

CHAPTER-III LAND REVENUE

3.1 Tax administration

The administration of Land Revenue Department vests with the Principal Secretary (Revenue). For the purpose of administration, the State is divided into 26 districts. Each district is further divided into *talukas* and villages.

The District Collectors are overall in charge and responsible for the administration of their respective districts. The *Mamlatdars* and Executive Magistrates are in charge of the administration of their respective *talukas* and exercise supervision and control on *talatis* who are entrusted with the work of collection of land revenue and other receipts including recovery of dues treated as arrears of land revenue. In addition, the Revenue Department has delegated powers to the *Panchayat* Officers (DDOs and TDOs) for recovery of dues treated as arrears of land revenue to facilitate the revenue administration.

3.2 Analysis of budget preparation

The Budget Estimates is furnished by the Revenue Department in the prescribed format to the Finance Department. While preparing the budget estimates, the Department is required to consider the income of previous year and the expected receipts during the financial years. The targets set by the Department are reported to the Finance Department which is responsible for preparation of the Budget estimates for the entire state.

3.3 Impact of Audit Reports

During the last five years (including the current year's report), we through our Audit Reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of tax, incorrect computation etc, with revenue implication of ₹ 106.36 crore in 21 paragraphs. Of these, the Department/Government had accepted audit observations in 17 paragraphs involving ₹ 6.24 crore and had since recovered ₹ 1.29 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	4	2.31	4	2.01	3	0.64
2006-07	6	22.11	4	0.34	1	0.02
2007-08	4	6.90	4	0.61	3	0.47
2008-09	5	25.86	4	3.25	3	0.14
2009-10	2	49.18	1	0.03	1	0.02
Total	21	106.36	17	6.24	11	1.29

The above table indicates that recovery of accepted cases was very low (20.67 per cent of the accepted money value). **The Government may take suitable initiative for speedy recovery.**

3.4 Results of audit

Test check of records in 143 offices of Collectors, District Development Officers and Mamlatdar (LR) in the State during the year 2009-10 revealed under assessment of tax and other irregularities involving ₹ 271.84 crore in 181 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1.	Receipts from conversion of land (A review)	1	48.81
2.	Non/short recovery of occupancy price/premium price	36	123.73
3.	Non/short recovery of NAA, non/short levy of NAA at revised rate, non-raising NAA demand	18	10.80
4.	Non/short recovery of conversion tax	30	5.59
5.	Other irregularities	96	82.91
	Total	181	271.84

During the course of the year, the Department accepted and recovered underassessment and other deficiencies of ₹ 3.37 lakh in 14 cases pointed out in audit in earlier years.

A review on the “**Receipts from conversion of land**” involving ₹ 48.81 crore and few illustrative cases involving ₹ 37.74 lakh are mentioned in the following paragraphs.

3.5 Receipts from conversion of land

Highlights

- In 121 cases, the restrictions of new and restricted tenure were removed by *Mamlatdar* & Agricultural Land Tribunal (ALT) Choryasi, working under the Collector, Surat, without observing the instructions issued by the Government and without recovering the premium as prescribed by the Government. The Collectors also did not review the orders within the prescribed time limit. The revenue forgone in the form of premium price on this account in these cases worked out to ₹ 136 crore.

(Paragraph 3.5.8)

- There was no system in place to compare the market rate of a particular survey number of the land fixed by District Land Price Committee (DLPC) and new *jantri* approved by the Government. In 16 cases of land conversion, we noticed wide variation (three to nine times) in market rate fixed by the Committee and the *jantri* fixed by the Government for a particular survey number though the Committee had fixed the rate just two months before the new *jantri* was made effective. The concerned Collector(s) did not inform the variation to Government for rectification of the *jantri* and adopted lower rates prescribed in the *jantri*. This loss of revenue in the form of premium price was estimated at ₹ 14.85 crore due to adoption of lower *jantri* rates.

(Paragraph 3.5.9)

- In 10 cases, the land was treated as “old tenure” though the scrutiny of title of land produced before competent authority indicated that the land was of “new and restricted tenure” The concerned Collector/DDO did not ascertain the correctness of the tenure resulting in revenue loss of premium price of ₹ 6.64 crore.

(Paragraph 3.5.10)

- The internal audit and the internal inspection system was inadequate and ineffective in view of action not taken on large number of internal audit observations. The number of outstanding observations increased from 5,328 to 14,202 i.e. by of 167 *per cent* during the last five years.

(Paragraph 3.5.14)

- There was no system for effective monitoring to detect breach of conditions in orders of allotment of Government land. In 16 cases, though the occupants had breached the conditions of allotment of land, the Departmental officers failed to detect the same and initiate action to regularise the cases for recovery of premium price of ₹ 16.81 crore.

(Paragraph 3.5.15)

- There was lack of effective mechanism at district level to watch compliance of conditions of various resolutions, orders and instructions issued by the Government from time to time in respect of the conversion of the land for various use and monitoring the levy and collection of various receipts relating therewith. Absence of such mechanism led to shortfall in Government revenue of ₹ 16.66 crore.

(Paragraph 3.5.16 and 3.5.17)

- The Departmental officers did not follow the decision of the Government to re-grant the land to purchaser under new and restricted tenure and recover premium at 100 *per cent* of market value. This resulted in short levy of premium price of ₹ 5.44 crore.

(Paragraph 3.5.19 and 3.5.20)

3.5.1 Introduction

According to the Directorate of Economics & Statistics, the total area of Gujarat comprises 188 lakh hectares of land. Out of this, 18.65 lakh hectares is covered under forest area, 25.99 lakh hectares is used for non-agricultural purposes, 19.84 lakh hectares is used for agricultural purposes and the remaining 123.52 lakh hectares falls under other classification.

The Bombay Land Revenue (BLR) Code, 1879 as applicable to Gujarat and the Gujarat Land Revenue (GLR) Rules, 1972 empower the Collector and other revenue authorities to deal with the allotment of Government land on occupancy or leasehold rights either as revenue free or at the rates decided by the Government from time to time.

The Bombay Tenancy and Agricultural Lands (BT&AL) Act, 1948, and the Bombay Tenancy and Agricultural Lands Rules, 1956 empower the Collector to finalise the cases of ownership of land, to finalise the cases of holding of land between land owners and the tenants and its allotment. The land allotted under new tenure or restricted tenure or established with new and restricted tenure³¹ can be transferred or partitioned with previous sanction of the Collector on payment of premium price at prescribed rates.

The BLR Code and GLR Rules authorise the competent authority to levy conversion tax (CT) and non-agricultural assessment (NAA) and measurement fees (MF) at prescribed rates on conversion of land from agricultural to non agricultural use or from one non-agricultural use to another. The BLR Code and the Rules made thereunder also authorise the Government to prescribe fine for unauthorised use of the land.

We reviewed the system relating to the **“Receipts from conversion of land”** in Gujarat. It revealed a number of system and compliance deficiencies as discussed in the succeeding paragraphs.

3.5.2 Organisational set up

Conversion of land from agricultural use to any non-agricultural use, new and restricted tenure to old tenure³² and levy of occupancy price (OP), premium price (PP), conversion tax (CT), non-agricultural assessment (NAA), measurement fees (MF) related therewith and fine for breach of conditions in

³¹ New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the previous sanction of the Collector.

