

CHAPTER-IV

REVENUE RECEIPTS

PART A - GENERAL

4.1.1 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of J&K during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States 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:-

Table 4.1

(₹ in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	Revenue raised by the State Government					
	Tax Revenue	1626.84	1798.97	2558.18	2682.96	3027.32
	Non-tax revenue	535.81	632.53	807.98	837.16	955.03
	Total	2162.65	2431.50	3366.16	3520.12	3982.35
2.	Receipts from the Government of India					
	Share of net proceeds of divisible Union taxes and duties	1135.36	1413.43	1775.01	1826.95	1914.76
	Grants-in-aid	7017.14	7337.10	8135.87	8955.46	11690.71
	Total	8152.50	8750.53	9910.88	10782.41	13605.47
3.	Total revenue receipts of the State Government (1& 2)	10315.15	11182.03	13277.04	14302.53	17587.82
4.	Percentage of 1 to 3	21	22	25	25	23

The above table indicates that during the year 2009-10, the overall receipts of the State increased by 23 per cent over the previous year. The revenue raised by the State's own receipts (₹ 3,982.35 crore) was 23 per cent of the total revenue receipts against 25 per cent in the preceding year. The balance 77 per cent receipts were met from the funds received from Government of India (GOI) of which 85.9 per cent came in the form of Grants-in-aid. The Grants-in-aid from GOI constituted 66.5 per cent of the State's receipts.

4.1.1.1 The following table presents the details of tax revenue raised during the period 2005-06 to 2009-10.

Table 4.2 (₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/decrease (-) in 2009-10 over 2008-09
1.	Tax on sales trade (sales tax/VAT) etc.	1014.49	1159.72	1804.81	1835.99	2145.72 ¹	(+) 17
2.	State excise	218.68	212.80	244.15	238.67	293.78	(+) 23
3.	Stamp duty and registration fees						
	Stamps judicial	3.74	7.48	5.00	5.83	9.01	(+) 55
	Stamps non-judicial	33.99	41.36	50.48	41.75	51.97	(+) 24
	Registration fees	8.70	8.08	10.14	9.55	8.53	(-) 11
4.	Taxes and duties on electricity	58.02	59.70	93.49	150.76	120.34	(-) 20
5.	Taxes on vehicles	49.17	63.96	72.60	65.47	83.09	(+) 27
6.	Tax on goods and passengers	236.27	243.16	264.59	271.39	299.43	(+) 10
7.	Taxes on immovable property on other than agricultural income	0.09	0.06	-	-	-	-
8.	Land revenue	3.47	2.57	9.58	63.53	15.41	(-) 76
9.	Others taxes and duties commodities and services	0.22	0.07	3.33	0.01	0.02	(+) 100
	Total	1626.84	1798.96	2558.17	2682.95	3027.30	(+) 13

The reasons for variations in receipts for 2009-10 from those of 2008-09 reported by the departments concerned are as under:-

Taxes on Sales/Trades etc: The increase was due to more receipts under VAT.

State Excise: The increase was mainly due to more receipts on 'sale of country spirits'.

Stamps: The increase was due to increased sale of stamp (judicial and non-judicial).

Taxes and Duties on Electricity: Decrease under taxes and duties on electricity was due to collection of less receipts on account of taxes on consumption and sale of electricity than that assessed.

Taxes on vehicles: Increase was mainly due to collection of more receipts under State Motor Vehicle Taxation.

¹ Includes ₹ 50 crore representing waiver booked as incentive under MH-2040 by credit to MH-0040 by the Department.

Tax on goods and passengers: Increase is mainly due to more collection of ‘tolls on roads’ and ‘passenger tax’.

4.1.1.2 The following table presents the details of the non-tax revenue raised during the period 2005-06 to 2009-10.

Table 4.3

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Power	384.31	478.94	600.94	629.98	723.64	(+) 15
2.	Interest receipts, dividends and profits	25.05	34.02	65.33	56.51	54.80	(-) 3
3.	Forestry and wild life	45.51	18.99	32.20	31.61	37.46	(+) 19
4.	Public works	12.63	16.16	16.44	16.89	23.87	(+) 41
5.	Medical and Public Health	8.83	12.62	13.21	9.92	9.49	(-) 4
6.	Water supply and sanitation	9.58	10.95	13.64	14.65	13.16	(-) 10
7.	Police	8.01	6.59	4.21	10.35	12.84	(+) 24
8.	Non-ferrous mining and metallurgical industries	8.54	9.98	16.43	14.86	25.34	(+) 71
9.	Crop Husbandry	4.35	4.31	4.52	5.00	5.23	(+) 5
10.	Animal Husbandry	3.98	4.75	4.66	4.70	5.13	(+) 9
11.	Education, Sports, art and culture	1.33	1.69	1.53	1.61	2.21	(+) 37
12.	Others	23.69	33.53	34.87	41.08	41.86	(+) 2
	Total	535.81	632.53	807.98	837.16	955.03	(+) 14

The reasons for variations in receipts for 2009-10 from those of 2008-09 reported by the concerned departments are as under:-

Power: The increase was due to collection of more receipts on account of power tariff.

Interest Receipts: The decrease was mainly due to collection of less revenue on other interests and less credit afforded under irrigation schemes.

Non-ferrous Mining and Metallurgical industries: The increase was mainly due to more receipts on account of Mineral Concession Fees, Rents and Royalties.

4.1.2 Variation between the budget estimates and actuals

The variation between the budget estimates of revenue receipts and the actual receipts under the principal heads of tax and non-tax revenue for the year 2009-10 is mentioned below:-

Table 4.4

(₹ in crore)

S. No	Revenue head	Budget estimates	Actual Receipts	Variations increase(+)/ shortfall(-)	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
Tax Revenue					
1.	Taxes/VAT on sales , trade etc.	2065.70	2145.72	(+) 80.02	(+) 4
2.	State Excise	260.00	293.78	(+) 33.78	(+) 13
3.	Stamp duty and registration fees	82.61	69.51	(-) 13.10	(-) 16
4.	Taxes on vehicles	83.50	83.10	(-) 0.40	(-) 0.48
5.	Taxes and duties on electricity	195.38	120.35	(-) 75.03	(-) 38
6.	Land revenue	8.52	15.41	(+) 6.89	(+) 81
7.	Other taxes and duties on commodities and services	-	0.02	-	-
8.	Taxes on goods and passengers-Tax on entry of goods into local areas	315.64	299.43	(-) 16.21	(-) 05
Non-Tax Revenue					
1.	Non-ferrous mining and metallurgical industries	18.15	25.34	(+) 7.19	(+) 40
2.	Forestry and wild life	39.49	37.46	(-) 2.03	(-) 05
3.	Interest receipts	21.24	10.63	(-) 10.61	(-) 50
4.	Water rates (medium irrigation)	1.96	1.37	(-) 0.59	(-) 30

The departments did not inform (October 2010) the reasons for variation despite repeated requests.

