part of licensee, he may be required to pay duty and the decision of the Commissioner shall be final and binding on the licensee.

Test check of the records of District Excise Office, Alwar revealed (November 2008) that 8,577 cases of beer stored between April 2005 and March 2007 in the bonded warehouse of Mount Shivalik Industries Limited became non-potable as certified by the Chemical Examiner and Chief Public Analyst, Rajasthan, Jaipur between January 2006 and December 2007. Neither the duty was paid by the brewery nor was it demanded by the department. This resulted in non-levy of excise duty Rs. 23.98 lakh.

After this was pointed out, the department stated (August 2009) that an amount of Rs. 22.48 lakh had been recovered and efforts were being made to recover the balance amount.

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

5.3.4 Non-recovery of excise duty on excess wastage

Rule 5A of the Stock Taking and Wastage of Liquor Rules, 1959 provides free allowance for wastage of spirit in the process of re-distillation in pot still upto a maximum of 2.5 *per cent* for the purpose of manufacturing of IMFL. In the case of manufacture of Kesar Kasturi brand, an additional 2 *per cent* free allowance for wastage was permissible in the process of re-distillation. When the wastage exceeds the permissible limit, the District Excise Officer must obtain a written explanation from the distiller and forward the same with his recommendation to the Excise Commissioner for orders. The duty on such excess wastage was liable to be recovered at the highest rate leviable on such spirit.

Test check of records of District Excise Office (Prosecution), Jaipur, revealed that Rajasthan State Ganganagar Sugar Mills Limited re-distilled 72,996.837 london proof litre (LPL) spirit for manufacturing of IMFL and Kesar Kasturi brand and was allowed wastage of 4,735.256 LPL spirit which was in excess by 2,559.148 LPL against the permissible limit of 2,176.108 LPL. However, the District Excise

Officer neither obtained written explanation for excess wastage nor demanded excise duty on excess wastage resulting in non recovery of excise duty amounting to Rs. 12.80 lakh at the rate of Rs. 500 per LPL on excess allowance of wastage.

After this was pointed out (March 2009), the department stated (May 2009) that the matter has been referred to the Government to amend the rules.

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

CHAPTER-VI: NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records of the Departments of Mines, Geology and Petroleum, Urban Development, Home (Police) and Public Health Engineering conducted during the year 2008-09, revealed non/short recovery of revenue amounting to Rs. 537.74 crore in 2,607 cases, which fall under the following categories:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
A. Public Health Engineering Department			
1.	'Receipts of Public Health Engineering Department' (A review)	1	144.91
B. Mines, Geology and Petroleum Department			
2.	Non/short recovery of dead rent and royalty	293	43.78
3.	Unauthorised excavation	859	266.33
4.	Non-levy of penalty/ interest	631	6.62
5.	Non-forfeiture of security	108	0.66
6.	Other irregularities	713	12.85
C. Urban Development Department			
7.	Assessment and collection of lease money	1	61.74
D. Home (Police) Department			
8.	Non-raising of demand	1	0.85
Total		2,607	537.74

During the year 2008-09, the departments accepted short realisation and other deficiencies of Rs. 17.46 crore in 709 cases, of which 528 cases involving Rs. 13.82 crore were pointed out in audit during the year 2008-09 and the rest in the earlier years. The departments recovered Rs. 3.16 crore in 897 cases of which 68 cases involving Rs. 21.47 lakh were pointed out during the year 2008-09 and the rest in the earlier years.

A Review on **'Receipts of Public Health Engineering Department'** involving findings of Rs. 259.67 crore is mentioned in the succeeding paragraphs.

A. Public Health Engineering Department

6.2 Review : Receipts of Public Health Engineering Department

Highlights

- Outstanding demands against Nagar Nigams/Nagar Palikas amounting to Rs. 85.76 crore were not included in the details of arrears maintained by the Department.

(Paragraph 6.2.7.2)

- Non-functioning of water meters resulted in incorrect assessment of water charges.

(Paragraph 6.2.7.4)

- Interest on outstanding demands amounting to Rs. 55.15 crore was not levied.

(Paragraph 6.2.9.1)

- Non-levy of water charges against Nagar Nigam, Jodhpur resulted in non-recovery of Rs. 2.35 crore.

(Paragraph 6.2.9.2)

- Loss of revenue of Rs. 234.43 crore due to abnormal leakage of water.

(Paragraph 6.2.9.3)

- Short realisation of stamp duty of Rs. 87.58 lakh.

(Paragraph 6.2.9.5)

6.2.1 Introduction

Receipts of Public Health Engineering Department (PHED) mainly comprise of water charges payable by consumers for use of water for domestic, non domestic and industrial purposes at the rates fixed by the State Government from time to time. Besides, water supply connection charges and penalties *etc.* are also leviable by the department.

Audit reviewed the system of receipts of Public Health Engineering Department. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

6.2.2 Organisational setup

The determination of policies, monitoring and control over receipts of PHED at the Government level is exercised by the Principal Secretary, Government of Rajasthan. The work of the department has been distributed among four Chief Engineers. Powers of head of department in all matters pertaining to levy and collection of water charges vest with the Chief Engineer (CE) headquarters, who is assisted by the 11 Additional Chief Engineers at regional

level, 38 Superintending Engineers (SE) at circle level, 136 Executive Engineers (EE) at divisional level and 400 Assistant Engineers (AE) at sub divisional level.

6.2.3 Audit objectives

The review was conducted to ascertain:

- the extent to which the provisions of the Government notifications and instructions were being adhered to;
- reasons for uncollected revenue;
- effectiveness of the internal control mechanism; and
- whether the amount due to the Government had been promptly realised and credited into the Government Account, particularly where such work was allotted on contract basis.

6.2.4 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Public Health Engineering Department in providing necessary information and records for audit. An entry conference was held on 6 November 2008 in the office of Chief Engineer Headquarter Jaipur wherein objectives and criteria of the review were explained. The audit findings were reported to the Government in May 2009; their replies have not been received (October 2009). An exit conference was held on 14 September 2009 with the Secretary, PHED to discuss the major audit findings and recommendations. The view point of the Government/department has been incorporated in the relevant paragraphs.

6.2.5 Scope of audit

Out of 129 divisions, 26 divisions¹ alongwith CE (Headquarters) were selected for study and records of these units were test checked for the years 2003-04 to 2007-08. Selection of units was made on the basis of PPSWR (Probability Proportional to Size with Replacement) method of sampling.

6.2.6 Trends of revenue

Estimated receipts, revenue realised and shortfall in revenue of the State under head “0215 Water Supply and Sanitation” during last five years ending

¹ P&D (South) Jaipur, Revenue (South) Jaipur, Revenue (North) Jaipur, Revenue Ajmer, District Ajmer, Bhilwara, Pratapgarh, Salumber, Rajasmand, Tonk, Bundi, Revenue Kota, Jhalawar, Beawer, Balotra, District (North) Barmer, Revenue Bikaner, Churu, City Ganganager, Suratgarh, City Jhunjhunu, District III Jodhpur, Revenue Jodhpur, Nagaur, RIGEP Nagaur and Sojat City.

2007-08 were as under:

(Rupees in crore)

Year	Budget estimates (BE)	Revised estimates	Actuals	Shortfall over BE	Percentage of shortfall over BE
2003-04	170.00	170.00	146.29	23.71	13.95
2004-05	180.00	180.00	164.13	15.87	8.82
2005-06	200.00	200.00	180.38	19.62	9.81
2006-07	220.00	200.35	182.49	37.51	17.05
2007-08	224.54	201.45	204.16	20.38	9.08

It would be seen from above table that the shortfall during the years from 2003-04 to 2007-08 ranged between 8.82 and 17.05 *per cent*. The Department attributed the shortfall in revenue to short supply of water to consumers as water level had gone down very deep due to scanty rainfall and non-recovery of arrears against other departments and public consumers inspite of the best efforts to recover the dues. In revised estimates, original estimates had been reduced by Rs. 19.65 crore (from Rs. 220 crore to Rs. 200.35 crore) and Rs. 23.09 crore (from Rs. 224.54 crore to Rs. 201.45 crore) in 2006-07 and 2007-08 respectively. The department stated that estimates had been reduced keeping in view the possibility of short realisation of revenue and the revised estimates had been approved by the Budget Finalisation Committee.

Audit findings

6.2.7 System deficiencies

6.2.7.1 Position of arrears

A test check of records revealed that water charges amounting to Rs. 77.16 crore were outstanding as on 31 March 2008 as detailed below:

(Rupees in crore)

Year	Amount in arrears
Prior to 2003-04	29.15
2003-04	5.68
2004-05	6.77
2005-06	7.07
2006-07	10.82
2007-08	17.67
Total	77.16

Above table indicates that Rs. 29.15 crore has been outstanding for more than five years. Accumulation of arrears showed a steady increase with Rs 17.67 crores being added to the arrears during 2007-08. The Government accepted (September 2009) the facts. The Secretary, PHED stated during the exit conference (14 September 2009), that revenue realisation had not been a priority for the department and assured that effective monitoring would be done to recover the arrears.

6.2.7.2 Non-inclusion of outstanding demands of Nagar Nigams/Nagar Palikas in the position of outstanding revenue

It was noticed in 10 divisions² that Rs 85.76 crore were outstanding against Nagar Palikas/Nagar Nigams for water supply through Public Stand Post (PSP) but this amount was not included in the position of outstanding revenue.

Audit observed that there was no system of periodical monitoring in the department to assess the correct position of arrears.

