

#### 4. Chief Controlling Officer based audit of Consumer Protection and Weights & Measures Department

In today's world every person living in society is impacted several times each day by measures of length, weight and volume. It therefore, becomes exceedingly important for the Government to have a strong mechanism in place to ensure that people must get what they pay for.

##### Executive summary

Chief Controlling Officer based audit of Consumer Protection and Weights & Measures Department, covering the period 2007-12, was conducted (April to July 2012) to examine economy, efficiency and effectiveness of the Departmental activities keeping in view its mandate for regulating weights and measures under the Standards of Weights & Measures (Enforcement) Act, 1985 and the Legal Metrology Act, 2009. The major Audit findings which came to notice during the course of Audit are summarised below:

- The effectiveness of the enforcement activities of the Department was limited as the Department had no data base of the users of weights and measures in the State. The Department had also not prepared a Manual of instructions for observance while enforcing several provisions of the Rules. *The Department should prepare a database of trading institutions using weights and measures on the basis of proper survey of users so that an action plan for their effective monitoring should be prepared and enforced.*

[Paragraph No. 4.5.1]

- Approximately, 29 to 50 *per cent* of the sanctioned posts of Assistant Controllers and 18 to 36 *per cent* of the sanctioned posts of Senior Inspectors/Inspectors remained vacant (2007-12) since the Public Service Commission did not respond to the request. *The Department should pursue for optimum filling up of posts.*

[Paragraph No. 4.5.2.1]

- No norms were fixed by the Department for establishing a centre to bring uniformity in area and population under its jurisdiction as the Assistant Controller, Jhansi served an average population of 8.78 lakh whereas Assistant Controller, Gorakhpur served an average population of 22.77 lakh. Besides, the Government did not prepare an action plan for utilisation of central assistance (₹ 7.44 crore) for strengthening the centres/laboratories. *The Department should develop sound infrastructure in terms of centres/laboratories etc. Besides, norms for establishing a centre should also be developed.*

[Paragraph No. 4.5.3]

- Weak Internal control mechanism indicates the slackness of the Department towards enforcement of the Acts and Rules. *Adequate and effective internal control mechanism should be in place.*

[Paragraph No. 4.5.4]

- An amount of ₹ 5.41 crore was allotted for pay and allowances of vacant posts leading to its eventual surrender (2007-12) at the close of the financial years. Moreover, there was laxity in cash management of non-tax revenue. *The State Financial rules should be scrupulously observed in managing Government funds.*

[Paragraph No. 4.6.1.1 & 4.6.1.2]

- During 2008-09 to 2011-12, total 1.29 lakh users in 42 test checked centres/laboratories did not produce the weights and measures for verification at the prescribed intervals, resulting into non-realisation of fee of ₹ 1.51 crore. Besides, the possibility of the use of incorrect and manipulated/tampered weights and measures cannot be ruled out. *The Department should ensure a foolproof mechanism for verification.*

[Paragraph No. 4.6.2.2]

- There was 69 per cent fall in the inspections done by the Inspectors/Senior Inspectors during 2011-12 when compared with the status of 2007-08 and 32 per cent when compared with 2010-11. Moreover, no records of inspections carried out (2007-12) were available even after lapse of four years of the observation made by the Controller, Legal Metrology, Uttar Pradesh, Lucknow regarding fake reporting of inspections by the Inspectors/Senior Inspectors. *Norms fixed for inspections should strictly be adhered to.*

[Paragraph No. 4.6.2.3]

- Number of cases were pending in the court. Age wise pendency of the cases was not available due to improper maintenance of register of court cases at the test checked centres. *Better monitoring should be ensured.*

[Paragraph No. 4.6.2.4]

#### 4.1 Introduction

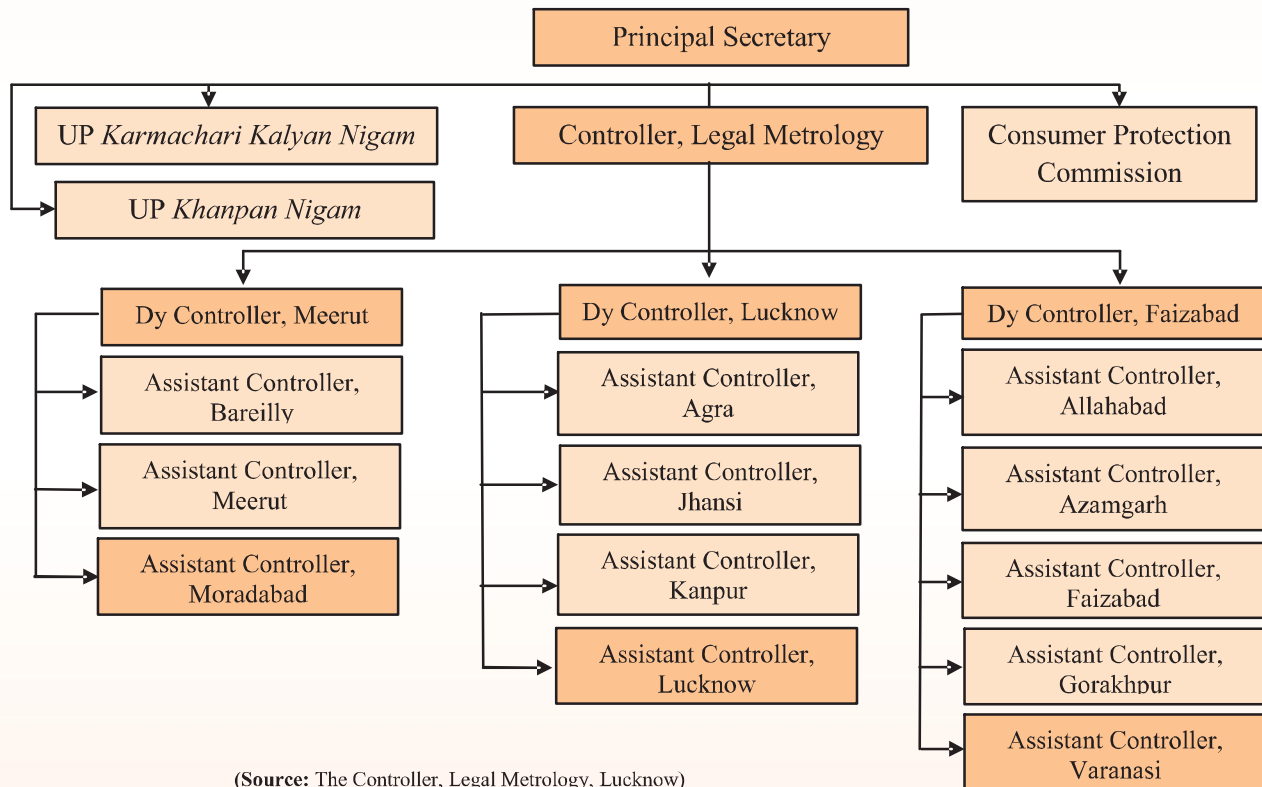
The Department aims at protecting the interests of the consumers from malpractices of under weighing or measuring by enforcing provisions of the Act and Rules framed thereunder and also to ensure that consumers get right and exact value of the product for the money they have spent. It's main function is to verify and stamp the weights, measures and measuring instruments used in trade and industrial production. This is also enforced through periodical inspection; registering the manufacturer and packers of packaged commodities; taking action for non-compliance with the Packaged Commodity Rules 1977 and 2011 and seizure in case of contravention of provisions of Act, 1985 and 2009 and Rule, 1990 and 2011 *vis-à-vis* use of non-standard weights, measures and measuring instruments; under weighing

and measuring etc, compounding and registering un-compounded cases in the court.