4.1.3 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of taxes on sales, trade and Motor spirits, etc. during the year 2009-10 and corresponding figures for the preceding four years as furnished by the Finance (Commercial Taxes) Department is mentioned below:

Table 4.5

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Total collection ²	Percentage of column 3 to 6
1	2	3	4	5	6	7
Taxes on Sales/VAT,	2005-06	736.74	3.66	-	740.37	100
	2006-07	887.11	1.00	-	888.11	100
	2007-08	1160.63	1.16	50.30	1212.09	96
	2008-09	1275.28	4.65	55.43	1335.36	96
	2009-10	1768.08	7.42	16.15	1791.65	99
Motor spirit tax.	2005-06	218.27	0.14	-	218.41	100
	2006-07	248.99	-	0.20	249.19	100
	2007-08	268.37	0.02	0.02	268.41	100
	2008-09	294.90	-	-	294.90	100
	2009-10	369.24	-	-	369.24	100

(Source: Figures supplied by the Department)

The foregoing table indicates that pre-assessment collections ranged between 96 and 100 per cent.

4.1.4 Cost of collection

The gross collection of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the year 2007-08 to 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collections for 2008-09 are mentioned below: -

Table 4.6

(₹ in crore)

S. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2008-09
1.	Taxes/VAT on sales, trade etc.	2007-08	1804.81	14.52	0.80	0.88
		2008-09	1835.99	15.30	0.83	
		2009-10	2145.72	23.56 ³	1.10	
2.	State excise	2007-08	244.15	9.88	4.05	3.66
		2008-09	238.67	11.10	4.65	
		2009-10	293.78	12.37	4.21	
3.	Stamp duty and registration fees	2007-08	65.63	13.41	20.43	2.77
		2008-09	57.14	6.04	10.57	
		2009-10	69.51	7.80	11.22	
4.	Taxes on vehicles	2007-08	72.60	3.98	5.48	2.93
		2008-09	65.47	4.73	7.22	
		2009-10	83.10	4.56	5.49	

Evidently the percentage cost of collection in respect of all the revenue heads mentioned in the table was much higher than the All India Average, which needs to be looked into.

² Variation between departmental figures and figures of finance account has been pointed out to the Department. The reply has not been received (October 2010).

³ Excluding ₹ 50 crore representing waiver booked as incentive under MH-2040 by credit to MH-0040 by the Department.

4.1.5 Analysis of arrears of revenue

The arrears of revenue, as on 31 March 2010, in respect of the principal heads of revenue as reported by the departments was ₹ 1211.70 crore of which ₹ 650.52 crore were outstanding for more than five years as mentioned below:-

Table 4.7

(₹ in crore)

S. No.	Heads of revenue	Amount outstanding as on 31 March 2010	Amount outstanding for more than five years	Remarks
1.	Taxes on Sales/VAT, Trades etc.	1153.66	616.27	Out of the arrears recovery of ₹ 82.26 crore was stayed by courts/appellate authorities/proposed for recovery as arrears of land revenue.
2.	State excise	4.77	4.77	Out of total arrears, recovery of ₹ 0.94 crore was stayed by court and ₹ 2.09 crore was proposed to be recovered by collectors as arrears of land revenue.
3.	Motor spirit tax	0.75	-	The recovery of ₹ 0.75 crore was stayed by courts/appellate authorities/proposed for recovery as arrears of land revenue.
4.	Passenger tax	28.06	18.67	Nil.
5.	Entertainment Tax	0.21	0.21	Nil.
6.	Toll Tax	24.25	10.60	Out of total arrears, ₹ 4.61 crore are proposed to be recovered as arrears of land revenue and ₹ 9.02 crore have been stayed by the Courts. ₹ 0.02 crore are due for recovery for which demand notices have been issued.
	Total	1211.70	650.52	

(Source: Figures supplied by the Department)

The arrears outstanding for more than five years constituted 54 per cent of total arrears and need to be recovered quickly.

4.1.6 Arrears in assessment

The details of cases pending assessment at the beginning of the year 2009-10, cases due for assessment, those disposed of during the year and cases pending finalisation at the end of the year 2009-10, as furnished by the Commercial Taxes Department in respect of sales tax/VAT and tax on works contracts, are as follows:

Table 4.8

(₹ in crore)

Sl. No.	Name of tax	Opening balance	New cases due for assessment during 2009-10	Total number of assessments due	Cases disposed during the year 2009-10	Balance at the end of the year	Percentage of column 6 to 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Sales tax	11,364	12,778	24,142	15,647	8,495	65
2.	Tax on works contracts	17,175	9,400	26,575	4,269	22,306	16
Total		28,539^d	22,178	50,717	19,916	30,801	39

(Source: Figures supplied by the Department)

The foregoing table indicates that the percentage of disposal of assessment was very low.

The Government may consider issuing directions to the Department to take immediate steps to complete the pending assessments in a time bound manner.

4.1.7 Evasion of tax

The details of cases of evasion of tax detected by the departments, cases finalized and demands raised as reported by the department concerned are mentioned below:

Table 4.9

Department	Cases pending as on 31 March 2009	Cases detected during 2009-10	Total	Number of cases in which assessments/investigation completed and additional demand including penalty etc. raised during the year 2009-10		Number of pending cases as on 31 March 2010
				No. of cases	(₹ in lakh)	
1. Commercial Tax Department	277 ⁵	2357	2634	2424	296.38	210
2. State Excise	1	-	1	-	-	1
3. Passenger Tax	Nil	688	688	688	1.48	Nil

(Source: Figures supplied by the Department)

The progress of recovery against the demand raised was not intimated (October 2010).

4.1.8 Write-off and waiver of revenue

The status of arrears pertaining to Sales Tax/VAT waived off and reduced due to rectification, appeals and remission during the year 2009-10 is given in the following table.

Table 4.10

(₹ in crore)

Amount of arrears waived off	66.51
Amount of arrears reduced due to rectification, appeals and remission	157.95

(Source: Figures supplied by the Department)

⁴ The variations in closing balance ending 31 March 2009 and opening balance as on 01 April 2009 has been pointed out to the Department (September 2010), the reply is awaited (October 2010).

⁵ The variations in closing balance ending 31 March 2009 and opening balance as on 01 April 2009 has been pointed out to the Department (September 2010), the reply is awaited (October 2010).

4.1.9 Refund

The number of refund cases pending at the beginning of the year 2009-10, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2010), as reported by the Sales tax department is mentioned below.