³² Old tenure means land deemed to have been purchased by a tenant on tillers' day, 1 April 1957 free of all encumbrances.

respect of such conversion are administered by the Revenue Department. The Principal Secretary heads the Revenue Department at the Government level. He is assisted by 26 District Collectors/District Development Officers at district level alongwith subordinates viz. 55 Dy. Collectors (*Prant Officer*) at *Prant* level, 232 *Mamlatdars*, 224 *Taluka* Development Officers and Circle Officers at *Taluka* level, *kasba/village talati* at *kasba* and village level.

3.5.3 Scope of Audit and Methodology

We test checked records of 22³³ out of 25 offices and one newly formed Tapi office of the Collector and District Development Officer and related records in subordinate offices up to *kasba/village* relating to the period 2004-05 to 2008-09 during August 2009 to March 2010 and made collateral evaluation with pre-designed checklist along with regular transaction audit. The districts were selected on the basis of maximum revenue potential.

The records relating to levy of occupancy price, premium price, conversion tax, non-agricultural assessment, measurement fees, penalty on conversion of land cases finalised to the aforesaid period were scrutinised.

3.5.4 Audit criteria

Audit criteria considered were the Bombay Land Revenue (BLR) Code, 1879 and rules made thereunder, the Bombay Tenancy & Agricultural Land (BT & AL) Act, 1948 and rules made thereunder, repealed Acts, notifications/ resolutions/ circulars/orders issued under the said Acts and judicial pronouncements.

3.5.5 Audit objectives

The review was conducted to ascertain whether:

- The terms and conditions of the Government orders of conversion of land were properly implemented;
- The assessment and collection of OP, PP, CT, NAA, MF and fine were finalised according to the provisions of the Act/Rules/Notifications/orders issued from time to time;
- The orders of the competent authorities were implemented properly and entered in respective records of the subordinate offices; and
- Adequate internal control mechanisms including internal audit were in place to monitor the assessment and collection of land revenue and check its leakage.

3.5.6 Acknowledgement

Indian Audit & Accounts Department acknowledges the co-operation of the Revenue Department (RD) and the offices of the Collectors/District Development Officers including subordinate offices in providing information and records for audit. The entry conference with the Department was held on 28 July 2009 in

³³ Ahmedabad, Amreli, Anand, Bharuch, Bhavnagar, Dahod, Gandhinagar, Junagadh, Kheda, Kutch-Bhuj, Mehsana, Narmada (Rajpipla), Navsari, Panchmahals (Godhra), Palanpur, Patan, Porbander, Rajkot, Sabarkantha (Himatnagar), Surat, Vadodara and Valsad.

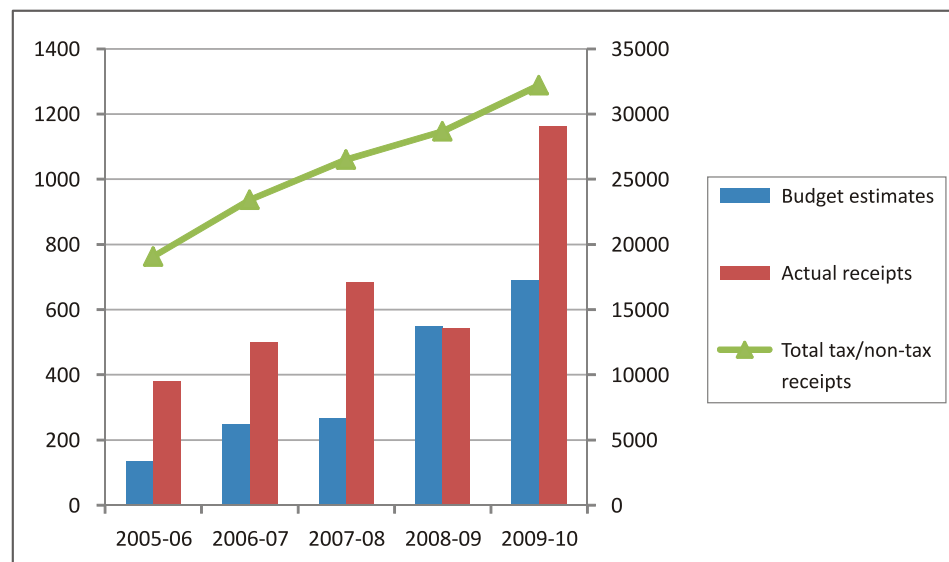
which the scope and methodology of audit was discussed. The review was sent to the Government in August 2010 for their response. The audit findings and recommendations were discussed in an exit conference held on 22 September 2010. Principal Secretary, Revenue Department and other Departmental officials attended the meeting. The replies furnished during the exit conference and at other points of time have been considered and appropriately incorporated in the review.

3.5.7 Trend of receipts

Actual receipts from Land Revenue during the last five years 2005-06 to 2009-10 alongwith the total tax/non-tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax/ non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/ non-tax receipts
2005-06	134.42	380.23	(+) 245.81	(+) 182.87	19,051.48	2.00
2006-07	250.00	498.71	(+) 248.71	(+) 99.48	23,413.41	2.13
2007-08	267.50	683.09	(+) 415.59	(+) 155.36	26,494.88	2.58
2008-09	550.00	543.50	(-)6.50	(-) 1.18	28,656.35	1.90
2009-10	688.50	1,161.20	(+) 472.7	(+) 68.66	32,191.94	3.61



It would be seen from the above that there was substantial increase in actual receipts as compared to budget estimates for the period except in 2008-09. The variation between the actual receipts and the budget estimates ranged between 68.66 per cent and 182.87 per cent. This indicates that the budget estimates were not prepared on realistic basis.

As budget estimates are an important part of the financial planning we **recommend the Government to issue suitable directions to the Department**

for framing the budget estimates on realistic and scientific basis and ensure that the estimates are as close to the actual receipts as possible.

System Deficiencies

3.5.8 Loss of revenue due to absence of system to review of decisions of *Mamlatdar* ALT by the Collector

According to Government of Gujarat decision, premium payable on conversion of land from new tenure to old tenure was 80/50 *per cent* of the market value for non-agricultural or agricultural purpose respectively, with effect from 20 December 2006. Prior to this, it was 80/70 *per cent* of the market value for non-agricultural/ agricultural purpose.

The Government *vide* Circular No. GNT-1095-2963-G dated 18 March 1996 and 18 June 1996 delegated the powers of conversion from new tenure to old tenure to *Mamlatdar* ALT under general powers of *Mamlatdar* ALT under Section 70 (O) of the Act.

Section 76A of the Act empowers the Collector to call for records of cases of the removal of the restrictions finalised by the *Mamlatdar* and ALT, either *suo moto* or on a reference made in this regard by the Government for review within a period of one year from the date of order issued by the *Mamlatdar* and ALT and pass the order thereon. During review of these cases, Collector may under section 76-A ascertain whether the *Mamlatdar* and ALT has exercised the power properly and scrutinise the legality or propriety of the tenancy rights to safeguard the Government revenue. The Government did not prescribe any mechanism for timely review of such cases by the Collector.