The Government of India (GoI), with a view to make consumer interest protection more comprehensive and effective, enacted the Standards of Weights & Measures (Enforcement) Act, 1985 and the State Government enforced the same in the State with effect from January 1990. In 2009, the GoI repealed the Act and enacted the Legal Metrology Act, 2009. The State Government also framed the Uttar Pradesh Legal Metrology (Enforcement) Rules, 2011 which *inter alia* provided for time-frame for verification of weights and measures (Rule 14), registers and records to be maintained (Rules 13) etc.

## 4.2 Organisational Structure

### Organisational structure of the Department of Consumer Protection and Weights and Measures



(Source: The Controller, Legal Metrology, Lucknow)

At the Government level, the Principal Secretary, Food & Civil Supply Department exercised control over Legal Metrology upto April 2008. From May 2008, the control vested with Principal Secretary, Department of Consumer Protection and Weights and Measures.

At the Department level, the Controller, Legal Metrology, Uttar Pradesh, Lucknow (Controller), responsible for monitoring and enforcement of the Act and Rules, is the Head of the Department and is assisted by three Deputy Controllers at zonal level, 12 Assistant Controllers at divisional level and

Senior Inspectors/ Inspectors at centre level (all are responsible for enforcement through verification and inspections). The Deputy Controller/ Assistant Controllers are the Drawing and Disbursing Officers for the districts falling under their jurisdiction.

### 4.3 Audit framework

#### 4.3.1 Audit objectives

The Audit objectives were to examine whether:

- efficient and effective periodical surveys were conducted to buildup the database imperative for preparing rolling perspective and annual plans;
- the Department was endowed with required institutional wherewithal in terms of human, financial and physical resources to carry out its mandate of licensing, calibration, verification & stamping and enforcement;
- efficient and effective internal controls were in place and periodical monitoring and evaluation were being undertaken; and
- financial management within the Department was efficient, economic and effective and also in consonance with the extant financial laws, rules, regulations, orders etc.

#### 4.3.2 Audit criteria

The following were the sources of audit criteria adopted for the CCO based audit of Consumer Protection and Weights & Measures Department:

- Standards of Weights & Measures (Enforcement) Act, 1985 (Act 1985);
- The Standard of Weights and Measures (General) Rule, 1987 (General Rule 1987);
- Uttar Pradesh Standards of Weights & Measures (Enforcement) Rules, 1990 (Enforcement Rule 1990);
- The Legal Metrology Act, 2009 (Act 2009);
- Uttar Pradesh Legal Metrology (Enforcement) Rules, 2011 (Enforcement Rule 2011);
- The Legal Metrology (General) Rules, 2011; and
- Government orders and instructions issued from time to time.

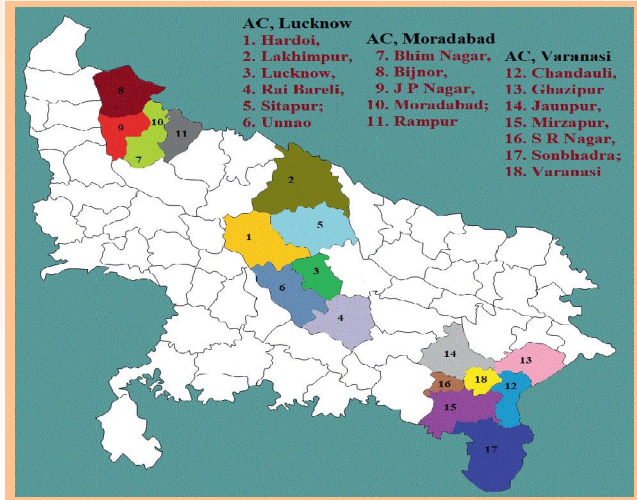
#### 4.3.3 Scope and Methodology of Audit

The records pertaining to the period 2007-12 of the Principal Secretary, Department of Consumer Protection and Weights & Measures; the Controller, Legal Metrology, UP (Controller); all the three Deputy Controllers (DC);



three<sup>1</sup> Assistant Controllers (AC) with all the 42 centres under them at the Government, Department, Zonal, Divisional and District levels respectively were examined during April to July 2012. Evidences in support of observation were collected during joint physical verification<sup>2</sup> and photo graphs were also taken.

Audit sample included the Controller, all the three DCs, three out of twelve ACs and all the 42 centres under the selected ACs covering 18 districts. The



Entry Conference with the Principal Secretary, Consumer Protection and Weights and Measures Department was conducted on 8 June 2012 wherein Audit objectives, criteria, scope and methodology were discussed. The reply had been received (December 2012) and the exit conference with the Secretary, Consumer Protection and Weights and Measures Department was conducted on 26 February 2013 wherein audit observations and recommendations were discussed and accepted.

#### 4.4 Acknowledgement

The co-operation extended by the Government and the Department during the course of the Audit is acknowledged.

#### 4.5 Institutional weaknesses

Every organisation needs to have sound infrastructure, sufficient manpower and funds to manage and achieve its mandate. It assists in ensuring appropriate internal systems and controls in its key areas of activities and drives the organisation towards its objectives in an economical and efficient manner. Some of the Audit findings on institutional weaknesses noticed during CCO based audit of Consumer Protection and Weights & Measures Department are as under:

##### 4.5.1 Planning

To implement the Acts and Rules efficiently and effectively, it is mandatorily required that the Department should have complete information about the category-wise users of the weights and measures in the State. For this purpose, Department should conduct the periodical survey for preparation of database of users in rural and urban areas which is a pre-requisite for preparing meaningful perspective plan and annual action plan involving identification of

**Perspective plan for enforcement activities was not prepared.**

<sup>1</sup> Lucknow, Moradabad and Varanasi.

<sup>2</sup> 5 Weighbridges, 5 Fair price shops, 5 Jewelers and 5 General merchant shops in each selected district.

users, types of weights and measures used, frequency of verifications of weights and measures and their calibrations, assigning annual physical and financial targets and also framing the schedule of inspections of the premises of the users of the weights and measures by the departmental officers from time to time.

The Department, however, did not conduct the survey to identify the users of weights and measures in the rural and urban areas and also did not maintain any database, during the period covered in Audit. Consequently, perspective plan and annual action plan for the enforcement of the mandated activities of the Department was not prepared since its inception (May 2008). Further, it was also observed that the progress report of the Department was continued to be tabled (till 2011-12) with the Department of Food and Civil Supplies despite four years of its formation.