Table 4.11

(₹ in lakh)

S. No.	Particulars	Sales Tax	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year	13 ⁶	13.75
2.	Claims received during the year	Nil	Nil
3.	Refunds made during the year	3	0.95
4.	Balance outstanding at the end of the year	10	12.80

(Source: Figures supplied by the Department)

Reduction in pending refund cases as compared to previous year was encouraging.

⁶ The variations in closing balance ending 31 March 2009 and opening balance as on 01 April 2009 has been pointed out to the Department (September 2010), the reply is awaited (October 2010).

PART B - SALES TAX/VALUE ADDED TAX**4.1.10 Tax Administration**

The Commissioner-cum-Secretary, Finance is responsible for overall working of the Commercial Taxes Department at the Government level. The control and superintendence of the Department vests with the Commissioner Commercial Taxes (CCT), who is assisted by three Additional Commissioners of Commercial Taxes (two at Jammu and one at Srinagar) and 11 Deputy Commissioners, Commercial Taxes for carrying out various functions of the Department. The State has been divided into 45 Commercial Taxes Circles, each headed by a Commercial Taxes Officer (CTO).

4.1.11 Trend of receipts

Actual receipts from VAT during the last five years from 2005-06 to 2009-10 alongwith the total tax receipts during the same period are mentioned below:-

Table 4.12 (₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax /Non-tax receipts of the State	Percentage of actual VAT receipts vis-a-vis total tax/non-tax receipts
2005-06	950.00	1014.49	(+) 64.49	07	2162.65	47
2006-07	1235.00	1159.72	(-) 75.28	06	2431.50	48
2007-08	1422.31	1804.81	(+) 382.50	27	3366.16	54
2008-09	1778.00	1835.99	(+) 57.99	03	3520.12	52
2009-10	2065.70	2145.73	(+) 80.03	04	3982.35	54

4.1.12 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 on account of taxes on Sale/VAT, Trades, etc. amounted to ₹ 1153.66 crore of which ₹ 616.27 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10.

Table 4.13 (₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
2005-06	825.94	877.08
2006-07	877.08	943.48
2007-08	943.48	960.39
2008-09	960.39	735.07
2009-10	735.07	1153.66

(Source: Figures supplied by the Department)

As can be seen the arrears have accumulated to ₹ 1153.66 crore showing quantum jump of 57 per cent over the arrears of the previous year. Appropriate steps need to be taken for recovery. The arrears outstanding for more than five years constituted 53 per cent of the total arrears and need to be recovered on priority.

4.1.13 Cost of VAT per assessee

Table 4.14

Year	No. of assessee	Sales Tax/VAT (₹ in crore)	Cost of collection (₹ in crore)	Cost of collection of VAT per assessee (₹)
2009-10	57722	2145.72	23.56 ⁷	4082

4.1.14 Cost of collection

The gross collection of VAT receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the year 2007-08 to 2009-10 along with the relevant all India Average percentage of expenditure on collection to gross collections for 2008-09 are mentioned below:-

Table 4.15

(₹ in crore)

S. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2008-09
1.	Taxes/VAT on sales trade etc.	2007-08	1804.81	14.52	0.80	0.88
		2008-09	1835.99	15.30	0.83	
		2009-10	2145.73	23.56	1.09	

(Source: Figures supplied by the Department)

The figures in the above table reveal that the cost of collection of VAT on sales/Trade, etc. upto 2008-09 has been lower than the all India average, which was encouraging. However, during 2009-10 there has been substantial increase (54 per cent) in the growth rate in cost of collection, as compared to previous year which needs to be looked into.

⁷ Excluding ₹ 50 crore representing waiver booked as incentive under MH 2040 by credit to MH-0040 by the Department.

PART C Response of the Government and assurances**4.1.15 Failure of senior officials to enforce accountability and protect the interest of the State Government**

The Principal Accountant General (Audit), J&K (PAG) conducts periodical inspection of the Government Departments to test-check the transactions and verify the maintenance of the important accounts and other records as prescribed under rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection reports issued upto June 2009 disclosed that 1,678 paragraphs involving ₹ 745.83 crore relating to 487 IRs remained outstanding at the end of June 2009 as mentioned below along with the corresponding figures for the preceding two years.

Table 4.16

	June 2007	June 2008	June 2009
Number of outstanding IRs	377	437	487
Number of outstanding audit observations	1363	1503	1678
Amount involved (₹ in crore)	687.40	725.59	745.83

The department-wise details of the IRs and audit observations outstanding as on 30th June 2009 and the amounts involved are mentioned below:-

Table 4.17

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance	Taxes/VAT on sales, trade etc.	232	1070	639.33
2.	Excise	State excise	48	92	81.12
3.	Transport	Taxes on motor vehicles	45	144	20.49
4.	Stamps and registration	Stamps and registration fees	162	372	4.89
	Total		487	1678	745.83

This large pendency of the IRs due to non-receipt of replies indicated failure of the heads of offices and heads of the Departments to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG.

It is recommended that the Government must take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.

4.1.16 Departmental Audit Committee Meetings

During the year 2009-10, no Audit Committee meeting was held in respect of Revenue Audit Wing.

4.1.17 Response of the Departments to the draft audit paragraphs

The draft paragraphs containing important audit observations noted during periodical local inspections, proposed to be included in the Audit Report of the Comptroller and Auditor General of India (CAG), are forwarded to the Secretaries of the Departments concerned, drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Departments is invariably indicated at the end of each such paragraph included in the Audit Report.

Five audit paragraphs and one review proposed to be included in the Report of the CAG for the year ended March 2010, Government of Jammu and Kashmir were forwarded to the Secretaries of the respective Departments' upto September 2010. Out of these, replies of only three paragraphs were received upto October 2010. The remaining two draft paragraphs have been included without the response of the Government.

4.1.18 Follow up on Audit Reports - summarised status

Status of reviews/paragraphs of Revenue Receipts Chapter pending discussion by the Public Accounts Committee as on 31 March 2010 was as under:

Table 4.18

Period of Audit Reports	Total number of reviews and paragraphs that appeared in Revenue Receipts Chapter of Audit Report		No. of reviews and paragraphs pending discussion	
	Reviews	Paragraphs	Reviews	Paragraphs
1990-1991	-	5	-	5
1991-1992	-	8	-	8
1992-1993	1	5	1	5
1993-1994	2	5	2	5
1994-1995	1	14	1	14
1995-1996	4	9	4	9
1996-1997	2	4	2	4
1997-1998	-	9	-	4+2 ⁸
1998-1999	1	11	1	9+2 ⁸
1999-2000	-	7	-	6+1 ⁸
2000-2001	1	7	1 ⁵	7
2001-2002	1	8	1	6+2 ⁸
2002-2003	1	8	1	7+1 ⁸
2003-2004	-	4	-	4
2004-2005	1	5	1	1+2 ⁸
2005-2006	-	8	-	2+3 ⁸
2006-2007	1	4	1	4
2007-2008	2	7	2	7
2008-09	2	5	2	5
Total	20	133	20	125

⁸ Partly discussed.