During test check of records of the *Mamlatdar* & Agricultural Land Tribunal (ALT) Choryasi, working under the Collector, Surat, we noticed that in 121 cases, the *Mamlatdar* & ALT had issued orders between June 1996 and July 2002 wherein the restrictions of new tenure had been removed, without observing the instructions issued by the Government *ibid*, as regards levy and recovery of premium price the *Mamlatdar* ALT, while removing the restriction did not recover any premium as per the Government orders. The Collector, Surat also did not call for the records of these cases for the purpose of the review within time limit of one year.

However, on reference made by the Government, Collector, Surat had called for and reviewed (between February 2001 and March 2004) the records relating to these cases after the prescribed time limit. As such the Government instructed in October 2005 to dispense with the process of re-verification and revision of these cases.

Thus due to the failure on the part of the Collector to call for the cases *suo moto* for review/revision within the prescribed time limit the Government could not take any corrective action to reinstate the restrictions of new tenure, in view

of time bar under the proviso of Section 76A of the Act. As the restriction of new tenure was removed in the above cases, the land became old tenure (no restriction thereof) without payment of premium price. The Government lost premium price at 80 *per cent* of market value which worked out to ₹ 136 crore as per the *jantri* rates.

The Government stated (October 2010) that the Collector can take the order of the *Mamlatdar* and ALT in revision either *suo moto* or on a reference made in this behalf by the State Government. The powers of revision available to the Collector are not of compulsory nature. The case is pending before the High Court and 121 cases will be decided in light of the outcome of the case.

The reply is not acceptable as the power of removal of restriction of new tenure delegated to *Mamlatdar* and ALT was significant which involved substantial revenue and as such the Government should have ensured that they exercised their duty within the framework of the Rules/Regulation. Considering this, the Government should have also devised suitable mechanism of review of these powers exercised by the *Mamlatdar* and ALT. Thus, non-review of these cases on time by the Collector led to loss of revenue of ₹ 136 crore.

We recommend the Government to consider devising a system to ensure that the *Mamlatdars* discharge their duty as per the Governments' decision/Act/Rules. Government may also provide for periodical review of significant powers exercised by the subordinate officers.

3.5.9 Loss of revenue due to abnormally low *jantri* rates compared to DLPC rates

Government decided in January 1998 to form a committee at the district level (DLPC) with District Collector as chairman and District Development Officer and Chief Town Planner as members for fixation of the rate of the land after consideration of various parameters laid down by Government. Further, Government decided that new *jantri* as approved by the Government shall be applicable in all the cases for fixation of premium price from 1 April 2008. Government further decided in July 2008 to recover the premium price as per new *jantri* effective from 1 April 2008 in all the cases pending at various levels as on 3 July 2008. The *jantri* rate as approved by the Government extends to the entire State including the survey numbers for which DLPC had already fixed rates.

Test check of the cases finalised by the three Collectors³⁴ for the year 2008-09 revealed that in 16 cases³⁵, the premium price was recovered as per the new *jantri*. On comparison of the rates we noticed that the rates fixed by DLPC were significantly higher (three to nine times) than the new *jantri*. There was a wide variation between two sets of the rate though the DLPC

rates had been fixed just two months before the new *jantri* came into effect. While levying the premium, though the rates fixed by DLPC were available, the Collector did not bring the wide variations between the *jantri* and the rate fixed by the Committee to the notice of the Government and adopted lower *jantri* rates for recovery of premium price.

Since the Collector is the authority to recover premium price and also the Chairman of DLPC, in respect of these cases, concerned Collector should have either adopted higher rate or referred to the Government for clarification especially when there was such a wide variation between DLPC rates and *jantri*. However, the Government did not make any arrangement to map the two sets of system (DLPC and *jantri*) for fixation of rates. Applying the lower rates in these cases resulted in foregoing of revenue in the form of premium price of ₹ 14.85 crore.

³⁴ Gandhinagar, Patan and Surat.

³⁵ The following are the cases where there was wide variation between DLPC and *jantri* rates:

District	No. of cases	DLPC rate	Jantri rate	Variation	Loss (in ₹)
Surat	1	1,125	200	925	3,88,07,080
Patan	1	900	260	640	1,24,83,584
Gandhinagar	9	1,000	350	650	9,71,89,880
	1	950	100	850	
	3	3,600	700	2,900	
	1	3,800	700	3,100	
Total	16				14,84,80,544

Say ₹ 14.85 crore.

The Government stated (October 2010) that to avoid the hardship to the land holders and to make it transparent, the State Government had decided in December 2006 to apply *jantri* rate for the valuation of land for premium after implementation of new *jantri*. It was a conscious decision of the Government to fix the premium price as per *jantri* rate after 1 April 2008.

The reply however, is not convincing, since there was wide variation between DLPC rate and *janti*. The Collector should have informed the Government about this wide variation and should have sought rectification of the *jantri* rates. Since both the *jantri* and DLPC rates were fixed by the Government, such a wide difference between the rates in a very short time period defied the logic and reasoning and should have been rectified. Moreover; there was no prescribed time limit to review the *jantri* rates to make them current.

We recommend the Government to consider establishing a system to identify such cases of wide variation between DLPC rates and *jantri* rates and prescribe time limits for revision of *jantri* rates.

3.5.10 Non-levy of premium price due to improper regularisation of tenancy cases

Section 32-G or 32-O of the BT&AL Act, 1948 provide that if a tenant or any person is willing to purchase the land, purchase price shall be fixed under Section 32-H and land shall be allotted to the tenant in Form-9³⁶, prescribed under Section 32-M of the Act as new and restricted tenure.

Test check of NA cases finalised by three DDOs³⁷ for the year 2008-09 revealed that in six cases, either the purchase price was fixed and paid by the tenant to

the landlord or the tenants were made owners without issuing Form-9. The land in these cases was treated as old tenure instead of new and restricted tenure. In other four cases, though the land was allotted under new and restricted tenure, it was treated as old tenure. The concerned DDO did not ensure the evidences indicating the fact that restrictions of new tenure had been properly removed. This resulted in non-levy of premium price of ₹ 6.64 crore.

The Government stated (October 2010) that the cases mentioned would be examined by Revenue Inspection Commissioner (RIC). However Section 32 (O) has been deleted and hence there is no scope for creation of new tenancy.

The reply is not convincing in view of the fact that the cases were prior to deletion of Section 32 (O). Further, the records did not indicate any evidence to prove that restrictions of Section 43 of the BT & AL Act had been removed on payment of premium price for non-agriculture use of the land. However, outcome of the examination of cases by RIC is awaited.

We recommend the Government to consider establishing a system to collect and verify all the evidences in support of the titles of the land and for bringing the irregularity to higher forum for its rectification.

³⁶ Form-9: A certificate of purchase issued to a tenant.

³⁷ Ahmedabad, Gandhinagar, Himmatnagar.

3.5.11 Loss of revenue due to lack of co-ordination between registering authority and concerned revenue offices to detect breach of conditions of orders in case of conversion of land

As per the Government Resolution dated 16 March 1982, premium price at prescribed rates shall be levied on estimated market value adopted for levy of premium price or actual sale consideration, as per sale deed registered on the first occasion whichever is higher. This proviso was cancelled with effect from 4 July 2008. Thus in the cases where the sale consideration is higher and registered between the period 16 March 1982 and 3 July 2008, premium is leviable on higher value.