In reply, the Government confirmed (December 2012) that Department did not conduct any survey and also did not prepare data base of trading institutions using weights and measures as it was against the policy of the Government to end the license rule. It further stated that there was no perspective plan however; thrust was given on maximum verification, stamping and enforcement activities under the Rules. The reply was not acceptable as the said Government policy was for industries only and not applied to users of weights and measures. It also confirms that the Department failed to effectively enforce the Act and Rules in the absence of database, perspective and annual action plan.

Consequently, the benchmarks set for verifications of the weights and measures, realisation of non-tax revenue etc., under the provisions of the Acts were set on *ad hoc* manner as discussed in the paragraphs 4.6.1.2 and 4.6.2.2.

#### 4.5.2 Human resources

##### 4.5.2.1 Inadequate manpower

There were shortages in Assistant Controllers and Senior Inspector/ Inspectors cadres.

The Assistant Controllers and Senior Inspectors/Inspectors are mainly responsible for the enforcement of weight and measure Acts/rules in the State so that the malpractices, if any, could be detected and the action could be taken against the erring users.

The cadre wise details of sanctioned strength, persons-in-position and shortages in the aforesaid posts are given in **Table 1**.

**Table 1: Cadre-wise details of sanctioned strength, persons-in-position and shortages**

Name of posts	Sanctioned strength	Persons-in-position (calendar year)					Shortages (calendar year)				
		2008	2009	2010	2011	2012	2008	2009	2010	2011	2012
Assistant Controllers	14	10	08	09	09	07	04	06	05	05	07
Senior Inspector/ Inspectors	236	193	182	166	166	151	43	54	70	70	85

(Source: Controller, Legal Metrology, UP, Luckno)

Table indicates the shortages in the posts of Assistant Controllers and Senior Inspectors/Inspectors during the periods covered in Audit. Further, it was also noticed that no Senior Inspectors/Inspectors were posted in eight<sup>3</sup> out of 42 centres/laboratories test checked since long.

In reply, the Government stated (December 2012) that requisition for direct recruitment was sent to Uttar Pradesh Public Service Commission and work of vacant divisions were looked after through additional charge given to ACs posted nearby. It also accepted that the Departmental work was badly affected due to shortages in different cadres.

Apart from the above, there were shortages of the supporting staff (technical/non-technical) in the test checked offices of the Assistant Controllers. As against the sanctioned strength<sup>4</sup> of 152 clerks, lab assistants etc. there were only 138 (short: 14). Moreover, they were injudiciously posted either in excess (ranging from one to seven) or short (ranging from one to four) of the sanctioned strength in various centres/ laboratories. The details of shortages of the supporting staff and their posting *vis-a-vis* sanctioned strength has been given in *Appendix-4.1*.

As a result, the basic records like the user registers, court case registers, inspection registers, seized article registers and dead stock registers etc. were either not prepared or were incomplete. The Department should pursue for optimum filling up of posts.

While accepting the facts the Government stated (December 2012) that there were shortages of staff in the Department which hampered the Departmental work.

### 4.5.3 Inadequate infrastructure facilities

The Centres/laboratories are the pillars of the Department where calibration/stamping/ verification of weights and measures etc. are carried out. There should be some specific norm for establishing centre to bring uniformity in area and population under its jurisdiction and to explore possibility of creation of new centre during phenomenal increase in users. During the course of audit, the followings points were noticed:

**No norms for centres/ laboratories.**

There were overall 146 centres/laboratories in the State during 2007-12. No new centre was established during this period. Further, the Department had not fixed any norms (as of December 2012) for the area, population etc. to be served by these centres/ laboratories. As a result, there were wide variations in the size of population served by these 146 centres/ laboratories under the jurisdiction of the 12 Assistant Controllers as evident from **Table 2**. While each centre/ laboratory under the jurisdiction of Assistant Controllers, Jhansi served an average population of 8.78 lakh, it served 22.77 lakh people under jurisdiction of Assistant Controller, Gorakhpur.

<sup>3</sup> Assistant Controller, Lucknow: Malihabad and Mohanlalganj; Assistant Controller, Moradabad: Amroha, Chandpur, Nagina and Sambhal; Assistant Controller, Varanasi: Jamania and Machhlishahar

<sup>4</sup> Three ACs and 30 out of 42 centres.

**Table 2: Variations in average number of population served by centres**

DDOs	Population	No. of centres	Average population per centre	DDOs	Population	No. of centres	Average population per centre
Agra	1,97,05,477	15	13,13,698	Jhansi	96,59,718	11	08,78,156
Allahabad	1,33,63,143	09	14,84,794	Kanpur	1,28,65,072	11	11,69,552
Azamgarh	1,00,45,321	07	14,35,046	Lucknow	2,36,82,514	16	14,80,157
Bareilly	1,32,17,683	11	12,01,608	Meerut	2,21,87,067	18	12,32,615
Faizabad	2,20,89,309	13	16,99,178	Moradabad	1,26,31,203	12	10,52,600
Gorakhpur	2,04,89,916	09	22,76,657	Varanasi	1,96,45,054	14	14,03,218

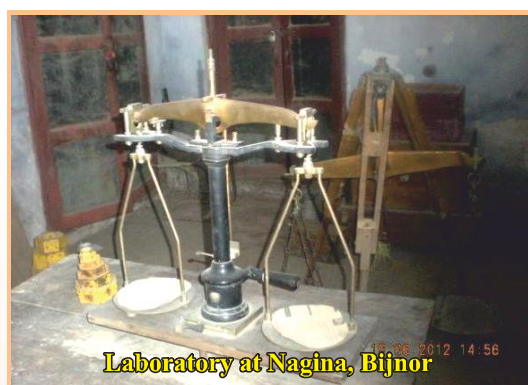
(Source: Records of Controller, Legal Metrology and Census-2011)

In reply, the Government admitted (December 2012) that no norms had been fixed for establishing the centres. No reply in respect of disproportionate average population served by various centres was furnished.

The following irregularities regarding inadequate infrastructure facilities were also noticed:

**Central assistance for strengthening of the infrastructure remained unutilized.**

- To strengthen the centre/laboratories, GoI released ₹ 7.44 crore during 2010-11 (₹ 1.70 crore) and 2011-12 (₹ 5.74 crore) without fixing any time-frame for its utilisation, for construction of buildings for working standard laboratories (13 laboratories; ₹ 3.25 crore) and secondary standard laboratories (5 laboratories; ₹ 1.25 crore), erection of calibration towers for testing of tank lorries (14 lorries; ₹ 2.24 crore) and establishing taxi meter unit for checking taxi meters (14 taxi meters; ₹ 70 lakh).