4.1.19 Analysis of the mechanism for dealing with the issues raised by Audit**4.1.19.1 Position of Inspection Reports**

The summarised position of inspection reports issued during the year 2009-10 including those of previous two years and their status as on 31.03.2010 are tabulated below.

Table 4.19

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2007-08	361	1245	628.06	67	313	110.02	5	112	13.08	423	1446	725.00
2008-09	423	1446	725.00	53	266	28.69	2	67	14.58	474	1644	739.11
2009-10	474	1644	739.20	70	342	935.57	4	96	49.20	540	1890	1625.57

The above table indicates lackadaisical approach of the Departments in clearing the IRs/paragraphs as only 11 IRs with 275 paragraphs were settled during 2007-08 to 2009-10.

4.1.20 Assurances given by the Department/Government on the issues highlighted in the Audit Reports**4.1.20.1 Recovery of accepted cases**

The position of paragraphs included in the Audit Reports of the last 5 years, those accepted by the Department and the amount recovered are mentioned below:-

Table 4.20

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year	Commutative position of recovery of accepted cases
2004-05	05	0.27	05	0.27	0.02	0.02
2005-06	08	0.87	08	0.84	-	0.02
2006-07	08	1.82	08	1.82	0.00	0.027
2007-08	07	5.11	07	4.26	0.42	0.45
2008-09	05	0.94	05	0.94	0.01	0.46
Total	33	9.01	33	8.13	0.43	

Thus, against the accepted cases involving ₹ 8.13 crore, the departments/Government could recover only a sum of ₹ 0.43 crore. This shows that the departments/Government have failed to recover the dues even in the cases where they have accepted audit observations.

The department may consider to take immediate action to install a mechanism to pursue and monitor prompt recovery of dues involved in accepted cases.

PART D *Audit Planning*

The unit offices under various Departments are categorized into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter alia* include critical issues in Government revenues and tax administration i.e. budget speech, white paper on state finances, reports of the finance – commission (state and central), recommendations of the taxation reforms committee, statistical analysis of the revenue earnings during the past 5 years, features of the tax administration, audit coverage and its impact during past 5 years, etc.

During 2009-10, out of 273 auditable units, 97 units were planned and 62 units audited which is 23 *per cent* of the total auditable units.

Besides, one performance review namely ‘Levy and Collection of Electricity Duty and Fees’ was also taken up to examine the efficacy of the tax administration of these receipts, which forms paragraph 4.2 of this Report.

4.1.21 *Results of Audit*

4.1.21.1 *Position of local audit conducted during the year*

Test-check of the records of 62 units of commercial tax, State excise, motor vehicles and other departmental offices conducted during the year 2009-10 revealed underassessment/short levy/loss of revenue aggregating ₹ 53.52 crore in 471 cases. During the course of audit, the Departments concerned accepted underassessment and other deficiencies of ₹ 0.90 crore involved in 29 cases pointed out in 2009-10 and earlier years.

4.1.21.2 *This Report*

This Report contains five draft paragraphs relating to short/non-levy of tax, duty and interest, penalty etc. involving financial effect of ₹ 0.89 crore and one performance review on ‘Levy and collection of Electricity Duty and Fees’ involving financial effect of ₹ 0.91 crore. These are discussed in succeeding paragraphs.

PERFORMANCE REVIEW

POWER DEVELOPMENT DEPARTMENT

4.2 Levy and Collection of Electricity Duty and Fee

Highlights

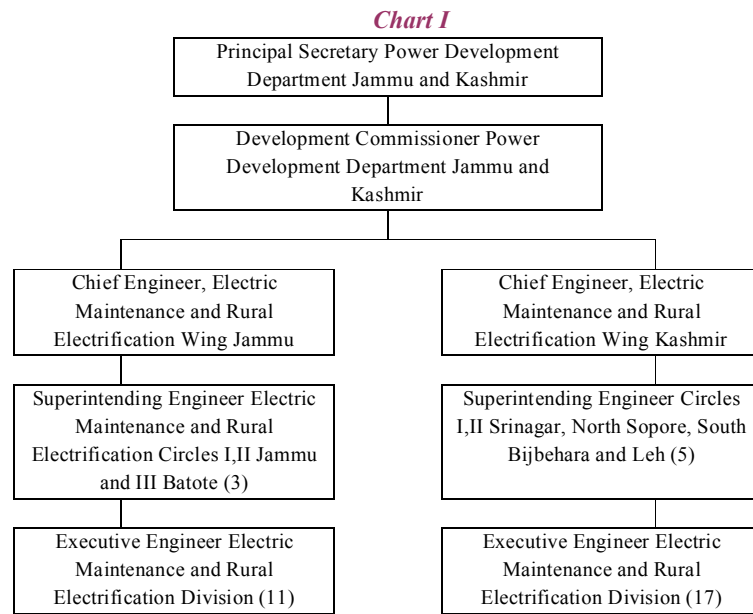
- *Arrears of electric charges including electricity duty at the end of 2009-10 had swollen from ₹ 838.65 crore to ₹ 986.45 due to non-pursuance of these by the department.*
(Paragraph: 4.2.8.1)
- *The internal control mechanism of the Department was weak in absence of independent internal audit wing and poor functioning of Revenue cell.*
(Paragraph: 4.2.8.2)
- *Delays of seven days to 28 days in deposition of revenue collected by the J&K Bank into the Government account had led to availing of overdraft and consequential interest liability of ₹8.15 lakh.*
(Paragraph: 4.2.8.3)
- *Loss of Electricity Duty could not be assessed due to non-framing of rules under the Electricity Regulation Act 1963.*
(Paragraph: 4.2.8.4)
- *The Department failed to levy and collect electricity duty from autonomous bodies/corporations/consumers in accordance with the provisions of the Act.*
(Paragraph: 4.2.9)

4.2.1 Introduction

The levy and collection of duty on electricity is governed by the Jammu and Kashmir Electricity Duty Act 1963. The Act provides for levy of duty on sale or consumption of electricity at the rates notified by the State Government. The rate of Electricity Duty (ED) was fixed (October 1984) at 22 *per cent* of the cost of electric energy sold/consumed (energy charges). The tariff fixed by the State Government/State Electricity Regulatory Authority (SERC) from time to time is exclusive of the ED. The fee recovered by the Government includes both energy charges and ED. No ED is leviable on the energy consumed or sold to Government of India (GOI); or consumed in the construction, maintenance or operation of any railway by the GOI or any Railway Company.