Our Cross verification of entry of village Form VI in village records and recitals of sale deed registered in the sub-registrar offices prior to 4 July 2008 by audit revealed the following:

- During cross verification of Village Form (VF)-VI maintained by the

respective *kasba talaties* of *Mamlatdar* working under two Collectors³⁸ for the year 2007-08 and 2008-09, we noticed that in four cases, the applicants had produced sale deeds for entry in the land records wherein the land was sold by the applicants at sale consideration higher than the estimated market value of land fixed by the Government for the purpose of levy of premium price. It was observed that the Departmental officials failed to verify the recitals of the sale deed available with them or subsequently registered on first occasion of sale and to recover deficit premium price of ₹ 86.82 lakh.

- Test check of one sale deed registered with Sub-Registrar, Memnagar, Ahmedabad for the year 2008 revealed that the document was registered at higher sale consideration than the estimated market value adopted for the purpose of levy of premium as per the recitals of this documents. However, the registering authorities did not initiate action to send copy of the document to the concerned Collector for recovery of the deficit premium price of ₹ 13.41 lakh.

The Government did not prescribe any system to watch the compliance of the specific conditions in respect of value of the land for levy of premium price laid down in the orders by the revenue officer and registering authority in co-ordination with each other. This resulted in short levy of premium price of one crore in the above cases.

The Government stated (October 2010) that payment of premium and levy of stamp duty are two separate processes governed by two different policies. Premium is levied on the basis of *jantri* as per decision of 4 July 2008 and stamp duty is levied on the basis of *jantri* or sale value whichever is higher.

The reply is not tenable as all these cases were registered prior to 4 July 2008 and Government Resolution dated 16 March 1982 was operative in these cases. As such, sale deeds produced for entry in land records or presented for registration

³⁸ Kheda and Surat.

revealed that sale consideration being higher than estimated market value fixed, premium was leviable on the higher value. However, the revenue officer as well as registering authority failed to bring the higher consideration amount to the notice of the Collector for levy of deficit premium.

We recommend the Government to issue instructions to the registering authorities to pass on the copies of sale deeds to the revenue authorities in the interest of revenue.

3.5.12 Non-detection of unauthorised use of the land and non-levy of prescribed penalty

Under the provisions of the BLR Code, 1879 and instructions issued from time to time by the Government, vigilance is to be kept by the *Talati-cum-Mantri* of the village/*kasba* and other concerned revenue officials in respect of any breach of condition noticed relating to any permission granted by the competent authority during their visit at the site of the land. The official is responsible to bring the fact to the notice of the higher authority.

The Bombay Land Revenue Code, 1879 and the Rules made thereunder provide that if any land is used for any purpose other than the purpose for which it is assessed or held without prior permission of the competent authority, the

occupant shall be liable to pay penalty not exceeding 40 times of non-agriculture assessment of the area of land. The Government has instructed specifically to levy penalty of 40 times of non-agriculture assessment for unauthorised construction without prior permission of the competent authority. The Code also prohibits the transfer of land allotted to tribal person to a non-tribal person and prescribe a penalty not exceeding three times the value of the occupancy price of such land in case of unauthorised transfer.

Test check of the NA cases finalised by six Collectors³⁹ and six DDOs⁴⁰ for the year 2004-05 to 2008-09 revealed that in 44 cases, the applicants had used the land for non-agricultural purposes without prior permission of the Collector for the period ranging between one year and 28 years. However, the concerned revenue officials failed to detect these cases though there was a presence of large administrative machinery. The Departmental officials could not detect the unauthorised use/breach of conditions of the orders till the occupants applied for the regularisation of these cases.

The Government stated (October 2010) that Revenue Inspection Commissioner at the State level carries out inspection of all the districts periodically with a tool of 45 types of check list/format for effective monitoring and to detect breach of conditions. Similarly, the Collector, *Prant* officer and *Mamlatdar* check revenue records during their tours which covers aspects like NA permission, titles of

³⁹ Ahmedabad, Anand, Bharuch, Himatnagar, Surat, Vadodara.

⁴⁰ Ahmedabad, Gandhinagar, Godhra, Himatnagar, Narmada (Rajpipla), Rajkot.

land, and the breach of conditions. The same is periodically cross-checked at the time of promulgation of revenue records.

The fact remains that the penalty provision which are meant to deter cases of unauthorised occupation were not been administered by the revenue officials as prescribed by Government. Besides, non detection of the breach of condition despite the inspection by various authorities shows that inspection system of the Department needs strengthening.

Further it was seen that the rate prescribed by the Government for of levy penalty was either not levied or was levied short as mentioned in the following table :

(₹ in lakh)

Unit	No. of cases	Penalty leviable @ 40 times of NAA	Penalty levied	Non/short levy of penalty
DDO, Gandhinagar	1	2.50	0	2.50
DDO, Narmada (Rajpipla)	1	0.78	0	0.78
DDO, Godhra	1	1.50	0.15	1.35
Collector, Surat	4	3.34	0	3.34
	1	1.27	0.01	1.26
Collector, Anand	2	1.92	0.19	1.73
DDO Ahmedabad, Himatnagar, Rajkot, Collector Ahmedabad, Himatnagar, Bharuch,	34	10.57	4.59	5.98
Total	44	21.88	4.94	16.94

As can be seen from the above, non/short levy of penalty resulted in less realisation of revenue by ₹ 16.94 lakh.

After this was pointed out, the Department accepted audit observation in three cases for ₹ 3.34 lakh and recovered ₹ 1.62 lakh in two cases.

We recommend the Government to consider strengthening the system for timely detection of unauthorised use of land and making inspections more effective.

3.5.13 Internal controls

Revenue Department instructions (August 1975) provided that the concerned Collectors and Dy. Collectors have to carry out the inspection of their subordinate offices as per the questionnaire attached with the instructions. The Collector/DDOs were required to furnish information regarding inspections of subordinate offices during the period 2004-05 to 2008-09. Department did not produce the records to verify that the Collector/Dy. Collectors had carried out necessary inspection of subordinate offices as per specified norms. Loss of revenue as well as non-detection of cases with irregularity as pointed out in preceding paragraphs indicates that the internal control system established is not effective and adequate.

3.5.14 Internal Audit

An independent and effective internal audit under the direct control of the head of the Department is essential for ensuring compliance of the provisions of the Acts/Rules and the Government instructions regarding assessment of revenue, prompt raising of demands, its collection and accounting and for overall functioning of the administration effectively, efficiently and economically.