The age-wise and money-wise analysis of outstanding revenue is as under:

(Rupees in crore)	
Year	Amount outstanding
Prior to 2003-04	57.27
2003-04	6.60
2004-05	5.54
2005-06	4.98
2006-07	5.81
2007-08	5.56
Total	85.76

Non-inclusion of the above amount renders the outstanding arrears maintained by the department as incorrect. As the department is not keeping track of the actual amount of outstanding arrears, the question of its recovery remains uncertain.

The Secretary, PHED stated during the exit conference that efforts would be made to assess the correct position of arrears.

The Government may consider instituting a periodical monitoring system in the department to assess the correctness of arrears.

6.2.7.3 No provision for levy of interest on late deposits by collecting agency

As per memorandum of understanding (MOU) between Integrated Citizen Services Centre (ICSC) (now *e-mitra*) and the PHED, the *e-mitra* shall accept the payments of bills and demand notes issued by PHED and would transfer the amount due towards PHED within one day after entry of same in *e-mitra*'s account. In case of holidays, the amount would be transferred on next working day. **No provision for levy of interest on late deposit was made in the MOU.**

Audit scrutiny of deposited challans revealed that out of total revenue collected during April 2003 to March 2008 by *e-mitra* from consumers of four divisions³, Rs. 3.15 crore were deposited late for the different periods ranging upto 55 days in 243 cases. In the absence of the provision, interest could not be levied for late deposits.

Though the late deposit of revenue was in the knowledge of the department, no action was taken by the department. Besides, in Revenue Division Kota, it

² Revenue (North) Jaipur, Revenue Ajmer, Revenue Jodhpur, Balotra, Beawer, Nagaur (RIGEP), Nagaur, Churu, Revenue Bikaner and Sriganganagar.

³ Revenue (South) Jaipur, Revenue (North) Jaipur, Sriganganagar and Jhalawar.

was noticed from *e-mitra* records that revenue collected by *e-mitra* during February 2008 and March 2008 amounting to Rs. 17.17 lakh from consumers had not been deposited (January 2009) in the Government Account.

After this was pointed out, the Government accepted the facts and assured that necessary amendment in the MOU will be carried out.

The Government may consider a provision for levy of interest on late deposit of revenue by collecting agency.

6.2.7.4 Meter Management

Rule 269 of Public Works Financial and Accounts Rules (PWF & AR) provides that departmental officers will exercise check on measurement of water reading for water supply to ensure that there is no loss or leakage of revenue. Further as per Appendix II of Water Supply Rules 1967, Assistant Engineer shall cause all meters to be tested at least once in a year. **Audit observed that meter management was inadequate and assessments were not based on actual consumption.**

It was observed from the departmental records and information supplied by the department that in 22 divisions⁴, an average of 57 *per cent* meters were defective out of total meters installed during 2003-2004 to 2007-08. Further, it was noticed that defective meters were not replaced and bills were raised against the consumers on average basis. Audit also observed that the department is not maintaining any record of meter inspection.

The Government accepted the facts and assured that action will be taken to replace the faulty meters.

The Government may consider to take effective steps to replace defective water meters.

6.2.7.5 Non-fixation of user charges

Eleventh Finance Commission (EFC) recommended 25 *per cent* step up per year over the base year (1999-2000) in all cases of users charges. The Government has, however, not revised water charges since May 1998.

While agreeing with this observation, the Secretary, PHED stated during the exit conference that fixation of user charge was a political decision.

6.2.8 Internal control

6.2.8.1 Lack of monitoring

As per rule 760 of PWF&AR Part I, the Divisional Officer (DO) should review the registers, books and accounts maintained in the divisional and sub-divisional offices and a record of such review will be kept in all cases in the Memo of Review in the prescribed form.

⁴ Revenue (South) Jaipur, Revenue (North) Jaipur, Revenue Ajmer, District Ajmer, Bhilwara, Pratapgarh, Salumber, Rajasmand, Tonk, Bundi, Revenue Kota, Jhalawar, Revenue Jodhpur, Balotra, Beawer, Nagaur, Churu, Sriganganagar, Suratgarh, Revenue Bikaner, Sojat city and Jhunjhunu.

It was revealed in audit that no Memo of Review was maintained in the divisions. Under these circumstances, the efficacy of monitoring at divisional office level could not be assessed in audit.

After this was pointed out, the Government agreed during the exit conference to issue necessary instructions to the concerned officers.

6.2.8.2 Working of internal audit

Audit observed that at the end of the March 2008, 5,084 internal audit reports (IAR) with 47,749 paras were outstanding which indicated lack of attention to issues raised by the internal audit.

After this was pointed out, the Government accepted the facts and stated that a special campaign will be launched soon to settle the outstanding paras.

Position of units due for audit and audited during 2003-04 to 2007-08 was as under:

Year	Arrears ⁵ of units brought forward	Units due during the year	Total units due for audit	Units audited during the year	Percentage of units audited
2003-04	2,356	598	2,954	914	31
2004-05	2,040	598	2,638	1,284	49
2005-06	1,354	598	1,952	744	38
2006-07	1,208	640	1,848	726	39
2007-08	1,122	640	1,762	774	44

The above table indicates that as against the units due for audit, percentage of units audited ranged between 31 and 49. Department replied (April, 2009) that finance department had been requested to increase the number of audit parties.

The Government may consider strengthening of internal control system for better financial management.

The Government should effectively use internal audit to ensure that the various wings of the department are functioning efficiently for optimum collection of revenue.

6.2.9 Compliance deficiencies

6.2.9.1 Non-levy of interest on outstanding demands

The State Government vide notification 13 October 1976 provided that penal interest at the rate of 12 *per cent per annum* would be charged on water supply bills which remained unpaid for two months or more from the due date indicated in the bill.

Test check of the records of 15 divisions⁶ revealed that heavy amounts were outstanding against Railways, Nagar Nigams, Nagar Palikas *etc.* but penal interest amounting to Rs. 55.15 crore (up to March 2009) on outstanding amount was not demanded.

⁵ Arrears of units were arrived by multiplying the units with years from which audit was due.

⁶ Revenue Ajmer, Pratapgarh, Bundi, Revenue Kota, Jaipur (North), Jhalawar, Revenue Jodhpur, Balotra, Beawer, Nagaur(RIGEP), Nagaur, Churu, Sriganganager, Revenue Bikaner and Jhunjhunu.

After this was pointed out, the Government assured that the department will look into the issue of non-levy of interest on outstanding revenue against Railways, Nagar Nigams, Nagar Palikas *etc.*

6.2.9.2 Non-assessment of water charges against Nagar Nigam Jodhpur

Test check of the records of revenue division Jodhpur revealed that department was supplying water through 2,410 Public Stand Posts (PSP) of Jodhpur at the rate of Rs 538 per PSP per month but the division had not assessed water charges for water supplied from October 2006 to March 2008. This resulted in non recovery of Rs. 2.35 crore.

The division stated that as per decision taken by the Policy Making Samati in October 2006, the raising of bills has been kept pending. The fact, however, remains that even after more than two years the matter of levy of water charges has not been finalised. The Government accepted the facts and stated that department will raise the demand.

The Government may consider taking effective action to ensure speedy recovery of arrears.

6.2.9.3 Loss due to abnormal leakage of water

Para 10.10.2 (a) of the Manual on Water and Treatment provides that loss of water above 10 *per cent* in case of 24 hours water supply and above 20 *per cent* in case of intermittent water supply would require remedial measures.

Test check of the records of six division⁷ for the period from 2003-04 to 2007-08 revealed that loss of water due to leakage between quantity of water drawn and water received at the consumers end in excess of maximum permissible limit of loss ranged between 5 *per cent* and 52 *per cent* (**Annexure 'F'**) resulting in loss of revenue amounting to Rs. 234.43 crore calculated at the cost of production.

After this was pointed out the Government accepted the facts and stated that bulk water meters would be installed to measure actual production and loss of water, old pipe lines would be replaced and a policy would be framed for reducing loss of water due to theft, illegal water connection *etc.*

6.2.9.4 Non-levy of penalty on illegal water connections

As per PHED notification 29 May 1998 a penalty at the rate of Rs 500 per connection, for taking illegal water connection, is leviable.

Test check of the records in four divisions⁸ and information supplied by the department revealed that 3,178 illegal water connections were taken from main distribution line. Despite the fact that all these cases of illegal connection were detected by the departmental officers during inspection, penalty at the

⁷ Revenue (South) Jaipur, Revenue (North) Jaipur, Revenue Ajmer, Revenue Kota, Revenue Jodhpur and Sriganganager.

⁸ Revenue (South) Jaipur, Revenue (North) Jaipur, Revenue Jodhpur and Revenue Bikaner.

prescribed rate of Rs. 500 per illegal connection was not levied. This resulted in non-levy of penalty amounting to Rs. 15.90 lakh.

After this was pointed out, the Government agreed during the exit conference to recover the penalty. They further stated that an amount of Rs 30 lakh has been recovered from 3000 illegal connections in Jaipur Circle.

6.2.9.5 Short realisation of stamp duty

As per article 5 of the schedule under section 3 to the Rajasthan Stamp Act 1998, stamp duty of Rs. 100 is leviable in case of an ordinary agreement.

It was noticed in 10 divisions⁹ that 97,311 agreements were executed between April 2003 and March 2008. However test check of these agreements revealed that either stamp duty was not levied or levied at the rate of Rs. 10 per agreement while their execution. This resulted in minimum short realisation of stamp duty of Rs. 87.58 lakh.

6.2.9.6 Non-levy of supervision charges

Rule 146 of PWF&AR, provides that in addition to book value supervision charges are to be levied as fixed charges (10 *per cent*) in respect of stock sold to public to cover the charges on account of supervision of stores. Audit observed in four divisions¹⁰ that 39,577 water meters were sold to consumers by the department, however, supervision charges amounting to Rs. 17.33 lakh were not levied.