4.2.2 Organisational set up

The organisational setup of the department is as under:



4.2.3 Audit Objectives

The review was conducted to assess whether:

- the provisions of the Act/Rules were enforced efficiently in proper/prompt realization of energy charges and ED.
- the infrastructure in place was sufficient as required under the provisions of the Act/Rules;
- statutory inspections of electric installations were being carried out regularly; and
- the internal control mechanism was adequate.

4.2.4 Scope of Audit and Methodology

The review of the system of Levy and Collection of Electricity Duty and fee for the period from 2005-06 to 2009-10 was conducted from May 2010 to July 2010 by test-check of the records of the Administrative Department, Development Commissioner (Power), Chief Engineers, PDC and EM&RE, and 10⁹ divisions (out of 28 divisions). Besides this, information/data furnished by the other three divisions were also included in the review.

4.2.5 Audit Criteria

The performance review was benchmarked against the following criteria:

⁹ Four divisions are located in industrial belts: four in commercially important places and five in predominantly consumer-based areas covering approximately 60 per cent of the revenue earned and 50 per cent of consumers in all.

- Provisions of the Electricity Duty Act;
- Provisions contained in the State Electricity Act/rules; and
- Tariff orders issued by the State Government from time to time.

4.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of the Power Development Department and the Power Development Corporation for providing necessary information and records for audit check. An entry conference was held with the Development Commissioner (Power), J&K Government on 26 April 2010 wherein the audit objectives were discussed. The deficiencies noticed in the system of Levy and Collection of Electricity Duty and Fee were discussed with the Divisional Officers of each test checked units. An exit conference was held on 24 November 2010 with Development Commissioner (Power) J&K, Jammu in which the results of audit and recommendations were discussed. The Development Commissioner (Power) assured that the conclusion/recommendations mentioned in the review report shall be implemented to safeguard government revenue on account of Electricity Duty and Fee. The comments/reply of the department has been appropriately included in this report under the respective paragraphs.

4.2.7 Trend of Revenue

As per the State Budget Manual, the actuals of the past three years and the sanctioned (revised) estimate of the current year ordinarily afford the best guide in framing the estimates for the revenue of the ensuing year. However, while framing the Budget Estimates due regard is to be paid to any general tendency either towards stability or increase or decrease indicated by the data of the four years and to the arrears of the past years due for recovery in the ensuing year. Special attention is to be paid to addition of any new sources or discontinuance of any existing sources of revenue. The reasons which led to the adoption of the figures for the estimates of the ensuing year are to be carefully explained.

The Department had not set separate targets/estimates for energy charges (EC) and electricity duty(ED), which had been clubbed and budgeted in totality. The budget estimates and the actual realisation of Revenue on account of EC including ED during the years from 2005-06 to 2009-10 for the State was as under:

Table 4.21

Year	Budget estimates	Actual realization	Variation	Percentage variation
	₹in crore)			
2005-06	575.14	434.48	(-) 140.66	24
2006-07	480.98	453.63	(-) 27.35	6
2007-08	935.27	691.39	(-) 243.88	26
2008-09	1105.00	736.00	(-) 369	33
2009-10	911.84	823.16	(-) 88.68	10

As can be seen, the actual realisation during each of the five years from 2005-06 to 2009-10 was significantly less than the estimates for the year. The overall short realisation ranged between six and 33 *per cent*. The short realization was higher in the

Kashmir division, ranging between 21 and 55 *per cent* over the period. The consistent short realisations of revenue over the budget estimates indicated that the budget estimates had not been prepared realistically.

The CE, Jammu attributed (July 2010) the shortfall to huge outstanding electricity dues against Government Departments. The detailed list substantiating the details of outstanding dues was not made available.

Audit Findings

4.2.8 System Deficiencies

4.2.8.1 Arrears of energy charges including electricity duty

Under provisions of the Act/tariff orders, EC along with ED payable thereon by a consumer is to be paid to the Government by the 15th of the month following the month to which the charges pertain. As per the information furnished by the department, EC including the ED due had not been recovered from the consumers in full in terms of the provisions of tariffs/Act. The position of arrears of revenue at the end of each year during the last five years ended March 2010 as furnished by the department was as under:

Table 4.22

(₹ in crore)

<i>Year</i>	<i>Opening balance</i>	<i>Assessment during the year</i>	<i>Recoverable amount</i>	<i>Amount realised</i>	<i>Closing Balance of recoverable amount at the end of 31st March</i>
2005-06	838.65	495.71	1334.36	434.48	899.88
2006-07	899.88	499.48	1399.36	453.63	945.73
2007-08	945.72	695.08	1640.80	691.39	949.41
2008-09	949.51	759.01	1708.52	736.00	972.52
2009-10	972.53	837.08	1809.61	823.16	986.45

It can be seen that the old arrears as well as current demand of EC had not been fully realised, with the result that the arrears of un-recovered energy charges had swollen from ₹ 838.65 crore ending March 2005 to ₹ 986.45 crore ending March 2010. The age-wise and assesse-wise break-up of the outstanding arrears ending March 2010 was not available with the department as part of an established Management Information System. However, in seven out of 13 test-checked divisions, the Audit determined that ₹ 9.56 crore was outstanding against disconnected cases, ₹ 20.15 crore was unrecoverable being dead arrears, ₹ 4.96 crore was outstanding against sick industrial units and ₹ 2.08 crore was under dispute.

The Chief Engineer stated (October 2010) that no special drive had been launched to recover the dues from the Government. However, the higher authorities had been apprised from time to time regarding accumulation of huge arrears.

The State Government may consider establishing a system for maintenance of records in respect of levy and collection of EC and ED indicating therein the category/age-wise position of arrears of EC and ED separately from Sub-divisional level in State level.

4.2.8.2 *Internal audit*

Internal Audit is a vital component of internal control mechanism and is generally called as control of all controls which enables an organisation to assure itself that the prescribed systems are functioning reasonably well. It was, however, noticed that no Internal Audit Wing was in existence in the Department. Though the Revenue Cell (at each circle level) existed but it had no Manual, Guidelines, instructions regarding planning and conduct of audit, maintenance of records, filling of returns on the functioning of the cell and pursuing of objections to their logical conclusions. The department was, thus, vulnerable to the risk of control failures.