Internal audit wing of the Revenue Department is headed by RIC equivalent to Secretary to the Government of Gujarat, for the purpose of internal audit and inspection of the district and *taluka* head offices. RIC vide its circular of June 2005 has refixed the periodicity of the inspection of various offices and mandays for their inspection. Following are the observations in this regard:

- There are only three inspection parties in operation. Each party consists of six members namely, one *Mamlatdar*, four Dy. *Mamlatdars* and one *Gujarati* typist. Presently no *Mamlatdar* is posted in all the three parties.
- There are 619 auditable units in the State and periodicity was fixed for once in one to 10 years. The RIC has fixed target of inspection of 148 units during the revenue year (August-July). Detailed scrutiny of target fixed per annum revealed that 11 Collector and 11 District Development Offices specified for inspection twice/once in three years had not been included in the targets fixed. Thus as per periodicity and man-days available, the target was not fixed to cover above 22 important offices.
- Revenue Department's circular (August 1975) also provides that as per norms fixed, the concerned Collectors and Dy. Collectors have to carry out the inspection of their subordinate offices as per the questionnaire attached with the circular. Accordingly, the district head offices are conducting audit/inspection of the subordinate offices under their control. The details called for as regards targets fixed and achievement thereof, revealed that only two offices had given the details of target fixed, achieved and shortfall. The remaining offices replied that the information would be collected and furnished to audit. When the fact was brought to the notice of the Government, the Government called for such information from the Collectors/DDOs, in June 2010.

Further, as per the information furnished by the Department regarding inspections carried out, objections raised, compliance thereof and outstanding paragraphs revealed that huge number of objections were pending for compliance, the percentage of which shows an increasing trend which reached upto 62.84 *per cent* during 2008-09 as shown in the following table.

Year	No. of Inspection Reports issued	No. of objections raised	No. of objections complied till 31.3.2010	No. of objections outstanding till 31.3.2010	Percentage of non-complied objections
2004-05	95	18,675	13,347	5,328	28.53
2005-06	159	21,225	13,891	7,334	34.55
2006-07	136	23,568	13,431	10,137	43.01
2007-08	136	25,385	12,304	13,081	51.53
2008-09	143	22,599	8,357	14,202	62.84

The Government stated (October 2010) that the inspection units were fixed as per the target. Some of the offices could not be inspected as the district office staff were occupied with various programs like Elections, *Kanya Kelvani*, *Garib Kalyan Melas*, *Krishi Mahotsava*, *Gunotsav*, *Swarnim rath yatra etc.* Compliance to the internal audit observations also suffered on this account.

Thus, the entire internal control system needs to be strengthened and made more effective to take action on the findings of the internal audit/inspection by the concerned officials.

Compliance Deficiencies

3.5.15 Non/short levy of premium due to non-detection of a breach of conditions of orders of allotment of land

The Government of Gujarat decided in July 1983 to convert the land under new and restricted tenure into old tenure for sale/transfer for agricultural purpose or non-agricultural purposes subject to payment of premium price at prescribed rates fixed by the Government from time to time. Any breach of condition(s) specified in the order of allotment of land under new and restricted tenure *viz.* sale/transfer or unauthorised NA use *etc.*, without prior permission of the Collector attracts premium price at prescribed rates.

During test check of records relating to finalisation of NA cases of three Collectors⁴¹ for the year 2004-05 to 2008-09 we noticed that in 15 cases, the applicants committed breach of conditions like (i) NA permission not obtained within six months of the date of order, (ii) if the

permission is not obtained within six months, the land was to be restored to the Government and order issued for allotment of the land under new and restricted tenure stood cancelled automatically. However, the Departmental officials failed to follow-up these conditions and initiate action. The premium price at prescribed rates was leviable for such breach of condition. The Collector did not initiate action to recover the premium price of ₹ 15.76 crore.

In another case, we noticed that the entire land under new and restricted tenure was converted into old tenure on payment of “*Nazrana*” for sale and entire land was sold in 1974 for residential use to a co-operative society subject to obtaining of NA permission separately. The society, instead of obtaining permission for

⁴¹ Anand, Kheda and Surat.

residential use, had commenced commercial use on part of the land. We further observed that though the premium price was recoverable on entire land for breach of conditions of the order for the conversion of land from new tenure to old tenure, the Collector levied (December 2008) the premium price only on the commercial portion of the land. This resulted in short levy of premium price of ₹ 1.05 crore.

The Government stated (October 2010) that the cases would be examined for further necessary action. Further report has not been received (December 2010).

3.5.16 Short levy of premium price/occupancy price due to non-application of revised market rates

There is lack of effective mechanism at district level to watch compliance of conditions of various resolutions, orders and instructions issued by the Government from time to time in respect of the conversion of the land for various use and monitoring the levy and collection of various receipts relating therewith. Absence of such mechanism leads to continuous shortfall in Government revenue. Our test check revealed short recovery of revenue in the cases detailed below.

Government of Gujarat instructed in May 2006 that in case of the allotment of the Government land, market rate fixed by the District Land Price Committee (DLPC) shall be increased by adding 12 per cent at flat rate instead of calculating the increase of 12 per cent on monthly basis where orders of the allotment is issued after one year from the date of market rate fixed by the DLPC. The DLPC shall fix market value of the land afresh if the order of allotment is issued after completion of two years.

3.5.16.1 During test check of cases of removal of restrictions finalised by six⁴² Collectors for the year 2007-08 and 2008-09, we noticed in nine cases that though more than one year had expired from the date of fixation of market rate by DLPC, at the

time of final orders issued by the Collector, increase of 12 per cent in market rate was not applied. Moreover, in one case, though two years had expired from date of order of DLPC, market value of the land was not refixed. Government could have received more premium price in case of revised market value of the land. The concerned Departmental officials failed to observe Government instructions for arriving at the market value which resulted in short levy of premium price of ₹ 4.65 crore and short levy of occupancy price of ₹ 60.83 lakh.

⁴² Ahmedabad, Amreli, Junagadh, Rajkot, Surat and Vadorara.

The Government decided in March 2001 that different applications made by a single applicant shall be treated as one and sent to the Government where the market value of the land in case of such applications exceeds ₹ 50 lakh. The SLPC would reevaluate the above land, if necessary, to arrive at the actual market value to avoid loss of revenue. The Government issued such instructions to avoid splitting of the land in such a way that market value comes below ₹ 50 lakh so as to avoid valuation by higher forum.

3.5.16.2 During test check of cases finalised by the Collector, Ahmedabad, we observed that in one case, different applications of one applicant were sent to Government separately in such a way that in first application, the market rate was decided by the DLPC

and in other application, the market rate was decided by the SLPC. Thus, one survey number was divided in two parts having two different market rates i.e. one fixed by the DLPC and the other by the SLPC, within a period of four months. The rate decided by the SLPC was higher than the rate decided by DLPC. The Departmental officials failed to observe the instructions to treat different applications of single occupant. This resulted in short levy of premium price of ₹ 16.78 lakh.

After being pointed out, the Collector stated (October 2008) that the applicant had submitted two applications and in both cases land was granted with the approval of the Government. However, the fact would be brought to the notice of the Government and action would be taken accordingly.

Government of Gujarat issued instructions in October 2003 that entry in the records of rights shall not be certified by the competent revenue authority without production of valid documentary evidence viz. sale deed, mortgage deed, etc. duly registered as per provisions of the Registration Act, 1908.

3.5.16.3 During Cross verification of NA cases finalised by three Collectors⁴³ and DDO, Amreli with relevant village records for the year 2008-09 we found that in four cases, the applicants had not submitted a

valid registered document for the purpose of certification of entry in the revenue records kept at the village. However, the concerned revenue authority certified the entry without demanding the production of valid registered document. The change in ownership of the property/creation of the charge on the property was effected without execution and registration of the documents. This resulted in non-levy of stamp duty and registration fee of ₹ 8.73 lakh.