The department stated during the exit conference that matter will be re-examined.

6.2.9.7 Irregular transfer of percentage charges under Head 2215 Water Supply and Sanitation

Utilisation of departmental receipts for meeting departmental expenditure is against budgetary control and tentamounts to bypassing the legislative authority of the state. In addition, it also affects the accounting of expenditure out of these receipts.

Audit observed in 18 divisions¹¹ that these divisions were allotted operation and maintenance charges *i.e.* percentage charges on plan works under Accelerated Rural Water Supply Programme. These charges amounting to Rs 43.83 crore were irregularly credited to 'Head 2215 Water Supply and Sanitation' instead of crediting it to revenue.

The department agreed during the exit conference to these facts and stated that this was done as per policy of the Finance Department.

⁹ Revenue (South) Jaipur, Revenue (North) Jaipur, Pratapgarh, Salumber, Tonk, Bundi, Jhalawar, Nagaur, Sojat City and Jhunjhunu.

¹⁰ Revenue (South) Jaipur, Revenue (North) Jaipur, Revenue Jodhpur and Jhunjhunu.

¹¹ District Ajmer, Bhilwara, Pratapgarh, Salumber, Rajasmand, Tonk, Bundi, Jhalawar, District III Jodhpur, Balotra, Barmer (North), Beawer, Nagaur (RIGEP), Nagaur, Churu, Suratgarh, Sojat City and Jhunjhunu.

6.2.9.8 Non-crediting of percentage charges to revenue

As per rule 7(1)(b) of Appendix V of Part II of PWF&AR, recoveries on establishment charges related to work done for other Government, Local bodies, Private parties *etc.*, will be made on percentage basis and credited to revenue head. As per rule 615 of Part I of PWF&AR, such percentage leviable will be adjusted month by month as the work expenditure is incurred.

Test check of the records of three divisions¹² revealed that deposit works were undertaken by the department for other Government, Local bodies *etc.*, but percentage charges leviable amounting to Rs. 26.58 lakh in 14 cases were not credited to revenue.

The Department agreed during the exit conference to rectify this irregularity.

6.2.10 Conclusion

The performance audit revealed that effective action was not taken for recovery of arrears, resulting in steady accumulation of arrears. Non functioning of water meters affected assessment of revenue of the State Government. Water tariff has not been revised since May 1998. Remedial action required to reduce water loss has not been taken and internal control system was not adequate for ensuring better financial management by the department.

6.2.11 Summary of recommendations

The Government may consider:

- **prescribing a periodical monitoring system in the department to assess the correctness of arrears and ensure speedy recovery of arrears;**
- **prescribing a provision for levy of interest on late deposit of revenue by collecting agency;**
- **taking effective steps to replace defective water meters; and**
- **strengthening the internal control system for better financial management by the department.**

¹² P&D (South) Jaipur, District Ajmer and Revenue Bikaner.

B. Mines, Geology and Petroleum Department

6.3 Audit observations

Test check of the records of Mines, Geology and Petroleum Department revealed several cases of non-observance of the provisions of Act/Rules, non-adherence to the Government orders/procedure and other irregularities in the cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test-check carried out in audit. Such omissions on the part of Mining Engineers/Asstt. Mining Engineers were pointed out in audit each year, however not only the irregularities persist, these remain undetected till an audit is conducted. There is need for the Government to improve their internal control system.

6.4 Non-observance of the provisions of Acts/Rules

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR); Mineral Concession Rules, 1960 (MCR); Mineral Conservation and Development Rules, 1988 (MCDR) and Rajasthan Minor Mineral Concession Rule, 1986 (RMMCR) provide for:

- (i) levy of royalty at prescribed rates;*
- (ii) levy of cost of minerals illegally excavated/despached;*
- (iii) levy of interest on delayed payments;*
- (iv) grant of lease and*
- (v) conservation of minerals.*

The Mining Engineer/Assistant Mining Engineers did not observe the provisions of the Act/Rules in the cases mentioned in paragraphs 6.4.1 to 6.4.13. This resulted in non/short realisation of royalty, non/short realisation of cost of mineral and non-levy of interest of Rs. 41.03 crore.

6.4.1 Short raising of demand of royalty

Under section 9 of the MMDR Act, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for time being specified in the second schedule of the MMDR Act in respect of that mineral.

As per the State Government's instruction issued in April 2000, the competent authorities were required to calculate royalty in respect of mineral dispatched on monthly basis, raise demand and initiate action for its recovery.

Test check of the records of Mining Engineer, Udaipur revealed (February 2009) that a mining lease for the minerals Lead, Zinc and Silver was effective in favour of a company. The lessee paid royalty on metal contained in ore of Zinc and Lead dispatched up to September 2005 as envisaged in second schedule of the Act whereas the royalty was paid on metal contained in the concentrate of the mineral instead of metal contained in the ore produced from October 2005. During the period from October 2005 to March 2008, the lessee

paid Rs. 76.12 crore on account of royalty on mineral Zinc and Lead as against payable royalty of Rs. 89.68 crore. The failure on the part of department to levy royalty resulted in short recovery of Rs. 13.56 crore.

After this was pointed out, the Mining Engineer, Udaipur stated (February 2009) that the assessment for this period was pending and the demand would be raised at the time of assessment. However, the fact remains that the royalty on the mineral dispatched was required to be calculated on monthly basis. Further, the royalty had to be levied on the metal contained in the ore of the mineral.

The matter was brought to the notice of the Government and department in March 2009, their replies have not been received (October 2009).

6.4.2 Irregular allowance of handling and processing loss

Test check of the records of Mining Engineer (ME), Udaipur revealed (February 2009) that a mining lease for mineral rock phosphate was effective in favour of a lessee. The royalty assessments for the period 1997-98 to 2002-03 were finalised in April 2004 and January 2005 on the basis of final figures of production allowing three *per cent* handling and processing loss of 1,58,061.26 MT. There is no provision in MMDR Act or MCR for allowing handling and processing loss. This resulted in short recovery of royalty of Rs. 3.24 crore.

After this was pointed out, the ME, Udaipur stated (February 2009) that while the rebate on losses was given as per rule, facts would be verified from records of the lessee and action would be taken under intimation to audit. The fact remains that there is no provision in Acts/Rules for allowing handling and processing loss.

The matter was brought into the notice of department and the Government (March 2009); their replies have not been received (October 2009).

6.4.3 Short recovery of royalty on mineral gypsum

Section 9 of the MMDR Act provides that the holder of a mining lease shall pay royalty on any mineral removed or consumed from the leased area at the rate for the time being specified in the Act. Further rule 64 D of the MCR provides that state-wise average price for different individual minerals as published by Indian Bureau of Mines (IBM) shall be the benchmark for computation of royalty in respect of any mineral produced during the month. For the purpose of computation of the royalty, the State Government shall add 20 *per cent* to this benchmark value. This value shall be reckoned to be the sale price for the purpose of computation of royalty. The rate of royalty on mineral gypsum was 20 per cent of sale price.

Test check of the records of the Assistant Mining Engineers, Jaisalmer and Sriganganagar revealed (March 2009) that as per IBM publication sale price for the mineral Gypsum was Rs. 210 per MT, on which sale value worked out to Rs. 252 per MT. Royalty at this rate worked out to as Rs. 50.40 per MT. However, it was noticed that the lessee paid royalty at the rate of Rs. 44.40 per MT instead of Rs. 50.40 per MT on mineral Gypsum despatched during the

period June 2007 to March 2008 resulting in short recovery of royalty of Rs. 44.92 lakh.

After this was pointed out (March 2009), the Department/Government stated (June 2009) that Rs. 39.94 lakh had been recovered in respect of Jaisalmer lessee. Reply in respect of Sriganganagar has not been received (October 2009).

6.4.4 Non-recovery of excess royalty and interest thereon

As per provision of section 9 of MMDR Act and the Government's instructions April 2000, the lessee shall pay the excess royalty amount on the mineral dispatched during the month and demand shall be raised on monthly basis and under provision of rule 64A of the MCR, simple interest at the rate of 24 *per cent* per annum shall be leviable on delayed payments for the default period commencing from the 60th day from the due date.

Test check of the records of ME, Bharatpur, revealed (October 2008) that on royalty assessments (May 2007 to December 2007) of the three lessees for the period November 2002 to January 2006, an excess royalty amounting to Rs. 22.11 lakh was recoverable but was not realised. Besides, interest of Rs. 15.87 lakh (upto September 2008) was also leviable.

The matter was reported (November 2008) to the Government and department, their replies have not been received (October 2009).

6.4.5 Short recovery of royalty due to incorrect application of rate

As per schedule II of the MMDR Act, the royalty rate of Limestone (LD grade), which contains 1.5 *per cent* silica content, was Rs. 55 per MT with effect from 14 October 2004.

Test check of the records of Assistant Mining Engineer (AME), Jaisalmer revealed (March 2008 and February 2009) that RSMML had paid royalty of Rs. 45 per MT instead of Rs. 55 per MT on Limestone (LD grade 10-30 mm gitties) despatched during the years 2006-07 and 2007-08 resulting in short recovery of royalty of Rs. 29.23 lakh.

After this was pointed out (March 2009), the Department/Government stated (June 2009) that company had been asked to deposit the amount. Further progress has not been received (October 2009).

6.4.6 Short realisation of royalty from defaulting lessees

The MMDR Act or rules made thereunder do not provide any time limit for finalisation of assessment by the assessing authority in the Mines Department. The competent authority can terminate the lease for breach of any condition of the lease agreement.