**Laboratory at Nagina, Bijnor**

Scrutiny of the records revealed that out of ₹ 7.44 crore, ₹ 1.48 crore (building: ₹ 1.20 crore and calibration tower: ₹ 0.28 crore) was diverted and utilised in purchase of lands for construction of the buildings in five Districts (Agra: 120 square meter for ₹ 17.80 lakh; Gorakhpur: 200 square meter for ₹ 21.00 lakh; Meerut: 202.50 square meter for ₹ 36.30 lakh; Moradabad: 129 square meter for ₹ 17.29 lakh; Varanasi: 300 square meter for ₹ 55.20 lakh). The remaining ₹ 5.96 crore was not utilised as of December 2012.

In reply, the Government agreed (December 2012) that ₹ 1.48 crore was received and land was purchased at Agra, Gorakhpur, Meerut, Moradabad and Varanasi. No specific reply in respect of the non-utilization of remaining ₹ 5.96 crore for building ₹ 3.30 crore, calibration tower ₹ 1.96 crore and taxi meter ₹ 0.70 crore was furnished as of December 2012.



Three mobile kits were idle for want of drivers.

- The Government of India provided (March 2008: two and July 2010: two) four Mobile kits (costing: ₹ 2.30 crore) to the Government of Uttar Pradesh, (GoUP) for testing of weighbridges. The GoUP allotted the Mobile Kits to the Assistant Controllers, Kanpur (July 2010), Lucknow (March 2008), Meerut (March 2008) and Varanasi (July 2010). However, scrutiny of the records revealed that the kit provided to Assistant Controllers, Lucknow was being used and the remaining three were lying idle (June 2012).



The Government stated (December 2012) that the drivers were not available on contract basis on an honorarium of ₹ 5000 per month and appointment of drivers to operate these mobile vans could not be initiated due to ban imposed on the recruitment. The fact remained that the kits were lying idle for the last two to four years and natural decay/ deterioration

of the kits cannot be ruled out.

The above shortcoming indicates that the Department was unresponsive towards the infrastructural needs.

- We also observed that the Department did not have adequate mobilisation support in terms of vehicles required for effective enforcement/inspection at gross root level. The details of vehicles available *vis-à-vis* the sanctioned at different level are given in **Table 3**.

**Table 3: Availability of vehicles at different level**

Cadre/Centre	Offices	No. of vehicle available
Controller	01	05
DC	03	Nil
AC	12	10
Centres	146	Nil

(Source: The Controller, Legal Metrology, Lucknow)

It would be seen from the table that Department did not provide any vehicle to the centres for enforcement activities. Nevertheless, two ACs, (Jhansi and Moradabad) and all the three DCs were also not equipped with the vehicle. As such the Department failed to provide vehicles to the key functionaries of the Department at the centre level, which were directly involved in the enforcement activities.

The Government did not furnish (December 2012) the specific reply.

#### 4.5.4 Internal Control

Internal Control (IC) is an integral component of an organisational management processes which are established to provide reasonable assurance that the operations are carried out effectively and efficiently, financial reports and operational data is reliable, and the applicable laws and regulations are complied with so as to achieve organisational objectives. The GoI has prescribed norms/instructions on maintenance of IC in Government Departments under Rule 64 of General Financial Rules 2005. In order to ensure achievement of these objectives, establishment and effective functioning of internal audit wing in the Department is a necessity. Scrutiny of records of the Controller, ACs and 42 centres revealed ineffectiveness of IC in the Department of Consumer Protection and Weights & Measures as discussed below:

##### 4.5.4.1 Non-preparation of Departmental Manual

A Departmental manual is essentially required for defining its functions and setting out general principles, instructions and procedures for observance while enforcing various provisions of the Acts and Rules.

Audit observed (April to July 2012) that the Department did not have any manual of instructions for carrying out the departmental activities at different levels.

In reply, the Government stated (December 2012) that manuals are not required as Legal Metrology Rules are in place. The reply was not acceptable as manuals are essentially required to define the procedure of enforcing the provisions of the Rules and Acts.

##### 4.5.4.2 Inadequate inspection by ACs

The Controller issued (May 2008) instruction to the ACs to prepare a roster for regular inspection of the centres under their jurisdiction. It also instructed to submit the roster of inspections carried out (by the ACs) to the Controller/DC (Headquarters) and the concerned DCs.

Audit observed that neither the roster was prepared nor the regular inspections were carried out by the Assistant Controllers. Further, scrutiny of records in 42 out of 146 centres revealed that no inspection was carried out by the ACs in six<sup>5</sup> centres during 2007-12. In seven<sup>6</sup> centres, inspection was not carried out for more than three years and in 19 out of remaining 29 centres, inspection was not carried out for more than one year. Thus, inadequacy of inspections of the centres is indicative of inadequate monitoring.

In reply, the Government stated (December 2012) that instructions in this regard were issued (May 2008) and roster register will be prepared from the year 2013.

<sup>5</sup>Biswan, Hardoi, Mohanlalganj, Palia, Purva and Unnao

<sup>6</sup>Chumar, Dudhhi, Machhlishahar, Mirzapur, Sandila, Yusufpur and Zamania.



#### 4.5.4.3 Internal Audit

The Finance Department issued order (January 2001) to all Heads of the Departments to conduct internal audit of at least 10 *per cent* units in the Department through their internal audit wing. In the absence of internal audit wings, internal audit was to be carried out through account knowing personnel working in the Department.

We noticed that the Department neither had an internal audit wing nor it got the internal audit done through accounts knowing staff in the Department since its inception (May 2008). In the absence of internal audit, there was no oversight regarding non-maintenance of the important records and registers viz. complaint case register and GPF broad sheet, improper maintenance of cash book, physical verification of dead stock and seized items and non-surrender of outdated stamps etc.

On this being pointed out in audit, the Government accepted (December 2012) the facts and stated that the instructions have been issued (November 2012) to conduct internal audit through departmental officials of the accounts cadre.

#### 4.5.4.4 Inadequate monitoring

Effective monitoring is the key parameter to the achievement of the mandated objectives of the Department. For this purpose instructions have been issued by the Government to conduct a monthly meeting at Controller, DC and AC level to monitor the activities of the department at different levels effectively.

Audit observed that monthly meeting at each level were not conducted regularly as evident from **Table 4**.

**Table 4: Monthly meeting conducted at different level**

Level	Year				
	Norm	2008-09	2009-10	2010-11	2011-12
Controller	12	08	11	08	11
DC, Faizabad	12	07	11	11	07
DC, Meerut	12	11	07	01	Nil
DC/AC, Lucknow	12	09	10	09	08
AC, Moradabad	12	08	10	12	01
AC, Varanasi	12	09	04	01	04

(Source: The Controller, DCs and ACs)

It would be seen from the table that monitoring at Department, Zone and Division level were deficient. In addition, compliance to the instruction given during previous meeting was also not monitored in the case of DC, Meerut. Thus, monitoring at various levels was inadequate.

On this being pointed out in audit, the Government accepted (December 2012) the facts and stated that the instructions have been issued (August 2012) in this regard.