Scrutiny of the records of two (out of 3) test-checked circles in Jammu revealed that there was no procedure for preparation of annual programme/plan for conducting internal audit. However, parties were sent to the divisions/sub-divisions for conducting audit by comparing cash book with ledgers/meter reader's schedules and receipt counterfoils. Objection Book register was not found maintained by the Revenue Officer, Circle-III, Batote and Circle-I, Jammu. Number of audits conducted by the Circle decreased from eleven in 2006-07 to 2 in 2009-10. Out of 150¹⁰ paragraphs, which included 14 paragraphs on Electricity duty, outstanding during 2008-09, none had been settled as of June 2010. Reply of the Government was awaited (October 2010).

The State Government may consider setting up an Internal Audit Wing or strengthening existing Revenue Cells towards establishing an effective internal audit system.

4.2.8.3 *Delayed deposit of revenue*

In terms of the agreement(March 2004) executed by the State Government with the J&K Bank, the branches of the bank that collect energy charges from the consumers have to transfer the entire proceeds to the Government Account of the Moving Branch of the J&K Bank in the Civil Secretariat within 72 hours of their receipt.

Scrutiny of bank statements of the eight test-checked divisions for the month of March each year of the review period revealed that revenue amounting to ₹ 32.67 crore over the five-year period had not been transferred by the banks to Government accounts within the prescribed period; the delays ranging from seven days to 28 days. Timely deposition of money would have led to avoidance of overdraft by State Government from the Jammu and Kashmir Bank to that extent with consequential avoidance of interest liability of ₹ 8.15 lakh.

On this being pointed out, the Executive Engineers concerned stated (June and July 2010) that the matter would be taken up with higher authorities of the bank.

The State Government may consider introducing a penal clause in the agreement executed with the J&K Bank for delayed remittance of revenue collected by it.

¹⁰ Information received from third division included.

4.2.8.4 Levy of Electricity Duty on Energy Generating Sets

Under the provisions of the Act, ED is to be levied @ four paisa per unit (kwh) on the energy generated by a person. The Act also provides for maintenance of records by the owner for this purpose.

Audit check showed that no Electricity Duty rules had been framed by the Government nor had records been otherwise prescribed for maintenance by the person generating energy for his own use or consumption. Also, no returns indicating energy generated/consumed or ED payable or paid were found filed in any of the divisions. Audit check further showed that there was no consolidated data available with the department regarding the number of electricity generating units, as a result of which total ED paid and due could not be checked by Audit. Test-check of four divisions revealed that the Department had allowed purchase of 216 generators by persons/individuals for their own use during 2005-06 to 2009-10. The ED had been paid by eight generator owners only without any prudent criteria. Absence of criteria for measurement and monitoring of consumption of electricity and non-levy of ED in respect of persons generating energy for own use had resulted in loss of revenue which, however, could not be quantified in the absence of any records maintained by the owners/department.

The Chief Engineer, Jammu accepted (August 2010) that the provisions of the Act could not be enforced due to non-framing of rules and ensured that the matter would be taken up with the Government. The foregoing reply notwithstanding the fact remains that the Department had not taken appropriate steps to enforce the statutory provisions for levy of ED on person generating/consuming electricity.

The State Government may consider framing of Electricity Duty rules providing therein the manner of calculation, collection, and payment and recovery of unpaid ED including maintenance of records for energy generated.

4.2.9 Compliance Deficiencies

Non-levy of ED on the sale of electricity

4.2.9.1 Under Section 3 of the Act, only the GOI and the agencies dealing in construction, maintenance and operation of Railways are exempted from payment of ED on the energy sold to/consumed by them. As per the information furnished by Power Development Corporation, 57,260¹¹ lakh units (Cost: ₹ 1177.85 crore) had been sold to the State PDD and Power Trading Corporation during 2005-10. It was, however, seen that ED in terms of the provisions of the Act had not been levied and paid to the State Government on the sale resulting in loss of ₹ 259.13 crore to the State Government as tabulated below:

¹¹ Power Development Corporation 43,803 lakh units sold during 2005-10 (Cost ₹ 568.49 crore) Power Trading Corporation 13,457 lakh units sold during 2008-10 (Cost ₹ 609.36 crore).

Table 4.24

Year	Units sold to PDD/PTC	Cost of energy sold (₹ in crore)	E.D. @ 22 per cent (₹ in crore)
2005-06	862687160	114.55	25.20
2006-07	952750467	125.29	27.56
2007-08	859264399	121.16	26.66
2008-09	977341304/ 1345730000	138.40/ 609.36	30.45/ 134.06
2009-10	728245795	69.10	15.20
Total	4380289125/ 1345730000	568.50/ 609.36	125.07/ 134.06

The CE, Generation, PDC stated that the ED was not being levied as the decision to that effect had not been taken by the Government as yet. The Government have not intimated whether there was any proposal to exempt PDD from electricity duty levy.

4.2.9.2 Under section 3 (1) of the Act 1963 read with SRO No. 566 dated 25.10.1984, ED on the cost of energy sold to or consumed is to be charged from the consumer other than Government of India or when it is consumed in the construction, maintenance or operation of any railway.

Records of EM&RE Division, Udhampur, however, showed that the ED of ₹ 7.55 crore on the cost of energy supplied (1998-2010) to SHEP, Jyotipuram remained unpaid by the project authorities. Further check revealed that the SHEP had not been paying the ED, though billed for, on the ground that project was owned by NHPC which was a Public Sector Undertaking partly owned by GOI. The grounds put forth by SHEP are not acceptable as it has not been exempted from payment of ED under any orders of the Government. No action in terms of section 8 of the Act which calls for recovery of the amount due as arrears of land revenue was initiated by the Department.

On being pointed out the EE stated that the matter was under correspondence with the NHPC authorities.

4.2.9.3 Development Commissioner, Power clarified vide letter No: DC/PD/TO-1/133/70-72 dated 3.04.2008 that Corporations and other autonomous bodies like BSNL, MTNL, Doordarshan, Indian Oil Corporation are not exempt from payment of the ED and that ED is to be levied on these Corporations and other autonomous bodies owned by Government of India.

Audit noticed that despite these clear orders, the Department did not levy/recover ED of ₹ 65.87 lakh in 57 cases (9 divisions) during 2005-10, from BSNL, MTNL, Doordarshan, Indian Oil Corporation.

The Executive Engineer (EMRE) stated (July to August 2010) that bills would be raised against the agencies.

4.2.10 Shortfall in Electrical inspection and levy of fee

Under the J&K Electricity Rules, each electricity consumer is to be periodically inspected and tested at intervals not exceeding 5 years and fee for the purpose, save for the domestic installations, fixed by the Government is to be paid by the owner.

Audit check showed that out of a total 11.63 lakh consumers due for inspection in the State, only 139 inspections had been conducted by the Executive Engineers (EE) (Inspection Divisions) during 2005-06 to 2009-10. Not only had this resulted in a loss of ₹ 88.03 lakh as inspection fees but also prevented the department from identifying installations where pilferage of energy could take place.