Test check of the records of Mining Engineer, Sojatcity, revealed (August 2008) that three mining leases of limestone were cancelled in March 2006 for non-payment of dead rent, non-submission of returns *etc.* Royalty amounting to Rs. 52.10 lakh were payable by these lessees for the period from 2002-03 to 2006-07. The lessees had paid only Rs. 42.37 lakh resulting in short realisation of royalty of Rs. 9.73 lakh.

After this was pointed out (September/November 2008) the Department/Government stated (June 2009) that recovery would be made after assessment. Further progress has not been received (October 2009).

6.4.7 Non-recovery of royalty

Sub-section 21(5) of the MMDR Act provides that whenever any person raises without any lawful authority any mineral from any land, the state Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof. The Government may also recover from such person royalty for the mineral.

Test check of the records of Mining Engineer, Bharatpur revealed (October 2008) that during inspection conducted by Surveyor on 25 January 2005, an unauthorised excavation of mineral 'Silica sand' from the Government land was noticed. A demand of Rs. 2.59 crore was raised on cost of 1,61,700 MT mineral unauthorisedly removed (10 October 2008) but the demand of royalty at the rate Rs. 20 per MT amounting to Rs. 32.34 lakh was not raised.

After this was pointed out (November 2008) the Department stated (August 2009) that the demand of royalty of Rs. 32.34 lakh had been raised. Report on recovery has not been received.

Matter was reported to the Government in November 2008, their reply has not been received (October 2009).

6.4.8 Non-recovery of cost of mineral unauthorisedly excavated

Rule 48 of RMMC Rules provides that whenever any person raises any mineral from any land and where mineral so raised has already been despatched or consumed without any lawful authority, he shall be liable to pay the cost of mineral so excavated. The cost of mineral is computed as 10 times of the royalty payable at the prevalent rates.

Test check of the records of five Assistant Mining Engineer/Mining Engineer offices revealed, between June 2008 and October 2008, that in eight cases the lessees unauthorisedly excavated/dispached minerals resulting in non/short recovery of cost of minerals aggregating to Rs. 13.48 crore as mentioned below:

Sl. no.	Name of the office (Number of cases)	Name of mineral	Quantity of mineral illegally excavated and despatched (in MT)	Recoverable cost of mineral (Rupees in crore)	Nature of observation
1	2	3	4	5	6
1.	ME Alwar (1)	Marble Khandas	1,64,425.275	8.22	In a survey conducted in August 2007, it was found that the lessee had unauthorisedly excavated and dispatched marble khanda 1,64,425.275 MT out of the sanctioned lease area.

1	2	3	4	5	6
<p>After this was pointed out the ME, Alwar stated (September 2008) that show cause notice has been issued to lessee. The demand has not been raised (19 August 2009) even after lapse of one year.</p> <p>The matter was pointed out (February 2009) to the Government and department, their replies have not been received (October 2009).</p>					
2.	ME Nagaur (2)	Lime stone	87,763	3.95	Two mining lease (No. 23/95 and 2/95) holders excavated and despatched mineral lime stone 87763 MT unauthorisedly without rawanna and payment of royalty.
<p>After this was pointed out the ME, Nagaur stated (June 2008) that the proposals for cancellation of leases had been sent to the competent authority. However, the fact remains that action for recovery of the cost of mineral was not taken.</p> <p>The matter was pointed out to the department in July 2008, and reported to the Government in November 2008; their replies have not been received (October 2009).</p>					
3.	AME Barmer (3)	Granite	5,030	0.75	Geological and technical reports of prospecting works done were submitted by the applicants. Audit scrutiny revealed that 5138 MT granite was despatched by the applicants during the prospecting period against which the department assessed (January - February 2008) for 108 MT.
<p>After this was pointed out (September 2008), the AME Barmer stated in December 2008 that lessees had been asked (November 2008) to submit records and explain the actual position of the matter.</p> <p>The matter was pointed out to the department (October 2008) and reported to the Government (November 2008); their replies have not been received (October 2009).</p>					
4.	ME Bharatpur (1)	Masonry Stone	35,280	0.46	Site inspection reports revealed that the contractor had unauthorisedly excavated 35280 MT masonry stone outside the area authorised in the short term permit.
<p>After this was pointed out, the ME, Bharatpur stated (October 2008) that the cost would be recovered after re-verification of the quantity actually used unauthorisedly.</p> <p>Matter was pointed out to the department and the Government (November 2008); their replies have not been received (October 2009).</p>					
5.	AME Jalore (1)	Granite	1,872	0.10	A mining lease holder excavated 1872 MT granite mineral unauthorisedly outside his sanctioned lease area.
<p>After this was pointed out (August 2008), the AME Jalore stated (August 2008) that action would be taken as per rule. Further progress was awaited (October 2009).</p> <p>The matter was pointed out to the department in September 2008 and reported to the Government in November 2008; their replies have not been received (October 2009).</p>					
Total				13.48	

6.4.9 Unauthorised excavation of mineral by contractors

Rule 63 of the RMMC Rules read with the Government order dated 3 October 2001, provides that works contractor shall have to obtain short term permit (STP) in advance from the concerned Mining Engineer/Assistant Mining Engineer in support of minerals to be used for their works. If a permit holder has excavated and carried out a quantity more than 25 *per cent* of the quantity sanctioned in the STP, the entire quantity excavated and removed over and above the quantity sanctioned in the permit, the permit holder shall be liable to pay the cost of such excess mineral excavated and removed which will be 10 times of the royalty at the prevalent rates as prescribed under rule 48 *ibid*.

Test check of the records of 6 ME/AME offices¹³ conducted between July 2008 and February 2009 revealed that the 10 work contractors excavated/consumed mineral either without STP or more than 25 *per cent* of the quantity permitted in the STPs. The cost of mineral amounting to Rs. 4.80 crore though recoverable was not recovered.

After this was pointed out (September 2008 to March 2009), the ME/AME Alwar, Balesar, Barmer and Kotputli accepted the audit observation. However, replies from ME, Bundi-II and Sirohi were not received (October 2009).

6.4.10 Non-realisation of cost of mineral despatched without *rawanna*

As per rule 18(9)(c) of the RMMC Rules, the lessee or any other person shall not remove or utilise the mineral from mines and quarry without a *rawanna*¹⁴ which is duly sealed by the Mining department. According to the agreement of the Excess Royalty Collection Contract (ERCC) executed under rule 37 (2) of rules *ibid*, the contractor shall collect the royalty amount only from such vehicles having valid *rawannas* issued by the lessee. In cases of vehicles carrying mineral without *rawanna*, the ERC contractor shall hand over these vehicles to the Mining Engineer/Assistant Mining Engineer concerned who has the right to recover the cost of mineral, 10 times of the royalty payable at the prevalent rates, treating it as unauthorised removal.

Test check of the records of AME, Barmer revealed (September 2008) that an ERCC of mineral Bentonite despatched from effective mining leases was awarded in March 2006 to a contractor for the period 1 April 2006 to 31 March 2008. The contractor collected royalty amounting to Rs. 14.87 lakh on 24,791.65 MT minerals Bentonite despatched/cleared without *rawannas* during the period April 2006 to October 2006 instead of handing over these vehicles to the department for collecting the cost of mineral. This resulted in non-realisation of revenue of Rs. 1.49 crore being 10 times of royalty.

After this was pointed out (September 2008) the AME, Barmer stated (January 2009) that the matter had been referred to DMG for their direction. Further progress has not been received (October 2009).

¹³ Alwar, Balesar, Barmer, Bundi -II, Kotputli and Sirohi.

¹⁴ '*Rawanna*' means a delivery challan for removal or despatch of mineral from mines.

The matter was pointed out to the department in October 2008 and reported to the Government in November 2008; their replies have not been received (October 2009).

6.4.11 Non-raising of demand for interest

6.4.11.1 Section 9(2) of the MMDR Act provides that the holder of a mining lease shall pay royalty at the prevailing rate in respect of any mineral recovered or consumed. Further rule 64 A of the MCR provides that the lessee shall be liable to pay interest at the rate of 24 *per cent* per annum on the delayed payment for the period of delay computing from 60th day of due date.

During the Test check of the records of three Mining Engineer/Assistant Mining Engineer offices, it was noticed (between September 2008 and March 2009) that in five cases the lessees deposited the amount of development charges, Government dues, excess royalty amount, difference amount of royalty and premium charges late as detailed below resulting in non-levy of interest of Rs. 1.32 crore:

Sl. no.	Name of ME/AME office	No. of cases	Nature of amount deposited late	Amount of interest due (Rs. in lakh)	Nature of observation
1.	Barmer	1	Development charges upto 12/05	61.83	Difference amount of development charges for the period June 1990 to March 2005 were deposited late by RSMML.
2.	Barmer	2	Government dues	8.52	Government dues pertaining to the period August 2000 to March 2005 were deposited late by two lessees between August 2005 and March 2008.
3.	Bhilwara	1	Excess royalty amount	56.11	Balance of excess royalty amount of Rs. 80.02 lakh pertaining to the period May 2001 to May 2006 was deposited late by a lessee during 2007-08.
4.	Sriganganagar	1	Difference amount of royalty and premium charges	5.47	Difference amount of royalty and premium charges pertaining to the period May 2007 to April 2008 were deposited late in July 2008.
Total		5		131.93	

The AME, Barmer replied (January 2009) that in case of Sl. No. 1 above Rajasthan State Mines and Mineral Limited (RSMML) being a Government undertaking, interest was not recoverable. However, no such exemption is provided in the rules. For case at Sl. No. 3, ME, Bhilwara stated (December 2008) that the lessee has deposited the amount of excess royalty after assessment of royalty, therefore, recovery of interest was not appropriate. However, as per rules, royalty is to be paid at the time of removal of mineral. In respect of the case at Sl. No. 4, the AME Sriganganagar stated (June 2009) that a demand of Rs. 5.47 lakh has been raised.