The Government stated (October 2010) that VF-6 mutation entries are certified only on the basis of the documents or Index-2 sent by Sub-Registrar. Registered documents are not required in such cases.

The reply is not acceptable. In these four cases, applicants of non-agricultural permission became owners of the property by way of release of the share in the

43 Himatnagar, Rajkot and Surat.

property by the co-owners. However, entry for the change in ownership in the land records was certified without production of registered release deeds or any other document sent by Sub-Registrar.

The Government of Gujarat in April 2002 instructed all Collectors and concerned competent authorities to include the condition of payment of stamp duty in the allotment order of the Government land. It was also instructed to hand over the possession of land on payment of appropriate amount of stamp duty.

3.5.16.4 Our test check of allotment of land cases finalised by twelve Collectors⁴⁴ for the year 2008-09 revealed that in 79 cases, though the land was handed over to the allottees, the

Departmental officials either did not recover stamp duty or recovered lesser amount. Out of these cases, in 43 cases, even the condition of payment of stamp duty was not inserted in the allotment orders. Revenue authorities failed to observe the instructions of the Government to recover stamp duty before handing over the possession of the land. This resulted in non-realisation of stamp duty of ₹ 2.56 crore.

The Government stated (October 2010) that stamp duty is exempted on land allotted as revenue free and free of occupancy price. The reply is not correct as the cases of allotment pointed out by us were neither free of occupancy price nor free of revenue but allotted after recovery of occupancy price⁴⁵ and the stamp duty was leviable.

We recommend the Government to consider instructing the implementing Departments to maintain category wise orders/resolutions/instructions for finalisation of various types of cases and to avoid continuous shortfall of revenue.

⁴⁴ Amreli, Anand, Bhavnagar, Gandhinagar, Godhra, Junagadh, Navsari, Palanpur, Patan, Porbandar, Narmada (Rajpipla), Surat.

⁴⁵ Occupancy price means the amount received by the Government in lieu of rights of occupancy of land handed over to the allottees i.e. land value as fixed by the Government.

3.5.17 Non/short levy of conversion tax

Section 67A of the Bombay Land Revenue Code, 1879 provides for the levy of conversion tax on change in the mode of use of the land from agricultural to non-agricultural (NA) purposes or from one non-agricultural purpose to another in respect of land situated in a city, town or village. Different rates of the conversion tax are prescribed for residential/charitable and industrial/other purposes depending upon the population of the city/town/notified area/ village. The conversion tax shall be paid in advance by a *challan* in the Government treasury. Further, as per Sub-Section 2(b) of Section 67 A of the Code, the occupant of such land shall be liable to pay to the State Government, a tax at such rate as is equivalent to the difference between the rate of tax applicable to the other non-agriculture purpose, as the case may be, and the rate of tax applicable to the existing NA purpose. Government decided in December 2006 that NA permission of competent authority was not to be obtained in case of allotment of Government land for non-agriculture purpose but conversion tax and non-agricultural assessment shall be recoverable as per standing instructions.

During test check of the records of 16 Collectors⁴⁶, Dy Collector, Rajkot and 10 DDOs⁴⁷ for the period 2004-05 to 2008-09, we noticed that out of 464 cases, in 357 cases, conversion tax was not levied on Government land allotted for NA purposes where separate NA permission was not required. In other 105 cases, we noticed that conversion tax was either not levied or levied short while granting NA permission. In other two cases, the differential conversion tax was not levied on change in use of land from one NA purpose to another. The concerned officer failed to implement

the provisions of the Act/ Rules and instructions issued by the Government. This resulted in non/short levy of conversion tax of ₹ 8.59 crore.

The Government stated (October 2010) that specific cases would be examined and after due verification, necessary action would be taken. Further report has not been received (December 2010).

⁴⁶ Ahmedabad, Amreli, Anand, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhra, Junagadh, Navsari, Palanpur, Patan, Porbandar, Narmada (Rajpipla), Surendranagar.

⁴⁷ Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhra, Junagadh, Patan, Narmada (Rajpipla), Surat.

3.5.18 Short levy of premium price due to non-observance of the policy decided by the Government to adopt new *jantri*

The Government decided in December 2006 that new *jantri* as approved by the Government shall be applicable from the date of its effect in all the cases for fixation of premium price. Premium price is to be decided as per prevailing system till the effective date of new *jantri*. The Superintendent of Stamp, Gandhinagar circulated in March 2008 new *jantri* for the purpose of valuation of the stamp duty and made it effective from 1 April 2008. Further, Government decided on 4 July 2008 that the premium price shall be fixed as per new *jantri* effective from 1 April 2008 in pending cases where the orders permitting conversion of land from new and restricted tenure to old tenure are to be issued after 1 April 2008.

Our test check of records of the two Collectors⁴⁸ for the year 2007-08 and 2008-09 revealed that in 2 cases, the Collector did not adopt the rates of new *jantri* while fixing market value for the purpose of levy of premium price for conversion of new tenure land to old tenure and in one case, the Collector recovered premium at DLPC rates, though

these cases were finalised after 4 July 2008. This resulted in short levy of premium price of ₹ 20.08 lakh.

After being pointed out by us, the Collector, Narmada (Rajpipla) accepted the audit observation in two cases and Collector, Junagadh in one case replied that the matter would be looked into and necessary action would be taken.

3.5.19 Non-compliance of decision taken by the Government/ Gujarat Revenue Tribunal in re-allotment of land by the Department

3.5.19.1 Government of Gujarat decided in March 2000 and adopted in December 2006 in various cases that sale or transfer of new and restricted tenure land, which took place without prior permission of the Collector, shall be regularised by re-granting the land to the purchaser with new and restricted tenure that can be converted into old tenure for non-agricultural use subject to levy of premium price at the rate of 100 *per cent* of market values.

Test check of cases finalised by the Collector, Ahmedabad and Amreli and Dy. Collector, Dholka under control of the Collector, Ahmedabad for the years 2004-05 to 2008-09 revealed that in nine cases, the land was allotted to the concerned tenant under new and

restricted tenure. However, it was not entered as new and restricted tenure land or the words “new and restricted tenure” were removed by subordinate offices in the village records. The occupants subsequently sold their land or

⁴⁸ Junagadh and Narmada (Rajpipla).

transferred it by way of executing Power of Attorney (PoA). The concerned purchaser/PoA holder also sold the land to new purchaser for non-agricultural use. Premium price was leviable at 100 *per cent* of market value as per decision of the Government. However, the cases were finalised after levy of premium price at 80 *per cent* of market value of the land. The Departmental officers did not follow the decision of the Government to re-grant the land to purchaser under new and restricted tenure and recover premium at 100 *per cent* of market value. This resulted in short levy of premium price of ₹ 2.33 crore.

In case of unauthorised removal of the restrictions imposed under Section 43 of the BT&AL Act, 1948 by the subordinate offices and sale of the land by occupant to a purchaser treating it as old tenure and subsequent establishment of such land as new tenure in review/revision/appeal by the Government/the Collector cancelling the orders issued by subordinate offices, the Gujarat Revenue Tribunal (GRT) decided that in such cases premium price is to be fixed on the date of registration of sale deed and interest at 12 *per cent* is to be recovered for the period from the date of fixation of premium price to the date of issue of orders as the purchasers had purchased the land with bona fide intention. Government of Gujarat did not frame any policy or prescribe any procedure to follow the decision during finalisation of similar cases.