#### 4.5.4.5 Non-functioning of flying squad

To give impetus in enforcement activity, the Department constituted flying squad in nine<sup>7</sup> divisions with an objective to take remedial action on the complaint received from the consumers on weights and measures and detect offences.

Scrutiny of records of the Controller, three DCs<sup>8</sup> and three AC<sup>9</sup> revealed that flying squad teams were not functional as no staff was posted during the period under review.

On this being pointed out in audit, the Government stated (December 2012) that flying squad was not working due to shortages of staff and vehicles.

Thus, the Department failed to apply secondary checks in the implementation of standard weights and measures in every trading activity.

#### 4.5.4.6 Evaluation

The Department should evaluate the performance, effectiveness and efficiency of implementation mechanism and impact of the provisions of the Acts and rules. A study should be carried out to examine the adequacy of the planning, execution, enforcement and monitoring aspect and to suggest measures to improve its effectiveness.

Audit observed that no such evaluation study was carried out to assess the impact and effectiveness of objectives of the Act and Rules in respect of consumer interest.

On this being pointed out in audit, the Government stated (December 2012) that it was not required. The reply is not acceptable as the Department is functioning to protect consumer interests, the evaluation of activities is essential for betterment of the services provided by the Department.

### 4.6 Compliance Issues

For sound financial administration and control, it is essential that expenditure conforms to financial rules, regulations and orders issued by the competent authority. This not only prevents irregularities, misappropriation and frauds and helps in maintaining good financial disciplines. Some of the audit findings on non-compliance with rules and regulations are here under:

#### 4.6.1 Financial Control

##### 4.6.1.1 Allotment and expenditure

The mandated activities of the Department are performed through funds provided in the State budget under revenue and capital account of Grant number 21. The grants-in-aid given by the Government of India (GoI) are also routed through the State budget.

<sup>7</sup>Lucknow and Kanpur in July 1979; Meerut in September 1985; Varanasi in February 1986; Agra, Bareilly, Faizabad, Gorakhpur and Jhansi in February 1988.

<sup>8</sup>Faizabad, Lucknow and Meerut.

<sup>9</sup>Lucknow, Moradabad and Varanasi.

During 2007-12, the Government made a provision of ₹ 93.06 crore in the budget and allotted ₹ 92.41 crore to the Controller, Legal Metrology under revenue and capital heads against which ₹ 87 crore was utilised in regulating weights and measures leaving overall savings of ₹ 5.41 crore. The year wise details are given in **Table 5**.

**Table 5: Budget provisions, allotment and expenditure**

Year	Budget provision	Allotment	Expenditure	Savings
	₹ in crore			
	Revenue account			
2007-08	13.27	13.27	12.27(92)	1.00
2008-09	15.94	15.94	14.54(91)	1.40
2009-10	18.05	17.55	15.83(90)	1.72
2010-11	22.90	22.90	22.15(97)	0.75
2011-12	21.42	21.27	20.73(97)	0.54
<b>Total</b>	<b>91.58</b>	<b>90.93</b>	<b>85.52</b>	<b>5.41</b>
	Capital account			
2011-12	1.48	1.48	1.48	Nil
<b>Total</b>	<b>1.48</b>	<b>1.48</b>	<b>1.48</b>	<b>Nil</b>
<b>Grand Total</b>	<b>93.06</b>	<b>92.41</b>	<b>87.00</b>	<b>5.41</b>

(Source: Controller, Legal Metrology, UP, Lucknow)

**Savings of ₹ 5.41 crore occurred due to non-observance of statutory provisions.**

Paragraph 32 of the Budget Manual provides that the budget estimates should be framed on the basis of expenditure to be incurred on pay and allowances of the person-in-position irrespective of sanctioned strength. Scrutiny however, revealed that the Government allotted funds under revenue account for pay and allowances on the basis of sanctioned strength of staff rather than on actual persons-in-position. This not only violated the provision of the Paragraph 32 of the Budget Manual but also resulted in overall savings of ₹ 5.41 crore which were surrendered on 31 March of the respective financial year.

Further, Para 139 of UP Budget Manual (UPBM) also provides that all savings anticipated by the controlling officers should be reported with full details and reasons to the administrative departments concerned of the secretariat immediately after the same are foreseen. Para 141 of UPBM also provides that all the final savings must be surrendered to the Finance Department latest by 25<sup>th</sup> March of the concerned financial year. However, in contravention to the above provisions, the Department surrendered the savings (₹ 5.41 crore) on the last working day of the financial year (31 March) every year.

In reply, the Government stated (December 2012) that out of ₹ 5.41 crore, ₹ 2.56 crore were surrendered due to saving under the heads TA, transfer TA, T&P, etc. It further stated that surrender of ₹ 2.85 crore under the head of pay and allowances was due to non-filling of vacancies after retirement of Departmental officer/officials. The reply was not acceptable as the budget estimates were required to be prepared on the basis of person-in-position instead of sanctioned strength in terms of provisions of the UPBM.

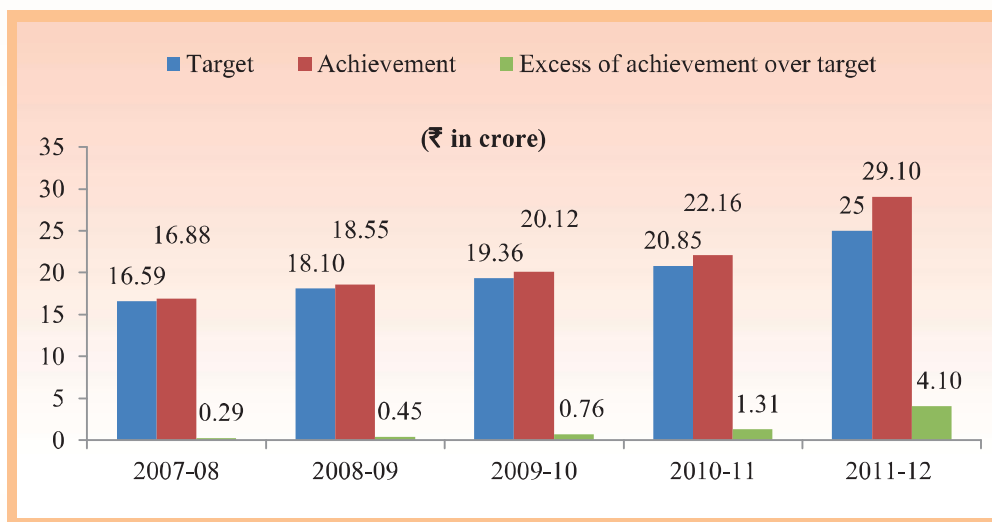
#### 4.6.1.2 Non-tax revenue receipts

**Targets fixed for non-tax revenue without rationale.**

Non-tax revenue receipts accrue from verifications and stampings, calibration of weights measures related equipments, compounding charges and license fee for manufacturing and repairing of weights & measures etc. are required to be deposited in the treasury at the earliest.