The matter was reported to the Government/department between October 2008 and April 2009, their replies (except Bhilwara and Sriganganagar) have not been received (October 2009).

6.4.11.2 As per terms and conditions of the ERCC agreement executed under rule 37(2) of RMMC Rules, the contractor has to pay the instalments of contract money by 10th of the each month in advance. Interest amount is to be paid on delayed deposit at the rate of 15 *per cent* per annum for the period of delay.

(i) Test check of the records of Mining Engineer Division-I, Rajasamand revealed (January 2009) that an ERCC was sanctioned in March 2007 in favour of a contractor for the period from April 2007 to March 2009 at an annual contract amount of Rs. 58.31crore. The annual contract amount was revised to Rs. 61 crore with effect from 1 April 2007 by Hon'ble Supreme Court's order dated 6 August 2007. The difference amount of instalments Rs. 67.63 lakh was deposited by the contractor on 29 May 2008, but the demand of interest on delayed payment for the period from September 2007 to May 2008 worked out to Rs. 7.53 lakh was not raised.

After this was pointed out, the Mining Engineer Division-I, Rajsamand stated (January 2009) that the demand for the difference amount of instalments was raised on 31 March 2008 and the contractor deposited the amount on 29 May 2008, therefore, interest amount is not leviable. However, the fact remains that the ME asked the contractor on 1 September 2007 to deposit the differential amount within 7 days.

The matter was reported (March 2009) to the Government and the department, their replies have not been received (October 2009).

(ii) Test check of the records of Mining Engineer, Alwar revealed (September 2008) that an ERCC for the mineral marble was sanctioned in favour of a contractor for the period from 1 April 2007 to 31 March 2009. The contractor failed to deposit instalments of contractual amount on due dates. The amount of interest Rs. 5.13 lakh was not levied on the delayed payment of instalments.

After this was pointed out, the Mining Engineer, Alwar stated (September 2008) that demand of interest had been raised in September 2008 but recovery is pending. Further, report has not been received (October 2009).

The matter was reported (February 2009) to the Government and department, their replies have not been received (October 2009).

6.4.12 Undue benefit to a lessee

Rule 11(2) of the RMMCR provides that maximum number of mining leases for a particular mineral or associated group of minerals to a person within direct jurisdiction of any Mining Engineer/Assistant Mining Engineer shall be restricted to two. In cases where an applicant dies before the orders granting mining lease is passed, the application for grant of a mining lease shall be deemed to have been made by his legal representative. Further, no mining lease, quarry licence, short term permit or any other permit shall be granted

otherwise in accordance with the provisions of these rules and if granted, shall be deemed to be null and void.

Test check of the records of Mining Engineer, Karauli revealed (November 2008) that a mining lease (No. 9/04) for mineral sand stone was granted on 12 January 2005 in favour of an applicant. As the applicant died on 30 May 2004, the mining lease agreement was executed by his wife who was already possessing two mining leases (number 1/99 and 36/01) of mineral sand stone in the jurisdiction of the ME, Karauli. Thus, execution of agreement for third mining lease was in violation of the rule 11 and 74 of RMMCR and became null and void *abinitio* as per provisions of the rule 72 *ibid*. The allottee worked in the area and despatched 3060 MT of mineral sand stone up to 31 March 2008. The mining activity carried out in the existing area was unlawful, the department extended undue benefit to person equal to cost of sand stone of Rs. 13.46 lakh despatched.

The matter was brought to the notice of the department in December 2008 and the Government in January 2009; their replies have not been received (October 2009).

6.4.13 Loss of revenue due to non-observance of conservation rules

Rule 27(i)(n) of MCR provides that the lessee shall store properly unutilised or non-saleable sub-grade ores or minerals for future beneficiation.

Test check of the records of Mining Engineer Nagaur, revealed (June 2008) that a lease of mineral lignite was effective in favour of a company. During the mining operation of lignite, minerals bentonite and fullers earth had also been simultaneously obtained, which were scrapped and mixed with overburden and other waste materials. The same company was also having a mineral lignite lease in jurisdiction of Mining Engineer, Bikaner where it was stacking up mineral fullers earth separately. The quantity of fullers earth, as work out by audit on the basis of mining plan and site inspection reports, was 2,68,808 MT. The scraping and mixing of mineral fullers earth with overburden and waste materials resulted in loss of Rs. 1.34 crore of royalty because there is no possibility of retrieving the mineral.

After this was pointed out, the Mining Engineer, Nagaur stated (June 2008) that necessary action would be taken after ascertaining the industrial use of the mineral. However, the fact remains that the stacking of fullers earth and other minerals was to be done separately as provided in the rules. Further, the Superintending Geologist of the department has considered (3 April 2008) this as an industrial mineral.

After this was pointed out (July 2008), the department stated (September 2009) that a demand of Rs. 1.34 crore has been raised. Report on recovery has not been received (October 2009).

The matter was reported to the Government in November 2008; reply has not been received (October 2009).

6.5 Non-adherence to the Government orders

The Government orders provide for:

- (i) *proper scrutiny of refunds of revenue;*
- (ii) *levy of premium charges on mineral gypsum;*
- (iii) *for waiver of interest under amnesty scheme on depositing old dues; and*
- (iv) *assessment, accounting and recovery of all Government dues.*

The Mining Engineer/Assistant Mining Engineer in the cases mentioned in the paragraph 6.5.1 to 6.5.5, did not observe some of the Government orders which resulted in non-recovery of licence fee/premium charges and irregular waiver of interest of Rs. 10.97 crore.

6.5.1 Non-raising and recovery of demand of licence fee

As per provisions of the Manual of Department of Mines and Geology, the Government of Rajasthan, the Mining Engineer concerned shall, after necessary scrutiny of his records, forward cases of refunds of revenue to the Director Mines and Geology (DMG), clearly bringing out the amount due from the applicant.

Test check of the records of the DMG revealed (November 2007) that an amount of Rs. 9.85 crore of licence fee for the period from 1993-94 to 2005-06 was outstanding against a company. The company deposited licence fee and development charges Rs. 32.50 crore out of which a sum of Rs. 10.62 crore on account of licence fee was refunded on 30 March 2007. However, neither was the outstanding amount of licence fee adjusted from the amount refunded nor was demand raised and posted in the Demand and Collection Register (DCR)

After this was pointed out (November 2007), the ME, Udaipur accepted the audit observation and raised (7 May 2008) a demand of Rs. 9.85 crore. The department further intimated (August 2009) that an amount of Rs. 9.42 crore has been recovered.

The matter was reported (April 2008) to the Government, their reply has not been received (October 2009).

6.5.2 Non-recovery of premium charges

The State Government in April 2005 appointed RSMML and Fertiliser Corporation of India Limited (FCIL) as agents for excavation and despatch of gypsum. The agents were required to produce and despatch a minimum quantity of 2,000 MT gypsum per month from each area failing which minimum premium charges of Rs. 40,000 per month for each area were payable by the agents to the concerned ME / AME.

Test check of the records of AME, Sriganaganagar in March 2009 and ME Bikaner, in June 2008 revealed that the agent companies failed to produce and despatch the required minimum quantity of 2000 MT of gypsum per month

from the allotted areas. The demand for Rs. 69.20 lakh, towards minimum premium charges, was neither raised nor recovered by the Mining department.

After this was pointed out, the department stated (August 2008 and July 2009) that a demand of Rs. 69.20 lakh has been raised in both the cases. Report on recovery has not been received (October 2009).

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

6.5.3 Irregular waiver of interest under amnesty scheme

Amnesty scheme 2007-08, introduced vide the State Government order dated 2 February 2008, was applicable to all outstanding demands of royalty/excess royalty and other departmental revenue for the period prior to 1 April 2005 for which demand were raised before or on after 1 April 2005. The scheme did not cover the cases of demands, which were outstanding against effective mining leases and royalty collection contracts/excess royalty collection contracts (RCC/ERCC).

6.5.3.1 Test check of the records of Mining Engineer, Dholpur revealed (November 2008) that a lease of mineral sand stone was effective in favour of a company since January 1949. Rs. 9.78 lakh of dead rent for the period 1 May 1980 to 3 May 1994 and interest thereon was outstanding against the company. The lessee deposited (March 2008) the principal outstanding amount of Rs. 9.78 lakh and applied for waiver of interest amount due Rs. 35.21 lakh, which was allowed by the ME, Dholpur. The waiver of interest was not as per provisions of the amnesty scheme as the lease was effective.

After this was pointed out in November 2008, the ME, Dholpur stated that waiver of interest was allowed as per decision of the Superintending Mining Engineer, Bharatpur. The action was irregular as there was no provision for waiver of interest for effective mining lease in the amnesty scheme.

6.5.3.2 Test check of the records of DMG, Udaipur revealed (December 2008) that in five ME/AME offices¹⁵, a total amount of Rs. 7.48 lakh of interest due on RCC/ERCC was waived in contravention of the provisions of the amnesty scheme.

After this was pointed out (December 2008), DMG stated (January 2009) that information was being called from the concerned ME/AME offices.

The matter was reported to the Government (April 2009); their reply has not been received (October 2009).

6.5.4 Non-recovery of revenue due to non-posting of demand in the DCR

Rule 278 of General Financial and Accounts Rules envisaged that all Government dues should be assessed, accounted and recovered.