3.5.19.2 During test check of non-agriculture assessment finalised by the Dy. Collector (Prant), Viramgam under control of the Collector, Ahmedabad for the year 2008-09, we noticed in detailed scrutiny of cases that in two cases, the occupants had purchased the new and restricted tenure land as old tenure with bona fide intention. The Collector had subsequently established the land as new tenure land.

However, the decision of the GRT was not followed and these cases were not regularised as sale of new tenure land for agriculture purpose. The Departmental officials did not fix the premium price as per the decision of the GRT and recover it before finalisation of NA permission. The Department also failed to initiate action against the respective Departmental officials for negligence, non-entering the words “New and Restricted Tenure” in village records and incorrect removal of restrictions of new tenure. This resulted in short levy of premium price of ₹ 51.55 lakh.

We recommend the Government to consider framing a policy to follow the decision of the GRT/Government in cases of re-establishment of new tenure occupancy and prescribing a system of periodical review of cases on sale of new tenure land.

3.5.20 Non-levy of premium price due to non-observance of provisions of the Act

Amended proviso of Section 32P of the BT&AL Act, 1948 provides that land shall be allotted as new and restricted tenure, if the land was given back to the owner for *gharkhed* (to be cultivated personally by the land owner) after 29 December 1965 in the cases where the tenant was not interested in purchasing the said land or the tenant was not allowed to purchase the land, or purchase was cancelled etc. Amended proviso to Section 84A of the BT&AL Act provides that the land shall be allotted as new and restricted tenure if the transaction of sale/purchase between the land owner and the tenant had taken place between 28 December 1948 and 31 July 1956 and regularised by the *Mamlatdar* and ALT by recovery of a penalty of Re. one after 31 March 1966. While regularising such cases for sale/ transfer or NA use, premium price is leviable on conversion of land from new and restricted tenure to old tenure at prescribed rates.

During test check of NA cases finalised by the Collector, Anand and Collector, Himmatnagar and three DDOs⁴⁹ for the year 2008- 09, we noticed in five cases that the land was given back to the land owner for *gharkhed* after 29 December 1965. However, the re-allotment of the land was made under old tenure instead of new and restricted tenure. In two other cases, the penalty of Re. one was paid after 31 March 1966 and the respective *Mamlatdar*

and ALT issued orders in January 1977 and July 2000 to regularise the sale in favour of the tenant as old tenure land instead of granting it under new and restricted tenure. *Mamlatdar* and ALT failed to implement the provisions of the Act. As the land had been allotted without the restriction of the tenure, premium price could not be levied for subsequent permissions of sale/transfer or NA purposes. This resulted in non-levy of premium price of ₹ 2.59 crore.

The Government stated (October 2010) that in case of re-grant of land to the land owner for *gharkhed* after 29 December 1965, the same should be re-granted as new and impartible tenure and therefore the five cases will be examined. The other two cases are also required to be examined. Further report has not been received (December 2010).

⁴⁹ Anand, Gandhinagar and Mehsana.

3.5.21 Non/short levy of measurement fee

Settlement Commissioner and Director of Land Records, Gandhinagar vide orders dated 4 May 2000 revised the rates of measurement fees effective from 1 February 2003. Accordingly, the measurement fee is leviable at the rate of ₹ 1,200 for development plan upto four plots and ₹ 300 for each additional plot.

Test check of the record of the eight Collectors⁵⁰, eight DDOs⁵¹ and seven TDOs⁵² for the year 2008-09 revealed that in 415 cases, NA permission was granted as per the plan approved for various

NA purposes. The measurement fee was required to be recovered as per plan and plots approved at prescribed rates. However, the measurement fee was either not recovered or was recovered at incorrect rates on plots approved. This resulted in non/short levy of measurement fee of ₹ 55.54 lakh.

The Government stated (October 2010) that as per the procedure followed for this purpose, an applicant has to submit the sketch of the land, showing the boundaries of the plot along with application of NA and copy of the *challan* of the measurement fees paid. NA permission also specifies the condition of measurement through DILR⁵³. The reply is not acceptable as the payment of measurement fees is a pre-requisite for the consideration of NA application and the evidence of payment of measurement fee was required to be kept on record which had not been done.

3.5.22 Non/short levy of non-agricultural assessment

Bombay Land Revenue Code, 1879 and the Rules made thereunder provide for levy of non-agricultural assessment (NAA) on land used for non-agricultural purposes at the rates prescribed by the Government from time to time. Different rates depending on the use of the land are prescribed for each class of city/town/village. The Government vide notification of August 2003 revised the rates of NAA and classified the areas in three categories i.e. A, B and C for levy of NAA. The Code provides for issue of a demand notice and distraint and sale of defaulter's movable/immovable property for recovery of arrears of the land revenue. Further, as per section 48 of the Code, NAA is leviable with effect from the commencement of the revenue year in which the land is used for NA purposes with or without the permission of the competent authority.

Test check of records of the Collector, Ahmedabad and Collector, Valsad and TDO, Nadiad for the year 2004-05 to 2008-09, revealed that in 48 cases, though the NA permissions were granted or deemed to have been granted, the NAA of ₹ 22 lakh was not levied for the period of NA use.

- During test check of the cases finalised by the Collectors Ahmedabad and Kheda, Dy. Collectors

⁵⁰ Ahmedabad, Bhuj, Gandhinagar, Mehsana, Palanpur, Patan, Surat, Vadodara.

⁵¹ Ahmedabad, Amreli, Bharuch, Gandhinagar, Himatnagar, Palanpur, Patan, Surat.

⁵² Himatnagar, Idar, Kadi, Kalol, Mehsana, Prantij, Sihor.

⁵³ District Inspector of Land Records.

Rajkot and Vadodara and DDO, Vadodara during the year 2007-08 and 2008-09, we observed that in 20 cases, the NAA was not levied for the period of unauthorised use of land. In four cases finalised by the DDO, Gandhinagar for the year 2008-09, NAA was levied at incorrect rates. This resulted in non/short levy of NAA of ₹ 4.33 lakh in 24 cases. These resulted in total non/short levy of NAA of ₹ 26.33 lakh.

3.5.23 Other points of interest

3.5.23.1 The Government decided in July 1983 to levy premium price at the prescribed rates to convert new and restricted tenure land into old tenure for sale, transfer for agricultural or non-agricultural purposes. Different rates were prescribed in 2003 for different class of areas viz. the area falling under an Urban Development Authority, Municipal Corporation, *Nagarpalika*, any specified area, and previous ULC area and other than that area, based on period of holding of the land by the occupant.

- During test check of records of the Dy Collector, Choryasi, Surat for the year 2004-05 to 2008-09, we noticed that the entire area of one village was notified as falling under Municipal Corporation in February, 2006. In one case, we noticed that the Dy. Collector

had recovered the premium at the rate of 60 times of NAA, instead of rate applicable to the Municipal area at 50 *per cent* of the market value of the new tenure land for conversion in old tenure though that case was finalised after February, 2006.