The EE, Inspection Agency (PDD), Jammu attributed the shortfall of inspections to the EM &RE Authorities for not furnishing the details of consumer installations to him. The reply indicated lack of coordination between the offices of the same department.

The State Government may ensure filing of returns regarding collection of revenue and conducting of inspections of metered/un-metered installations at each level.

4.2.11 Irregular Adjustment of ED incentive

Under Section 10 the Act, Government may by notification exempt any consumer or person from payment of whole or part of the ED for such periods and subject to such conditions as may be specified therein.

The Industries and Commerce Department sanctioned (2008-09) ₹ 10 crore as incentive in form of ED for disbursement to industrial units in the State on non-cash basis without issuing any guidelines/modalities indicating class or category of industry eligible for incentive, period for which incentive was to be paid, and amount of ED paid/payable against which incentive was to be adjusted. An amount of ₹ 5 crore, meant for providing incentive to the industrial units of Kashmir province, was adjusted (March 2009) by the Chief Engineer, EMRE, Srinagar irregularly by contra-crediting the amount to the Receipt Head thereby inflating the revenue figures for that year. The benefit was not extended to the beneficiaries in Kashmir province for want of guidelines/modalities.

Audit check showed that ₹ 4.20 crore out of ₹ 4.52 crore allotted to the test-checked divisions in Jammu Division, was adjusted against the ED recoverable from the industrialists in 2009-10 without any prudent formula/guidelines for such adjustment. The adjustment of the amount in the absence of any formula/guidelines, was arbitrary and as such irregular/unjustified.

4.2.12 Non-recovery of energy charges and ED

Section 8 of the Act envisages that outstanding arrears of duty or penalty, imposed under section 7 on a consumer or a person generating energy for his own use or consumption, shall be recovered as arrears of land revenue by the Government.

Test-check of the assessment records of 13 (out of 28) divisions revealed that 914 installations had been disconnected without recovering the outstanding arrears. It was seen that no case had been referred yet to the land revenue authorities for recovery of arrears as land revenue though envisaged in the Act. This had resulted in non-recovery of energy charges of ₹ 7.84 crore and ED of ₹ 1.72 crore thereon.

On this being pointed out, the Executive Engineers stated (June and July 2010) that steps would be taken to recover the arrears.

4.2.13 *Non-reconciliation of energy charges*

Under an agreement executed with the J&K Bank which collects energy charges including electricity duty from consumers on behalf of the Government, the Bank has to send the details of individual payments to the Sub-Divisional/Divisional Officers concerned of the EM&RE Divisions who in turn has to maintain the Receipt-Cum-Remittance register for reconciliation to ensure that the amount specified by the bank has actually been remitted into the Moving Branch of the Bank in Civil Secretariat Treasury. Neither had any such register been maintained nor any reconciliation got conducted. In the absence thereof, the accurate deposition/accountal of the money by the Bank in the Government account could not be ensured. The EEs stated that reconciliation/ verification would be got done in future.

4.2.14 *Conclusions*

Though the Jammu and Kashmir Electricity Duty Act had been approved by the legislature in 1963, yet the Power Development Department had not framed any rules which resulted in partial implementation of the provisions of the Act. The Department had failed to levy and collect electricity duty from Autonomous Bodies/Corporations/ Consumers in accordance with provisions of the Act. The internal control mechanism of the Department was weak as is evidenced by the absence of independent Internal Audit Wing and poor functioning of Revenue Cells.

4.2.15 *Recommendations*

The State Government may consider:

- Establishing a system for maintenance of records in respect of levy and collection of EC and ED indicating therein the category/age-wise position of arrears of EC and ED separately from Sub-divisional level to State level.
- Setting up of Internal Audit Wing or strengthening of existing Revenue Cells for an effective internal audit system.
- Introducing a penal clause in the agreement executed with J&K bank for delayed remittance of energy charges collected by it.
- Framing of Electricity Duty Rules providing therein the manner of calculation, collection and payment and recovery aspects.

Audit Paragraphs

Finance Department

(Sales Tax)

4.3 Other Audit Observations

Scrutiny of assessment records of sales tax/value added tax (VAT) revealed several cases of non-observance of provisions of Acts, rules, non-levy/short levy of tax/ interest/penalty, concealment of purchases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of assessing authority are pointed out in audit each year, but not only 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 control.

4.4 Incorrect computation of interest

Incorrect computation of interest by the Assessing Authority resulting in short levy of interest of ₹ 4.80 lakh.

The Jammu and Kashmir, GST Act and Rules made thereunder provide that if tax or any other amount due under this Act is not paid by the dealer or any other person within the stipulated period, the dealer or such other person shall be liable to pay interest at the prescribed rates from the date it was payable to the date of actual payment.

Test-check (April 2009) of records of the Sales Tax Circle 'B' Jammu revealed that the Assessing Authority (AA) while assessing a dealer for the accounting year 2001-02 determined tax of ₹ 19.73 lakh. But the dealer remitted ₹ 13.37 lakh only during the year 2001-02 thereby leaving ₹ 6.36 lakh uncovered. For the unpaid amount of tax, the dealer was liable to pay interest¹² of ₹ 12.49 lakh, up to July 2007, on the balance amount of the assessed tax of ₹ 6.36 lakh. It was, however, seen that the AA wrongly computed the interest as ₹ 7.69 lakh against the due amount of ₹ 12.49 lakh resulting in short levy of interest of ₹ 4.80 lakh.

After the case was pointed out (April 2009), the AA made reassessment (March 2010) and raised (March 2010) an additional demand of ₹ 4.80 lakh.

The matter was reported to the Government/Department (May 2010). In reply, the Department stated (June 2010) that the dealer had filed an appeal before the Deputy Commissioner (Appeals) against the re-assessment order. A report on further development had not been received (July 2010).

¹² U/S 8 (8) of the J&K GST Act, 1962.

4.5 Concealment of purchases

Failure of the Assessing Authority to detect the concealment of purchases resulted in short levy of tax of ₹ 5.23 lakh.

The Jammu and Kashmir General Sales Tax (J&K GST) Act 1962 and the rules made thereunder provide that every dealer shall submit a true and correct return of his turnover in such a manner as may be prescribed under the Act. Further, if a person (dealer) who has, without any cause, failed to furnish correct return of turnover or has concealed any particulars of his turnover, the Assessing Authority (AA) shall direct that person to pay, in addition to tax and interest payable by him, an amount by way of penalty not less than the amount of tax evaded, but not exceeding twice the amount of tax.