Test check of the records of the Assistant Mining Engineer, Jalore revealed (August 2008) that in 31 cases royalty assessments were finalised between 24 June 2000 and 26 December 2007, and a sum of Rs. 8.79 lakh was recoverable

¹⁵ Balesar, Bhilwara, Dholpur, Jhalawar and Kota.

but neither the demand was raised nor posted in the DCR¹⁶ resulting in non-recovery of Rs. 8.79 lakh.

After this was pointed out (September/November 2008), the department/Government stated (June 2009) that demand had been raised and posted in the DCR. Report on recovery has not been received (October 2009).

6.5.5 Lacunae in rules

Rule 63 of the RMMC Rules read with the Government order dated 3 October 2001, provides that works contractor shall have to obtain short term permit (STP) in advance from the concerned Mining Engineer/Assistant Mining Engineer in support of minerals to be used in their works. If a permit holder has excavated and carried mineral to the extent of 10 *per cent* over and above the quantity specified in the permit within the stipulated time of the permit, only a single charge of royalty will be recovered from the permit holder for the excess quantity of excavated mineral. In case, a permit holder has excavated and carried a quantity more than 25 *per cent* of the quantity sanctioned in STP, the entire quantity excavated and removed, over and above the quantity sanctioned in the permit, shall be treated as unauthorised excavation and the permit holder shall be liable to pay the cost of such excess mineral excavated and removed, which will be 10 times of the royalty at the prevalent rates as prescribed in rule 48 of RMMC Rules. However, the rule 63 is silent about the recovery of cost of mineral excavated and removed to the extent between 10 to 25 *per cent*, over and above the quantity sanctioned in the permit.

Test check of the records of ME, Bharatpur revealed (October 2008) that a road work was allotted to a contractor on 30 July 2005. The contractor used masonry stone 62,554.71 MT in the work against the authorised quantity of 51,585 MT in STP *i.e* 10,969.71 MT (21.26 *per cent*) masonry stone was used more than specified in STP. The ME, Bharatpur recovered royalty of Rs. 10.01 lakh as against the recoverable amount of Rs. 18.38 lakh resulting in a short recovery of cost of mineral Rs. 8.37 lakh due to lacunae in rules.

After this was pointed out, ME, Bharatpur stated (October 2008) that single royalty was recovered as per rules. However, the fact remains that the cost of mineral was to be recovered for quantity of mineral masonry stone used in excess of 10 *per cent* of permissible quantity in STP.

The matter was reported to the Government and the department (November 2008); their replies have not been received (October 2009).

C. Urban Development Department

6.6 Audit observations

In order to assess whether the lease money is collected and deposited in the Government account by Rajasthan Housing Board (RHB) and Urban Improvement Trusts (UIT), records of various Deputy Housing Commissioners (DHC) and UIT, were scrutinised. Test check of the records revealed several cases of non compliance of the provisions of the Rajasthan Housing Board

¹⁶ Demand and Collection Register.

Principles of Costing (1993-Revised), the Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rule, 1974 and the Government 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. 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.

6.7 Non-compliance of the provisions of the rules

The provisions of the Rajasthan Housing Board Principles of Costing (1993-Revised) and the Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974 require:

- (i) *in case of RHB and UIT, lease or ground rent to be credited to the consolidated fund of the State;*
- (ii) *collection of lease or ground rent from lessee;*
- (iii) *correct valuation of property; and*
- (iv) *fixation of ground rent at prescribed rates.*

The DHC/UIT did not observe some of the above provisions in cases mentioned in the paragraphs 6.7.1 to 6.7.7. This resulted in non/short transfer/recovery of the amount of lease or ground rent of Rs. 61.74 crore.

6.7.1 Non-remittance/short remittance of lease money in the Government account

6.7.1.1 Test check of the records of eight DHC, Circles¹⁷ revealed that lease money Rs. 43.22 crore recovered on behalf of the Government during the period from 2003-2004 to 2007-2008 was not credited/ transferred to the Consolidated Fund of the State.

After this was pointed out, the DHCs stated between August 2008 and March 2009 that collected amount of lease money was not transferred to the Government at circle level but lease money is kept in account of Nodal Bank, maintained in the jurisdiction of the Commissioner, RHB, Jaipur and action in this regard would be taken at their level.

The matter was pointed out to the Commissioner, RHB and reported to the Government in July 2008; their replies have not been received (October 2009).

6.7.1.2 Test check of the records of UIT, Ajmer revealed that a sum of Rs. 2.20 crore being the Government's share of lease money as on 31.3.2003 was not transferred to the Government account. Besides this, Test check of the records of 4 UITs¹⁸ revealed that the lease money and interest amounting to Rs. 63.00 crore was recovered during 2003-04 to 2007-08. Out of this, an amount of Rs. 37.80 crore being 60 per cent of total collection was required to

¹⁷ Alwar, Bikaner, Jaipur-I, II, III, Jodhpur, Kota and Udaipur.

¹⁸ Ajmer, Jodhpur, Kota and Udaipur.

be transferred to the Government account. However, the UITs transferred only Rs. 28.42 crore. Thus, a total amount of lease money of Rs. 11.58 crore was not transferred to the Government account.

After this was pointed out (August 2008 to March 2009) the Government stated (October 2009) that the difference amount of lease money in respect of UIT Ajmer and Udaipur amounting to Rs. 1.78 crore had been deposited into the Government account. Reply in respect of remaining cases has not been received (October 2009).

6.7.2 Non-raising of demands / recovery of lease money and interest

6.7.2.1 Instructions were issued by the State Government vide circular dated 1.10.2002 to recover the amount of lease money on priority basis. Further instructions were issued by RHB, Jaipur vide circular dated 27.2.2001 to all the DHCs to maintain individual accounts of lease holders with immediate effect.

Test check of the records of seven RHB circles¹⁹ revealed that in 73 cases the demands of lease money and interest amounting to Rs. 5.29 crore (**Annexure 'G'**) as worked out by audit were neither raised nor recovered.

After this was pointed out to the respective DHCs between August 2008 and March 2009, all the DHCs stated (September 2009) that demand notices had been issued in all the cases, out of which in three cases, one each in DHC Alwar, Jaipur-I and Udaipur, Rs. 7.56 lakh had been recovered.

6.7.2.2 Instructions were issued to the all UITs and RHB by the State Government vide circular dated 1.10.2002 to recover the outstanding amount of lease money on priority basis.

Test check of the records of 6 UITs²⁰ revealed that demands of lease money were neither raised nor were the recoveries made in 38 cases amounting to Rs. 86.63 lakh.

After this was pointed out between August 2008 and March 2009, the Government stated (October 2009) that out of 23 cases of UIT, Ajmer and Udaipur, in two cases of Ajmer and three cases of Udaipur an amount of Rs. 31.83 lakh had been recovered and in remaining cases demand notices had been issued. Report on recovery and reply in remaining UITs have not been received (October 2009).

6.7.3 Short levy of lease money by RHB due to undervaluation of property

Under rule 34 of Disposal of Property Regulations, 1970, Property Allotment Committee (PAC) is empowered for selection of applicants for allotment of property. The allotment would be made on approved prevailing reserve rates.

¹⁹ Alwar, Jaipur I, II, III, Jodhpur, Kota and Udaipur.

²⁰ Ajmer, Alwar, Bikaner, Jodhpur, Kota and Udaipur.

Test check of the records, of DHC Circle-I, Jaipur revealed that due to undervaluation of property lease money of Rs. 7.50 lakh only was recovered as against leviable amount of Rs. 11.67 lakh. This resulted in short levy of Rs. 4.17 lakh in three cases.

The matter was pointed out to the Board (August 2008); their reply has not been received (October 2009).

6.7.4 Short levy of lease money from Rajasthan State Road Transport Corporation due to application of lower rate

Test check of the records of DHC Circle- I, Jaipur revealed that land admeasuring 15,550 sq. metre in sector-10 of Pratap Nagar, Jaipur was allotted to Rajasthan State Road Transport Corporation (RSRTC) vide allotment order No. 6 dated 3.1.1994 (effective from 19.7.1993) for construction of depot with the annual lease money of Rs. 0.31 lakh at residential rate. RSRTC being a commercial concern, lease money was recoverable at commercial rate of 5 *per cent* of cost of land for the period 7/94 to 6/08. But the Board neither raised the demand nor recovered the amount of lease money and interest from RSRTC. This resulted in short levy of Rs. 19.09 lakh.

After this was pointed out, the DHC circle I, Jaipur stated (August 2008) that progress would be intimated after examination of this case.

6.7.5 Short levy of lease money from institutions due to working out of lease money at concessional reserve rates

As per office Order dated 26.9.1992, the lease money is required to be recovered at one time on total cost of land worked out at original reserve rate irrespective of allotment made to institutions at half of reserve rate or less than that.

Test check of the records of the DHC, Jodhpur revealed that lease money was recovered from institutions on total cost of land worked out at concessional reserve rate instead of original reserve rate. This resulted in short levy of lease money and interest amounting to Rs. 45.30 lakh in seven cases.

The matter was reported to the RHB (November 2008); their reply has not been received (October 2009).

6.7.6 Non-remittances of the Government share of interest recovered on lease money by UIT, Ajmer

Under Rule 7 (5) of the Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974, interest on late payment of urban assessment (ground rent) shall be charged at prescribed rate.

Test check of the records of UIT Ajmer revealed that interest receipt on every type of late payment was kept under one account without classification and segregation of interest received on lease money. Further from the challans of

lease money deposited, it was noticed that in the year 2007-08 an amount Rs. 116.37 lakh received by UIT as interest, of which Rs. 16.23 lakh was on account of interest on lease money. Out of this, Rs. 9.74 lakh (60 per cent) was required to be credited into the Government account. Further, interest on lease money is also required to be calculated in above manner and credited to the Government account for the year 2003-04 to 2006-07.