- During test check of the records of the Collector, Gandhinagar we noticed that in two cases, the Collector had adopted the *jantri* rates applicable to village area for the survey numbers falling under GUDA/AUDA. The Government did not prescribe the rates for area falling under the concerned Urban Development Authority in the new *jantri* effective from 1 April 2008.

Audit further noticed that the Department did not have any database to decide the cases as regards change of class of a particular survey number/village etc. and the survey numbers falling in UDA area where *jantri* rates were not provided. The concerned Departmental officers failed to refer the matter to the Government for fixation of rates of that area in new *jantri*. This resulted in short levy of premium price of ₹ 74.30 lakh in the above test checked cases.

The Government stated (October 2010) that *jantri* is only one and the same is applied for all over the State and there is no separate *jantri* for Urban Development Authority areas.

The reply is not acceptable since the rate of premium levied was incorrect. Instead of premium at 60 times of NAA applicable to village area, it was recoverable at applicable rate of 50 *per cent* of the market value applicable to municipal area. In other two cases, rate for particular survey numbers falling under town planning scheme was not fixed.

We recommend the Government to consider collecting database of the area with change of classification and providing the *jantri* rates for that area.

3.5.23.2 The Government of Gujarat decided in July 1983 to convert the land under new and restricted tenure into old tenure for sale/transfer for agricultural purpose or non-agricultural purpose subject to payment of premium price at the rates fixed by the Government from time to time.

- During test check of cases finalised by the Collector, Patan and Collector, Rajkot for the year 2008-09, we noticed that in three cases, market rate as applicable to the particular survey

number as per *jantri* was not considered and the rate on lower side was adopted for levy of premium price. Of these in one case of Patan, it was a mistake on the part of the Government who instructed the Collector to levy premium price at the rate lower than what was proposed by the Collector, without any justification. This resulted in non-levy of premium price of ₹ 29.16 lakh.

After this was pointed out, the Collector, Rajkot recovered the differential premium price of ₹ 6.50 lakh (January 2010).

- The Government decided in May 1980 that the premium price at the rate of one third of annual rent is leviable for the period of lease where new tenure land is given on lease for non-agricultural purposes to any person or *mandal* except educational or charitable institutes.

Test check of NA cases finalised by the TDO, Borsad working under the DDO, Anand for the year 2008-09 revealed that in five cases, the occupants had leased new tenure land for temporary non-agricultural (brick manufacturing) purposes on payment of annual rent or lump-sum amount. However, the concerned officer failed to observe the instructions of the Government and did not initiate action to levy premium price of ₹ 4.10 lakh.

This resulted in non-levy of premium price of ₹ 33.26 lakh in the above cases.

3.5.24 Conclusion

The review revealed a number of system and compliance deficiencies. There was leakage of revenue due to non-observance of the Government instructions by the *Mamlatdars* in removing restrictions. The *Mamlatdars* had removed the restrictions in tenure in violation of the Government instructions resulting in loss or revenue in the shape of premium. Besides, the higher authorities had not reviewed the cases within the prescribed time limit to detect the cases of incorrect removal of restrictions by the *Mamlatdars*. The Government had also not put in place any mechanism for periodical review and revision of the incorrect orders issued by subordinate offices to safeguard the Government revenue. The internal controls of the Government were weak as evidenced by

absence of a system or procedure for ensuring the compliance of the terms and conditions of various orders or to detect breach of conditions. There was lack of co-ordination amongst the Revenue and Registering Authorities of the same Department. Loss of revenue receipts due to inaction of the various officials and non-detection of breach of condition prescribed by the Government indicated poor internal control and monitoring at the apex level.

3.5.25 Summary of recommendations

We recommend the Government to consider implementing the following recommendations to rectify the deficiencies and improve the system :

- *issue suitable directions to the Department for framing the budget estimates on realistic and scientific basis and ensure that the estimates are as close to the actual receipts as possible;*
- *consider devising a system to ensure that the Mamlatdar discharge their duty as per the Governments' decision/Act/Rules. The Government may also provide for periodical review of significant powers exercised by the subordinate officers;*
- *consider establishing a system to identify such cases of wide variation between DLPC rates and jantri rates and prescribe time limits for revision of jantri rates;*
- *issue instructions to the registering authorities to pass on the copies of sale deeds to the revenue authorities in the interest of revenue;*
- *consider strengthening the system for timely detection of unauthorised use of land and making inspections more effective;*
- *consider instructing the implementing Departments to maintain category wise orders/resolutions/instructions for finalisation of various types of cases and to avoid continuous shortfall of revenue;*
- *consider framing a policy to follow the decision of the GRT/Government in cases of re-establishment of new tenure occupancy and prescribing a system of periodical review of cases on sale of new tenure land; and*
- *consider collecting database of the area with change of classification and providing the jantri rates for that area.*

3.6 Non-levy of service charges

3.6.1 Section 46(2) of the Bombay Stamp Act, as applicable to Gujarat provides that all duties, penalties, interest and other dues required to be paid under the Act may be recovered by the Collector as arrears of land revenue. Further, Rule 117C of the Gujarat Land Revenue Rules, 1972 provides for the levy of service charges at the rate of five *per cent* on the recovery made as arrears of land revenue. Superintendent of Stamps clarified vide circular dated 7 September 2007 that in cases of payment of dues under amnesty scheme, service charge is recoverable on amount of deficit stamp duty determined as per the order of the Dy. Collector where action for recovery as arrears of land revenue had been initiated under the Bombay land Revenue code.

During test check of records of eight Dy. Collectors (VoP)⁵⁴ between August 2008 and July 2009, we noticed in 7,689 cases that *Mamlatdar*⁵⁵ (Recovery) had realised ₹ 5.76 crore from the defaulters during the period 2005-06 to 2008-09 as arrears of land revenue. However, the concerned officers either did not levy the service charges or allowed benefit

of amnesty scheme for determining the service charge and recovered lesser amount. This resulted in non/short levy of service charge of ₹ 28.71 lakh.

This was brought to the notice of the Department between July and December 2009 and the Government in March 2010; their replies have not been received (December 2010).

3.6.2 Section 12 of the BMVT Act provides that the tax due and not paid as provided in the Act is to be recovered as arrears of land revenue. Further, Rule 117C of Gujarat Land Revenue Rules, 1972 provides to recover five *per cent* of service charges from the defaulters as cost of collections.

During test check of the records of nine taxation authorities⁵⁶ between June 2008 and July 2009 for the period 2007-08, we noticed that in 625 cases, the Departmental officials had recovered

₹ 1.87 crore as arrears of land revenue but failed to levy service charges on such amount recovered as arrears of land revenue. This resulted in non-levy of service charges of ₹ 9.03 lakh.

This was brought to the notice of the Department in December 2008 and January 2010 and the Government (June 2010); their replies have not been received (December 2010).

⁵⁴ Amreli, Anand I, Bhavnagar, Bhuj, Junagadh, Surat II, Vadodara I and II.

⁵⁵ The Officer appointed by State Government, entrusted with the local revenue administration of a taluka.

⁵⁶ Amreli, Bharuch, Bhuj, Godhra, Jamnagar, Nadiad, Palanpur, Surendranagar and Vadodara