Scrutiny of the records revealed that the targets of non-tax revenue receipts were not fixed on the basis of estimated number of verifications and stampings etc. to be carried out during the year because neither the data base of the users of weights and measures was maintained nor market surveys were carried out (as commented upon in paragraph 4.5.1). Consequently, targets were fixed, during 2007-12, on the lower side and achievements exceeded the targets by ₹ 6.91 crore during the period under review. The year wise target fixed and achievement there against is given in **Chart 1**.

**Chart 1: Target and achievement of non-tax revenue receipts**



(Source: The Controller, Legal Metrology, UP, Lucknow)

The Government stated (December 2012) that revenue targets were fixed and only verification, stamping and inspection were being carried out. It further stated that GoI also suggested for non-fixing of the revenue target to safeguard the consumer interest.

#### 4.6.1.3 Non-monitoring of Treasury Receipt Form 385

As per rule 27 of FHB Volume-V, duplicate copy of the used receipt books, issued to depositors in respect of Departmental receipt, should be kept under lock and key in the personal custody of the head of the office and they should not be recorded unless they have been examined to ensure that all items for which receipts were issued were duly brought to the appropriate head of account. However, during 2008-09 to 2011-12, duplicate copy of receipt books (Form 385) were lying with Sr. Inspectors/Inspectors which were to be kept under the personal custody of the ACs. It was also noticed that the new/subsequent receipt books were issued to Sr. Inspector/Inspector without

taking back the used/duplicate receipts book. Further, the receipts collected through the used receipt books were also not accounted for in the cash book of DDOs.

In reply, the Government stated (December 2012) that cash receipts were used at the centres, hence these were held in reserve with them. The reply was not acceptable as these were required to be kept under the personal custody of the DCs/ACs and the possibility of the misuse or pilferage of the cash receipts at the centres cannot be ruled out.

#### **4.6.1.4 Improper maintenance of cash book**

As per rule 27-A of Financial Hand Book (FHB) Vol-V, simple cash book in Form No. 2 should be kept in every office for recording in separate columns all moneys received by the Government servants in their official capacity, and their subsequent remittance to the treasury or to the bank, as well as moneys withdrawn from the treasury or the bank either by bills or by cheques, and their subsequent disbursements. Rule 27-A of FHB further provides that the balance at the end of the month should be verified with the balance of cash in hand and a certificate to that effect recorded in the cash book under the signatures of the Head of the office.

Scrutiny of records of 42 test checked centres revealed that the amount deposited directly into the treasury by users was not accounted for in the cash books, daily balance of each column was not initialed and monthly closing certificates of the cash balance were also not being recorded. We further observed that the entries of the cash book maintained at centres were not accounted for in the main cash book of the Head of the office.

On this being pointed out by audit, the Government stated (December 2012) that instructions have been issued (August 2012) to all the centres to ensure the entries of direct deposit into the treasury by the user in their cash book. It further stated that as receipts were realised at centres, hence these were entered in the cash book maintained at centres only. The reply was not acceptable as the divisional receipts and expenditure should have been recorded in the cash book of the division as provided in the Rule 27-A of FHB Vol-V.

#### **4.6.1.5 Accumulation of substantial cash balance in the cash chest**

Rule 18(3) of Enforcement Rule 1990 and order (September 2008) of the Controller required deposit of funds collected at centres exceeding ₹ 2000 or at the end of the week whichever was earlier. Scrutiny revealed that balances upto ₹ 1.75 lakh (*Appendix-4.2*) were accumulated in the cash chest of the centres beyond the prescribed limit of ₹ 2000. Accumulation of substantial cash balance in cash chest in excess of the prescribed cash limit was fraught with the risk of misappropriation. Further, it was in violation of extant rules and orders.

On this being pointed out in audit, the Government stated (December 2012) that the instructions have been issued (April 2011 and August 2012) for compliance of the order.

#### 4.6.2 Enforcement services

Under the Rule 11(1) of the Enforcement Rule 2011, the Controller has the authority for issuing licenses to every manufacturer<sup>10</sup>, repairer<sup>11</sup>, or dealer<sup>12</sup> of weights or measures, verification of weights and measures, seizing defective weights and measures. The Controller is also authorised to impose fines for the violations of the provisions of the Act or Rules. During the course of the CCO based audit of the Department, the following irregularities were noticed:

##### 4.6.2.1 Non-renewal of licenses

Under the Section 19(1) of the Standard of Weights and Measures (Enforcement) Act 1985 and Section 23(1) of the Legal Metrology Act 2009 and Rules made thereunder, no person shall make, manufacture, repair or sale or offer, expose or possess for repair or sale, any weights and measures unless he holds a valid license issued by the Controller. Every such license shall be valid for a period of one calendar year and may be renewed from year to year on payment of prescribed fee. Further, as per Rule 12(5) of Rule 1990, an additional fee for late renewals at half of the rates specified in Schedule VII shall be payable by the applicant, if permission is granted by the Controller to make the application for renewal of license within a period of three months from the date of expiry of the period of validity of the license.

Test check of the records of office of the Controller and three selected ACs revealed that the validity of licenses of four manufacturers, 417 dealers and 470 repairers of weights and measures expired between 2007 and 2011 (*Appendix-4.3*). However, neither the licensees had applied for renewal of their license nor did the Department initiate any action to cancel the licenses. The Department also did not initiate action against the defaulters as such the possibility of use of invalid licenses by the manufacturers, traders and repairers cannot be ruled out.

On this being pointed out in audit, the Government stated (December 2012) that renewal of licences were not sought by the licensees and after expiry of the validity period of one year licences were deemed to have been cancelled. The reply was not acceptable as condition 1(e) of the license form under Rule 11(3) of Enforcement Rule 2011 envisaged that the person in whose favour the

<sup>10</sup> A person who manufactures weight or measure, manufactures one or more parts, acquires other parts to assemble them, assembles parts thereof manufactured by others, puts, or causes to be put, his own mark on any complete weight or measure made or manufactured by any other person.

<sup>11</sup> A person who repairs a weight or measure and includes a person who adjusts, cleans, lubricates or paints any weight or measure or renders any other service to such weight or measure to ensure that such weight or measure conforms to the standards established by or under the Act.

<sup>12</sup> A person who, carries on, directly or otherwise, the business of buying, selling, supplying or distributing such weight or measure, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration; and includes a commission agent, an importer, a manufacturer, who sells, supplies, distributes or otherwise delivers any weight or measure manufactured by him to any person other than a dealer.



license is issued shall surrender the license in the event of closure of the business and/or cancellation of license.

Thus, keeping in view the possibility of the misuse of the licenses by the manufactures, traders and repairers etc. even after the expiry of the validity of the licenses, a fool proof system for renewal of the licenses issued by the department has to be put in place.