After this was pointed out the UIT, Ajmer stated (September 2008) that the amount would be deposited as per rules.

6.7.7 Non-maintenance of individual account of lease holders by RHB/UIT

The concerned institutions had to maintain individual accounts of each lease holder so that position of the total demands, collection and outstanding balances of lease money, could be ascertained at a glance.

Test check of the records of six UITs²¹ and eight circles of RHB²² revealed that individual accounts of lease holders were not being maintained. In the absence of individual accounts, total amount of demands, collections and outstanding balances of lease money could not be worked out.

After this was pointed out between August 2008 and March 2009, the concerned offices confirmed the non-maintenance of records. The DHC Circle Jaipur-II, III, and Kota while accepting the facts also stated that new Computer Software was being prepared for maintenance of the individual accounts of lease holders.

The above observations were brought to the notice of the Government and the department (May 2009), their reply has not been received (October 2009).

D. Home (Police) Department

6.8 Non-raising of demand

Under provisions of section 13 of the Police Act, 1861, police officials can be deployed on an application of any person showing the necessity thereof. Such deployment shall be at the charge of the persons making the applications.

Test check of records of Superintendent of Police office, Jaipur City (South) revealed that the police forces were deployed during the cricket matches of ICC-Champion Trophy 2006 on the request made by Rajasthan Cricket Association (RCA) from 11 October 2006 to 2 November 2006 in SMS Stadium, Jaipur. However, no action was initiated by the department for raising the demand of police cost of Rs. 84.98 lakh on account of deployment of police forces at the request of RCA Jaipur.

²¹ Ajmer, Alwar, Bikaner, Jodhpur, Kota and Udaipur.

²² Alwar, Bikaner, Jaipur-I, II, III, Jodhpur, Kota and Udaipur.

After this was pointed out in May 2008, the Government intimated (July 2009) that a demand of Rs. 1.15 crore had been raised against RCA. Further report of recovery has not been received (October 2009).

JAIPUR
The

(MEERA SWARUP)
Accountant General
(Commercial & Receipt Audit), Rajasthan

Countersigned

NEW DELHI
The

(VINOD RAI)
Comptroller and Auditor General of India

Annexure-A
(Refer paragraph 1.12)

Position of paragraphs which appeared in the Audit Reports and those pending discussion as on 31 October 2009

Name of Tax		2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	Total
Taxes on Sales, Trade etc.	Paras appeared in the Audit Report.	15	7	6	14	11	5	58
	Paras pending for discussion	-	-	-	14	11	5	30
Taxes on Motor Vehicles	Paras appeared in the Audit Report.	7	3	8	6	6	9	39
	Paras pending for discussion	-	-	8	6	6	9	29
Land Revenue	Paras appeared in the Audit Report.	2	2	4	2	1	4	15
	Paras pending for discussion	-	-	4	2	1	4	11
Stamp duty and Registration fee	Paras appeared in the Audit Report.	1	4	3	3	3	4	18
	Paras pending for discussion	-	-	-	3	3	4	10
State Excise	Paras appeared in the Audit Report.	5	3	4	2	5	4	23
	Paras pending for discussion	-	-	-	2	5	4	11
Lands and Buildings Tax	Paras appeared in the Audit Report.	3	5	-	-	-	-	8
	Paras pending for discussion	-	5	-	-	-	-	5
Mining	Paras appeared in the Audit Report.	8	5	1	9	9	9	41
	Paras pending for discussion	-	5	1	9	9	9	33
Others	Paras appeared in the Audit Report.	4	2	1	3	6	4	20
	Paras pending for discussion	1	-	-	3	6	4	14
Total	Paras appeared in the Audit Report.	45	31	27	39	41	39	222
	Paras pending for discussion	1	10	13	39	41	39	143

**Annexure-B
(Refer paragraph 1.12)**

The position of outstanding ATNs due from the departments as on 31 October 2009

Sl. no.	No. of PAC Report	Date of presentation in Assembly	Name of department	Year of Audit Report	No. of ATNs due
1	119 th Report 1997-1998	27.7.2000	MVT	1994-95 & 1995-96	39
2	210 th Report of 2003-04	25.8.03	Devasthan	1997-98	14
3	216 th Report of 2003-04	25.8.03	LR	1998-99	14
4	217 th Report of 2003-04	25.8.03	Sales Tax	1998-99	13
5	219 th Report of 2003-04	8.8.2003	Irrigation	1998-99 to 2000-01	8
6	88 th Report of 2004-05	2.12.2004	Sales Tax	2001-02	2
7	89 th Report of 2004-05	2.12.2004	LR	2000-01	3
8	98 th Report of 2004-05	31.3.2005	State Excise	2001-02	5
9	116 th Report of 2005-06	4.3.2006	LBT	2000-01 2001-02	8
10	119 th Report of 2005-06	4.3.2006	MVT	2000-01	6
11	138 th Report of 2005-06	27.3.2006	SR	2000-01	4
12	139 th Report of 2005-06	27.3.2006	SR	2001-02	5
13	168 th Report of 2006-07	4.10.2006	State Excise	2002-03	15
14	167 th Report of 2006-07	4.10.2006	Medical & Health	2003-04 2004-05	1
15	187 th Report of 2006-07	29.3.2007	State Excise	2003-04 & 2004-05	7
16	189 th Report of 2006-07	29.3.2007	LBT	1999-2000	6
17	190 th Report of 2006-07	29.3.2007	LR	1999-2000	12
18	191 st Report of 2006-07	29.3.2007	SR	2002-03	17
19	193 rd Report of 2006-07	29.3.2007	Interest Receipt and Guarantee Commission	2001-02	12
20	251 st Report of 2007-08	17.3.2008	Mines	2001-02	8
21	252 nd Report of 2007-08	17.3.2008	Mines	2002-03	10
22	255 th Report of 2007-08	17.3.2008	LR	2003-04	2
23	260 th Report of 2007-08	17.3.2008	Sales Tax	2003-04	4
24	268 th Report of 2008-09	15.7.2008	GAD	2002-03	5
25	269 th Report of 2008-09	15.7.2008	SR	2003-04	10
26	270 th Report of 2008-09	15.7.2008	SR	2004-05	04
Total					234

Annexure–C

(Refer paragraph 3.2.6)

Statement showing the calculation of Sample Size

(A) First Stage Sampling (Selection of RTO/DTO)

There are 37 vehicle registering district in the state, out of which 1/3 transport districts (12) were selected for review on the basis of PPS-WR method after classifying them into three categories of A, B & C based on quantum of revenue generated by them.

(B) Second Stage Sampling (Selection of record)

Formula for finalizing the Optimum Sample Size is as under:-

$$\frac{(Z)^2 P (1-P)}{(E)^2}$$

Here 'Z' denotes confidence level (in percentage), value of 'Z' is fixed

'P' denotes Average Audit Objection (in percentage)

'E' denotes Margin of Error (in percentage)

The values of these factors (category wise) were taken as below:-

Category	Confidence Level (In %) (Z)	Z Value	Margin of Error (In %) (E)	Average Audit Objection (In %) (P)	No of records checked
Category –I	99	2.58	2	1	165
Category-II	99	2.58	3	5	350
Category –III	99	2.58	3	5	350
Category - IV	99	2.58	3	2	150#

the formula used above gives 145 records. However, audit checked 150 records for this category.

Sample size may be reduced in ratio N_0/N is more than 5% i.e.

$$N_1 = \frac{N_0}{1 + \frac{N_0}{N}}$$

In case the details of a particular record selected were not available the sample has been accordingly reduced and the resultant effect taken in account in calculating the total estimated amount of short/non levy of revenue.

Annexure-D
(Refer paragraph 3.2.6)
Statement showing Sampling of Twelve units selected for review

Sr. No.	Name of Unit	Category	Annexure	Page no.	S.No. of Random Nos	Column No.	Random No.	Sample Selected	Vehicle Population	Interval	First No.	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13
1.	RTO Jaipur	I	III	1	00001	2	05	165	504874	3060	RJ-14-40M-5219	
		II	"	2	00055	4	85	350	26784	76	RJ-14-P-0085	
		III	"	3	00111	5	94	350	49820	142	RJ-14-G-0094	
		IV	"	4	00182	2	07	150	13009	87	RJ-14-T-0007	
2.	DTO Sriganganagar	I	III	1	00001	3	94	165	49957	302	RJ13-6M-4632	
		II	"	2	00055	5	61	350	5519	16	RJ13-P-0061	
		III	"	3	00111	6	74	350	14031	40	RJ13-G-0074	
		IV	"	4	00182	3	97	121	627	05	RJ13-T-0097	Reduced
3.	RTO Chittorgarh	I	III	1	00001	4	96	165	67546	410	RJ-09-5M-2118	
		II	"	2	00055	6	73	350	3645	11	RJ-09-P-0073	
		III	"	3	00111	7	71	350	13192	37	RJ-09-G-0071	
		IV	"	4	00182	4	74	129	905	07	RJ-09-T-0074	Reduced
4.	RTO Kota	I	III	1	00001	5	06	165	117691	713	RJ-20-12-M-0006	
		II	"	2	00055	7	18	350	8964	26	RJ-20-P-0018	
		III	"	3	00111	8	36	350	14374	41	RJ-20-G-0036	
		IV	"	4	00182	5	05	150	2099	14	RJ-20-T-0005	
5	DTO Beawar	I	III	1	00001	6	37	165	23234	141	RJ-36-M8454	
		II	"	2	00055	8	58	268	1152	5	RJ-36-P-0058	Reduced
		III	"	3	00111	9	58	290	1676	6	RJ-36-G-0058	Reduced
		IV	"	4	00182	6	32	110	415	4	RJ-36-T-0032	Reduced
6.	DTO Baran	I	III	1	00001	7	36	165	42802	165	RJ-28-2M-6241	
		II	"	2	00055	9	23	237	734	3	RJ-28-P-0023	Reduced
		III	"	3	00111	10	65	312	2837	9	RJ-28-G-0065	Reduced
		IV	"	4	00182	7	17	116	516	5	RJ-28-T-0017	Reduced
7.	DTO Jaisalmer	I	III	1	00001	8	02	165	8450	51	RJ-15-M-4965	
		II	"	2	00055	10	20	273	1246	5	RJ-15-P-0020	Reduced
		III	"	3	00112	1	60	304	2293	8	RJ-15-G-0060	Reduced
		IV	"	4	00182	8	44	120	603	5	RJ-15-T-0044	Reduced