Test check (June 2009) of the records of Commercial Tax Circle-L, Srinagar revealed that a dealer¹³ had, against purchases of ₹ 32.63 lakh from a supplier¹⁴, as depicted in C-Form consumption account, included purchases of ₹ 25.58 lakh only in his total purchases (₹ 87,26,314.68) reflected in the trading account for the year 2003-04. The AA failed to cross-check the purchases which resulted in concealment of purchases of ₹ 7.05 lakh involving tax, interest and penalty of ₹ 2.33 lakh.

After the case was pointed out (June 2009), the AA made reassessment (March 2010) by determining the concealment as ₹ 8.00 lakh and raised an additional demand of ₹ 2.33 lakh¹⁵ against the dealer.

Also, test-check (November 2009) of the records of CTO Circle, Pulwama, Kashmir showed that a dealer dealing in sale of tractors, diesel engines, power sprayers, spare/parts, trolleys, levers, etc. did not account for purchases worth ₹ 19.52 lakh in his trading account for the year 2004-05 which resulted in concealment of purchases to that extent. The Department while assessing (May 2008) the returns filed by the dealer failed to cross-check the purchases with the bills of the dealer. This resulted in non-levy of tax of ₹ 0.91 lakh.

On this being pointed out (November 2009), the AA raised an additional demand of ₹ 2.90 lakh¹⁶ on the dealer.

The cases were reported to the Government/Department (May 2010) and in reply the Department stated (June 2010) that the cases have been referred to the Collector for effecting the recovery under Land Revenue Act. Further progress of recovery is awaited (July 2010).

¹³ M/s Kanna Glass Agency, Magarmal Bagh, Srinagar.

¹⁴ M/s Triveni Glass Limited, Kanpur, Allahabad.

¹⁵ Tax: ₹ 0.64 lakh; Interest: ₹ 0.99 lakh; Penalty: ₹ 0.67 lakh; Surcharge: ₹ 0.03 lakh.

¹⁶ Sales tax: ₹ 90597; Penalty: ₹ 90597 and Interest: ₹ 108716.

4.6 Short levy of central sale tax and interest

Failure of the Assessing Authority to assess the dealer as per the provisions of CST Act resulted in short levy of tax and interest of ₹ 8.43 lakh.

Section 8 (1) of CST Act 1956 provide that every dealer who in the course of inter-state trade or commerce sells goods to the Government or to a registered dealer other than the Government, shall be liable to pay tax under the act which shall be 4 *per cent* of his turnover or at the rate applicable to the sale or purchase of such goods inside the state under the sales tax law of the State, whichever is lower, provided the dealer selling the goods furnished a declaration duly filled and signed by the registered dealer to whom the goods are sold in a prescribed form obtained from the prescribed authority; otherwise, tax rate of 10 *per cent* or rate applicable to the sale or purchase of such goods inside the state, whichever is higher, shall be applicable.

Test-check (October 2009) of the records of CTO, Kupwara revealed that the Assessing Authority (AA) while finalising assessment of the dealer allowed concessional rate of tax on inter-state sale of scrap aggregating ₹ 57.35 lakh during 2002-03 to 2005-06 even though the prescribed declaration certificate in Form C had not been furnished by the assessee. This had resulted in short levy of tax and interest amounting to ₹ 7.84 lakh.

On the case being pointed out (October 2009), the A.A re-assessed (March 2010) the dealer for the years 2002-03 to 2004-05 and raised a demand of ₹ 6.78 lakh including interest. For the year 2005-06, notices were served upon the dealer. As the notices were not responded by the dealer, a further demand of ₹ 1.65 lakh (Tax: ₹ 0.77 lakh and Interest: ₹ 0.88 lakh) was raised (June 2010) against the dealer for the first two quarters of the assessment year 2005-06.

The matter was reported to the Department/Government in June 2010. The reply has not been received (October 2010).

4.7 Non-levy of sales tax

Allowance of irregular exemption resulted in non-levy of sales tax and interest of ₹ 20.20 lakh.

The Government vide notification of 20 August 1998, issued under SRO 246, directed that the finished goods manufactured by small scale industrial units registered with the Department of Industries and Commerce and Handicrafts/Handloom Development Corporation shall be exempted from payment of general sales tax. For non-payment of general sale tax on sale of goods other than such finished goods interest is leviable at prescribed rates.

Test-check (May 2009) of the records of the Commercial Tax Circle-I, Jammu showed that an industrial unit registered for manufacture of cement had not undertaken any manufacturing activity during the first three quarters (till January 2004) of 2003-04 due to non-availability of power supply. The Assessing Authority (AA) while assessing (February 2008) the dealer for the accounting year 2003-04 had,

however, allowed irregular exemption of ₹ 6.52 lakh on the sales of ₹ 51.71 lakh shown in the quarterly returns as sales for the period during which no manufacturing activity was carried out by the dealer.

After this was pointed out (May 2009), the AA reassessed (April 2010) the dealer and raised a demand of ₹ 20.20 lakh which included interest of ₹ 13.68 lakh on the basic tax.

The department stated (September 2010) that demand of ₹ 20.20 lakh had been raised against the dealer and the recovery certificate had been forwarded to recovery wing of the Department for its recovery.

4.8 Short levy of tax and interest

Allowing of exemption in contravention of the provisions/rules resulted in irregular sales tax exemption of ₹ 53.96 lakh.

Under notification issued under SRO 246 dated 20 August 1998 (read with notification issued under SRO 21 of 21 February 2000), the Government provided exemption to registered manufacturing Small Scale Industrial units from payment of the General Sales Tax on sale of the finished goods. The exemption was, however, subject to the condition that no exemption shall be entitled to the dealer (Industrial Unit) found guilty of the offence under section 15(5), 15(A) and 17(1)(f)(g) and (I) of the J&K GST Act 1962 for the year in which such offence is committed or for subsequent years.

Test-check (May 2009) of the records of CTO Circle-I Jammu revealed that the Assessing Authority (AA) while finalising assessment of a dealer, engaged in business of cutting and polishing of marble tiles and slabs, allowed exemption on sales aggregating to ₹ 1.38 crore for the accounting year 2003-04 even though the dealer was found guilty (August 2003), under section 15A(4) and 15-A(9) of the J&K GST Act 1962 for the offence of importing marble slices for sale. This resulted in short levy of tax and interest of ₹ 53.96 lakh.

On this being pointed out (May 2009), the AA re-assessed the dealer (May 2010) and raised a demand of ₹ 53.96 lakh including interest against the dealer.

The matter was reported to the Government/Department (June 2010) and, in reply, the Department stated (July 2010) that the matter had been referred to Deputy Commissioner Commercial Taxes (Recovery) Jammu for effecting recovery. Further report on the progress of recovery has not been received (July 2010).