#### 4.6.2.2 Annual verification of weights and measures

Rules 15 of Enforcement Rule 2011 (and Rules 15 of Enforcement Rule 1990) provides that every person using any weight or measure in any transaction or for protection shall present such weight or measure for verification<sup>13</sup>/re-verification in the office of the Legal Metrology Officer, or at such other place as the Legal Metrology Officer may specify in this behalf, on or before the date on which the verification falls due. Further, Rule 16 of Enforcement Rule 2011, the Sr. Inspector/Inspector, if after testing and verification, is satisfied that such weights and measures conform to the established standards, stamp them with a uniform design. Further, Rule 17 of Enforcement Rule 2011 has also prescribed the fee to be charged for this service. The defaulters were subject to be punished with fine.

Based on the data furnished by the Department, the year wise status of the number of users covered and fee realised in the State are depicted in **Table 6**.

**Table 6: Verification of weights and measures**

Particulars	Periods				
	2007-08	2008-09	2009-10	2010-11	2011-12
Number of users verified	10,12,482	9,40,919	9,79,131	9,46,709	8,10,366
Fee realised (₹ in crore)	12.86	13.78	15.02	16.79	22.87

(Source: The Controller, Legal Metrology, UP, Lucknow)

**Enforcement services of the Department were declining.**

Scrutiny of the Table reveals declining trend in number of users whose weights and measures had been verified and stamped as compared to 2007-08 whereas an increasing trend in realisation of revenue.

During test check of the records of ACs, it was noticed that the Controller had prescribed (March 2008) for maintenance of a register at the centre/ laboratory level, relating to verification and stamping of weights and measures of the trading institutions. Scrutiny of the records of 42 centres test checked revealed that approximately 1.29 lakh users<sup>14</sup> did not produce weights and measures for verification. The inspectors neither inspected the premises of these users for verification nor directed the users to produce the instruments for verification. This had resulted in non-realisation of fee of ₹ 1.51 crore<sup>15</sup> (*Appendix-4.4*).

<sup>13</sup> The re-verification shall be carried out on completion of a period of (a) twenty four months for all weights, capacity measures, length measures, tape, beam scale and counter machine (b) sixty months for storage tanks, and (c) twelve months for all weights or measure including tank lorry other than that mentioned in clauses (a) and (b).

<sup>14</sup> Of which the Department has knowledge of as these users had their instruments verified by the Department in the past.

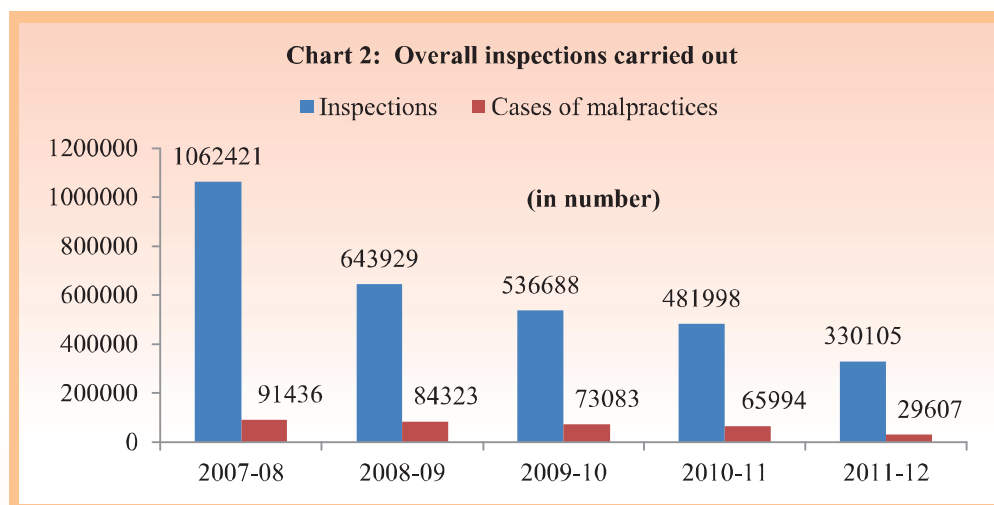
<sup>15</sup> Assuming every users have minimum one weight of 5 kg, 2 kg each at the rate of ₹ 15, one weight of 1 kg at the rate (₹ 10), one weight of 500 gm, 200 gm, 100 gm and 50 gm each at the rate ₹ 5 and one beam scale, total ₹ 60 per user as verification and stamping charges.

Thus, the chances of use of incorrect/manipulated weights and measures cannot be ruled out. The Department should ensure a foolproof mechanism for verification.

On this being pointed out the Government stated (December 2012) that the maintenance of register is an internal arrangement and not prescribed in any of the Rules/Acts. It further stated that the instructions were issued (August 2012) to Sr. Inspectors/Inspectors to ensure verification and stamping of the weights and measures of users registered in previous years.

#### 4.6.2.3 Inspections of weights and measures

Rule 15 (6) Enforcement Rule 2011 provides that the Legal Metrology Officer would visit, as frequently as possible, every premise to inspect and test any weight or measure being used there. In case the user was found using weights and measures not conforming to the established standards, these were required to be seized and the users offence also to be compounded. The year wise position of overall inspections carried out and cases of malpractices detected are given in **Chart 2**.



(Source: The Controller, Legal Metrology, UP, Lucknow)

The Chart indicates an overall declining trend in inspections and detection of malpractices during 2007-12, although there were marginal inter-year variations in percentage of malpractices to the inspections.

The Government attributed (December 2012) the aforesaid to the shortages of staff. The Controller while observing (July 2007) that there was cases of fake reporting of inspections by the Sr. Inspectors/Inspectors fixed (July 2008) norms<sup>16</sup> for monthly inspections of specific users of weights and measures. It is however, evident from the **Table 7** that there were shortfalls in inspections by Sr. Inspectors/Inspectors of all the 12 divisions during 2011-12.

<sup>16</sup> (i) Petrol pump/oil depot/FPS etc., was 50/25 per Inspectors, (ii) Packaged commodities, etc., was 50/25 per Inspectors, (iii) Building material/weighbridges, etc., was 50 per Inspectors.

**Table 7: Shortfall in inspections during 2011-12**

Category of users of weights and measures	Target as per norms	Achievement (in per cent)	Shortfall (in per cent)
Petrol pump/oil depot/FPS etc.	74675	42570 (57)	32105 (43)
Packaged commodities	75300	61601 (82)	13699 (18)
Building material/ weighbridges, etc.	86850	43679 (50)	43171 (50)

(Source: The Controller, Legal Metrology, UP, Lucknow)

Besides, no records of inspections were available in any of the test checked (April to July 2012) centres. Thus, on the one hand there were reported shortfalls in inspections by the Sr. Inspectors/ Inspectors and on the other hand no records of inspections were maintained even after four years of the observation made and instruction issued by the Controller. The Department should ensure adherence to the norms fixed for inspections.

The Government did not furnish (December 2012) specific reply.

Thus, in comparison to 2007-08, the quantum of inspections and detection of malpractices gone down to 69 *per cent* and 68 *per cent* respectively in 2011-12. Besides, lack of preparation of the records in support of the inspections carried out by the department indicated that the enforcement services of the Department were inadequate.