Sr. No.	Name of Unit	Category	Annexure	Page no.	S.No. of Random Nos	Column No.	Random No.	Sample Selected	Vehicle Population	Interval	First No.	Remarks
8.	RTO Alwar	I	III	1	00001	9	22	165	117121	710	RJ-02-9M-2531	
		II	"	2	00056	1	06	350	2954	9	RJ-02-P-0006	
		III	"	3	00112	2	05	350	13453	38	RJ-02-G-0005	
		IV	"	4	00182	9	01	150	495	4	RJ-02-T-0001	Reduced
9.	DTO Kotputali	I	III	1	00001	10	65	165	20195	122	RJ-32-M-6459	
		II	"	2	00056	2	64	275	1286	5	RJ-32-P-0064	Reduced
		III	"	3	00112	3	09	350	7291	21	RJ-32-G-0009	
		IV	"	4	00182	10	93	120	596	5	RJ-32-T-0093	Reduced
10.	RTO Udaipur	I	III	1	00002	1	22	165	124904	757	RJ-27-13M-0647	
		II	"	2	00056	3	33	350	7599	22	RJ-27-P-0033	
		III	"	3	00112	4	32	350	21029	60	RJ-27-G-0032	
		IV	"	4	00183	1	29	150	4447	30	RJ-27-G-0029	
11	DTO Bhilwara	I	III	1	-	-	-	300	98580	year wise		
		II	"	2	00054	4	03	350	3882	11	RJ-06-P0003	
		III	"	3	00122	7	03	350	12505	36	RJ-06-G-0003	
		IV	"	4	00169	4	03	200	928	05	RJ-06-T-0003	
12	DTO Sirohi	I	III	1	00001	1	42	300	23188	year wise	RJ-24-2M-3004	
		II	"	2	00060	4	01	350	3143	9	RJ-24-P-0001	
		III	"	3	00130	5	90	350	3302	9	RJ-24-G-0090	
		IV	"	8	00175	9	42	200	928	12	RJ-24-T-0084	

Annexure-E
(Refer paragraph 3.2.6)
Statement of multiplier
Period of review 2003-04 to 2007-08

S.No.	Name of Unit	Category-I	Category-II	Category-III	Category-IV
		Sample Checked	Sample Checked	Sample Checked	Sample Checked
1	D.T.O. Bhilwara	300	350	350	200
2	D.T.O. Sirohi	273	334	332	200
3	R.T.O. Jaipur	164	343	347	150
4	D.T.O. Sriganganagar	161	350	350	116
5	R.T.O. Chittorgarh	165	350	350	129
6	R.T.O. Kota	165	335	346	147
7	D.T.O. Beawar	165	264	288	107
8	D.T.O. Baran	165	205	289	113
9	D.T.O. Jaisalmer	164	271	295	120
10	R.T.O. Alwar	165	350	350	113
11	D.T.O. Kotputali	162	274	350	118
12	R.T.O. Udaipur	156	349	349	150
	Total	2205	3775	4006	1663

Multiplier:- Vehicle Population

Sample selected	<u>2257975</u>	<u>161504</u>	<u>297423</u>	<u>54321</u>
	2205	3775	4006	1663
	= 1024.02	= 42.78	= 74.24	= 32.66

Statement showing extrapolated results of review on 'Levy & collection of tax in Transport Department'

Formula for extrapolation :- Multiplier X Amount = Estimated amount

Subject	CATEGORY-I		CATEGORY-II		CATEGORY-III		CATEGORY-IV		TOTAL
	Amount	Estimated amount	Amount	Estimated amount	Amount	Estimated amount	Amount	Estimated amount	
Non-levy of Temporary Registration Fee	-	-	1400	59892	4200	311808	-	-	371700
Non levy of Compounding Fee	13100	13414662	500	21390	-	-	-	-	13436052
Non levy of Permit Fee	-	-	12000	513360	-	-	-	-	513360
Non recovery of Tax and penalty	-	-	52420022	2242528541	23717942	1760820014	14013492	457680649	4461029204
Short recovery of Tax and penalty	57750	59137155	374725	16030736	2458291	182503524	920625	30067613	287739028
Non levy of Penalty on late deposit of tax	4151	4250707	-	-	64809	4811420	1800	58788	9120915
Non levy of penalty on vehicles plying without re-registration	-	-	-	-	55000	4083200	-	-	4083200
							TOTAL		4776293459

Annexure-F
(Refer paragraph 6.2.9.3)
Loss due to abnormal leakage of water during the period from 2003-04 to 2007-08

Sl. no.	Name of division/office	Year	Production of water (kl)	Distribution of water to consumers (kl)	Total loss of water (kl)	Accepted loss (10/20 percent) as per norms (kl/percent)	Loss of water in excess of norms (kl/percent)	Cost of production of water (Rs/kl)	Loss of revenue (Rs. in crore)
1.	XEN, PHED, Revenue Division(South), Jaipur	2003-04	62121500	32980973	29140527(46.90)	12424300	16716227(26.90)	4.10	6.85
		2004-05	64800000	35131888	29668112(45.72)	12960000	16708112(25.78)	4.43	7.40
		2005-06	67002000	37803360	29198640(56.92)	13400400	15798240(36.92)	4.63	7.31
		2006-07	66016000	40658544	25357456(38.41)	13203200	12154256(18.41)	4.95	6.02
		2007-08	73534800	44591529	28943271(38.66)	14706960	14236311(18.66)	4.98	7.09
2.	XEN, PHED, Revenue Division(North), Jaipur	2003-04	53514000	26995949	26518051(49.56)	10702800	15815251(29.55)	5.17	7.93
		2004-05	56664000	28271903	28392097(50.11)	11332800	17059297(30.11)	5.07	8.65
		2005-06	61650000	29810259	31839741(51.65)	12330000	19509741(31.65)	5.70	11.12
		2006-07	68112000	31744406	36367594(53.89)	13622400	22745194(33.39)	5.45	13.39
		2007-08	70743500	33337481	37406019(52.87)	14148700	23257319(32.88)	5.60	13.02
3.	XEN, PHED, Rev. Dn., Ajmer	2007-08	30842730	21580000	9262730(30.03)	6168546	3094184(10.03)	6.96	2.14
4.	XEN, PHED, Revenue Division, Kota	2003-04	65757800	28988261	36769539(55.91)	6575780	30193759(45.91)	1.93	5.83
		2004-05	68169700	31421099	36748601(53.91)	6816970	29931631(43.91)	1.92	5.75
		2005-06	72014700	32667723	39346977(54.63)	7201470	32145507(44.64)	1.85	5.95
		2006-07	71091400	30838638	40252762(56.62)	7109140	33143622(46.62)	2.32	7.69
		2007-08	86368900	32740629	53628271(62.09)	8636890	44991381(52.09)	1.78	8.01
5.	XEN,PHED, Revenue Division, Jodhpur	2003-04	60749712	35261341	25488371(41.96)	12149942	13338429(21.96)	10.08	13.45
		2004-05	69652407	36081763	33570644(48.20)	13930481	19640163(28.20)	9.57	18.80
		2005-06	79113054	34996314	44116740(55.76)	15822610	28294130(35.76)	9.43	26.68
		2006-07	84526401	42243532	42282869(50.52)	16905280	25377589(30.02)	9.27	23.52
		2007-08	87326900	42749980	44576920(50.05)	17465380	27111540(30.05)	9.85	26.70
6.	XEN,PHED, Revenue Division, Sriganganagar	2004-05	10950000	7639134	3310866(30.23)	2190000	1120866(10.23)	3.99	0.45
		2005-06	12775000	9581250	3193750(25.00)	2555000	638750(5.00)	3.42	0.22
		2006-07	12775000	9581250	3193750(25.00)	2555000	638750(5.00)	3.58	0.23
		2007-08	13800000	10350000	3450000(25.00)	2760000	690000(5.00)	3.30	0.23
			1470071504	748047206		Total			234.43

Annexure-G
(Refer paragraph 6.7.2.1)

**Non-raising of demands/recovery of lease money and interest by Rajasthan
Housing Board**

(Amount in rupees)

Sl. no.	Name of office	Number of cases	Lease money	Interest on lease money	Total
1.	Deputy Housing Commissioner Circle Alwar	14	1,86,073	1,65,736	3,51,809
2.	Deputy Housing Commissioner Circle I, Jaipur	8	93,32,750	50,22,154	1,43,54,904
3.	-do- Circle -II, Jaipur	10	82,05,851	35,63,398	1,17,69,249
4.	-do- Circle III Jaipur	10	72,73,795	76,06,509	1,48,80,304
5.	-do- Jodhpur	2	43,64,874	45,58,578	89,23,452
6.	-do- Kota	19	16,41,093	4,03,541	20,44,634
7.	-do- Udaipur	10	58,70,10	8,634	5,95,644
Total		73	3,15,91,446	2,13,28,550	5,29,19,996