#### 4.6.2.4 Court cases

In terms of Government of UP Order (March 2008), an offender found guilty of malpractices in weights and measures was to be compounded with fine. In cases where the offender did not respond within three months, the cases were to be filed in the court of law.

Based on data made available, out of 3.44 lakh cases of offences of malpractices detected in inspections during 2007-12, 2.15 lakh offenders paid the fine and these offences were compounded while cases were filed in the court of law in respect of the remaining offenders (1.48 lakh).

The year-wise position of the cases filed in the court and decided by the court is given in **Table 8**.

**Table 8: Year wise number of cases filed and decided by the court**

Year	Cases filed	Cases decided	Balances at the end of year
2007-08	39941	36582	54279
2008-09	37402	33485	58196
2009-10	30452	31328	57320
2010-11	23035	26560	53794
2011-12	16811	20472	50133

(Source: The Controller, Legal Metrology, Lucknow)

It is evident from the Table that number of cases was pending in the court due to non-pursuance of cases by the Department. The periodicity of the pendency

could not be ascertained in Audit due to improper maintenance of the register of court cases by the Inspectors/ Sr. Inspectors required in terms of the Government instruction (January 2008). This is indicative of ineffective monitoring and control over the working of the department. Better monitoring should be ensured.

On this being pointed out in audit, the Government stated (December 2012) that the court case register is being maintained. The reply was not acceptable as the court case register was not being maintained in the prescribed format and as per the Government instruction, due to which periodicity of pendency of the court cases could not be ascertained.

#### **4.6.3 Shortcomings noticed in joint field inspection**

Joint physical inspection of 90 weighbridges, 90 fair price shops, 90 Jewellery shops and 90 General merchants was carried out (July 2012 to August 2012) with the Inspectors of the concerned Districts. During the joint physical inspection of the above institution the following discrepancies were revealed:

**4.6.3.1** As per Rule 23(4) of Enforcement Rule 2011 in order to ensure a proper check of the accuracy of a weighing instrument the user shall keep at the site of each weighing instrument duly verified and stamped weights equal to one-tenth of the capacity of the instruments, or one tonne, whichever is less, and consumer can check the accuracy of the weighing instrument.

However, during joint inspection we observed that 29 out of 90 weighbridges, 29 out of 56 Jewellery shops, two out of five<sup>17</sup> fair price shops and 23 out of 56 General merchants did not have any test weights.

Non-availability of test weights at the site defeated the very purpose of the provisions made in the Rules.

On this being pointed out in audit, the department initiated action against the defaulter as per Rule 23 (4) of the Enforcement Rules 2011.

**4.6.3.2** As per Rule 15(1) of Enforcement Rule 2011, every person using any weights or measures in any transaction or for protection shall present such weight or measure for verification/re-verification at the office of the Legal Metrology Officer, or at such other place as the Legal Metrology Officer may specify in this behalf, on or before the date on which the verification falls due.

However, during joint physical verification we observed that the weights and measures of one out of 90 weighbridges, seven out of 90 Jewellery shops, three out of 17 fair price shop and 13 out of 90 General Merchant shops inspected were found unverified and unstamped.

<sup>17</sup> 73 out 90 Fair price shop found closed during Joint inspection.

Non-verification and non-stamping of the weights and measures used had defeated the objective of the Act and Rules and besides loss of revenue to the Department.

On this being pointed out in audit, the department initiated action against the defaulter as per para 24 of the Enforcement Act 2009.

**4.6.3.3** As per para 4 of Seventh Schedule Heading-A under Rule 13 of General Rule 1987, all weighing instruments shall be provided by the manufacturers with a plug or stud of soft metal to receive the stamp or seal of the verification authority. Such plug or stud shall be provided in a conspicuous part of the instrument and shall be made in such a manner as to prevent its removal without obliterating the seal.

However, during joint physical inspection of (July 2012 to August 2012) 13 weighbridges, 12 Jewellery shops and 12 General Merchants shops having electronic weighing instruments, it was found that the stamping plates were not fixed on the machine as evident from the photograph below:



As a result, misuse of stamping plate of one machine with another machine cannot be ruled out. Audit came across a case at Wheat Purchase Centre, Moradabad where stamping plate of Amtek made machine was being found used for a Pacific made machine.

Thus, the effectiveness of the enforcement activities of the Department was compromised.

On this being pointed out in audit, the department initiated action against the defaulter as per para 24 of the Enforcement Act 2009.

#### 4.6.4 Sensitivity to the error signal

With a view to make the enforcement of Act and Rules accountable to the people, it was imperative that a system to detect error signals emanating from various sources was put in place at the State, Zonal, Divisional and Centre levels.

We during audit however observed that:



- Despite being aware of the users who did not present their weights and measures for verification and stamping, the Department did not initiate any action against the defaulters;
- Despite being aware of the lack of documentation of inspections carried out by the Sr. Inspector/Inspector, no effective steps were taken at any level for maintenance of inspection register as a result authenticity of inspection reported to higher authorities could not be ensured.
- Despite instructions issued by the Controller regarding maintenance of court case register in the prescribed format, the register was not maintained properly resulting in non-pursuance of monitoring of old cases.
- Despite sanction for flying squads, the Department did not take initiative for posting the required staff to make it functional due to which secondary checks over violation of Rules and Acts could not be ensured.

Thus, the Department, despite being aware of lacuna in its functioning, did not take corrective steps to streamline its functioning and was thus insensitive to error signals.

#### 4.7 Conclusion

The mandated enforcement activities of the Department were conducted on an *ad hoc* basis as the perspective and annual action plans defining the activities of the Department and inspections of the premises of the users etc., were not prepared. The Department did not maintain data base of the users of weights and measures. There was shortage of staff under key functionaries which is primarily responsible for the enforcement activities. The centres/laboratories were not strengthened despite providing central assistance by GoI and there was no action plan for the same, thereby the assistance remained largely unutilised. The internal control system was inadequate as neither the internal audit wing was formed nor the monitoring mechanism was effective. The mandatory verification of the weights and measures coupled with inspections of the premises of the users were declining over the last five years and large numbers of cases of malpractices were pending in the court for decision.

#### 4.8 Recommendations

- The Department should prepare a database of trading institutions using weights and measures on the basis of proper survey of users so that an action plan for their effective monitoring should be prepared and enforced;
- The Department should develop sound infrastructure in terms of centres/laboratories etc., norms for establishing a centre should be developed;



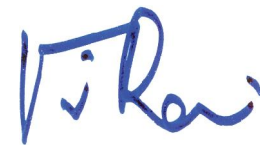
- Adequate and effective internal control mechanism should be in place and the State Financial rules should be scrupulously observed in managing Government funds; and
- A foolproof system should be put in place to avoid tampering of the stamping embossed on the equipment.

ALLAHABAD  
THE 11 5 APR 2013



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**COUNTERSIGNED**



NEW DELHI  
THE 16 APR 2013

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