

Chapter-3 : Revenue Sector

3C. General Introduction

3.1.1 Under Sectoral re-organisation, there are five departments (Commercial Tax, State Excise, Stamp and Registration, Transport, Entertainment Tax) of the Government which have been included under the Revenue Sector. These relate to Tax Revenue. The other departments fall under Social Sector, General Sector and Economic Sector which contribute Non-Tax Revenue. The major areas of Tax Receipts are Taxes on sale/trade, Taxes on services administered by the Commissioner Commercial Tax, State Excise administered by the Excise Commissioner, Stamp Duty and Registration Fees, Taxes on Vehicles *etc.* Audit of 106 units of the above five departments out of total 239 was conducted by the Revenue Sector during the year 2011-12. Audit had pointed out cases of underassessment/short levy/loss of revenue aggregating to ₹ 16.18 crore in 272 cases. The concerned departments accepted underassessment and other deficiencies of ₹ 0.15 crore involved in 15 cases.

3.1.2 Audit mandate

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor's General's (Duties, Powers and Conditions of Service) Act, 1971.

3.1.3 Planning and conduct of audit

The unit/offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual Audit Plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in Government revenues and tax administration *i.e.* budget speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during past five years *etc.*

During the year 2011-12, the audit universe comprised of 239 auditable units, of which 106 units were planned and audited during the year 2011-12.

3.1.4 Trend of Revenue Receipts

3.1.4.1 The Tax and Non-Tax Revenue raised by the Government of Uttarakhand during the year 2011-12, the State's share of net proceeds of divisible Union Taxes and Duties assigned to State and Grants-in-Aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-3.1.1** below:

Table-3.1.1 (₹ in crore)

Sl. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
1.	Revenue raised by the State Government					
	• Tax Revenue	2738.75	3044.91	3559.04	4405.48	5615.62
	• Non-Tax Revenue	668.38	699.44	631.86	678.06	1136.13
	Total	3407.13	3744.35	4190.90	5083.54	6751.75
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union Taxes and Duties	1427.70	1506.59	1550.01	2460.07	2866.04
	• Grants-in-Aid	3056.26	3384.03	3745.22	4064.56	4073.45
	Total	4483.96	4890.62	5295.23	6524.63	6939.49
3.	Total Revenue Receipts of the State Government (1 and 2)	7891.09	8634.97	9486.13	11608.17	13691.24
4.	Percentage of 1 to 3	43	43	44	44	49

Source: Finance Accounts

The above table indicates that during the year 2011-12, the revenue raised by the State Government (₹ 6751.75 crore) was 49 per cent of the total Revenue Receipts and increased by 32.82 per cent (₹ 1668 crore) during 2011-12 over the previous year. The balance 51 per cent of Revenue Receipts (₹ 6939.49 crore) were from the Government of India as share of net proceeds of divisible Union Taxes and Duties and Grants-in-Aid.

3.1.4.2 Tax Revenue

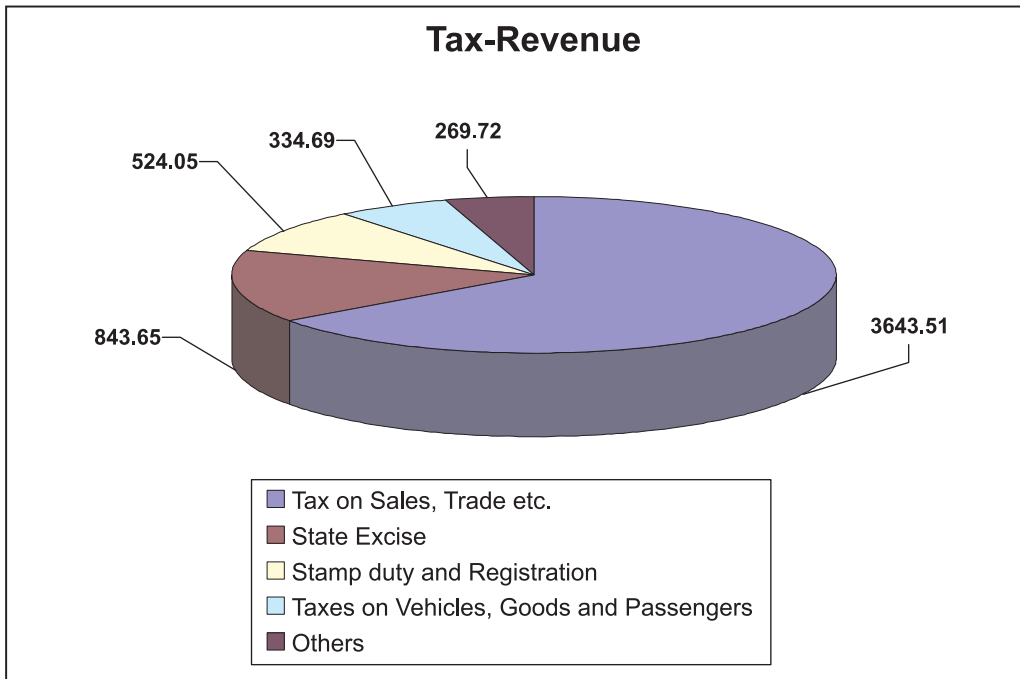
The details of Tax Revenue raised during the period 2007-08 to 2011-12 are given in **Table 3.1.2** and separately for 2011-12 in **Chart 3.1** below:

Table-3.1.2 (₹ in crore)

Sl. No	Head of Revenue Receipt	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of Increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	Tax on Sales, Trade etc.	1627.41	1910.64	2246.84	2940.48	3643.51	(+)23.91
2.	State Excise	441.56	528.35	704.64	755.92	843.65	(+)11.61
3.	Stamp Duty and Registration Fees	424.27	357.46	398.70	439.50	524.05	(+)19.24
4.	Taxes on Vehicles, Goods and Passengers	155.26	166.98	184.56	227.26	334.69	(+)47.27
5.	Taxes and Duties on Electricity	55.22	51.61	2.11	2.16	229.02	(+)10502.78
6.	Land Revenue	23.40	17.90	8.80	18.31	10.18	(-)44.40
7.	Other taxes and Duties on Commodities and Services	6.45	5.87	6.27	12.15	16.52	(+)35.97
8.	Others	5.18	6.10	7.12	9.70	14.00	(+)44.33
	Total	2738.75	3044.91	3559.04	4405.48	5615.62	(+)27.47

Source: Finance Accounts

Chart-3.1



The following trends were observed in collection of Tax Revenue by the State:

- Tax Revenue increased by 27.46 per cent (₹ 1210 crore) during the year 2011-12 over previous year.
- Revenue from Taxes on Sales, Trade *etc.* contributed to 65 per cent of total tax collections in 2011-12. State Excise, Stamp Duty and Registration Fees and taxes on Vehicles together accounted for 30 per cent of the total tax collection in 2011-12. Taxes on Sales, Trade *etc.* after witnessing 34.22 per cent increase after introduction of VAT in 2005, slowed down to an increase of 17.60 per cent in 2009-10 over the previous year, due to increase in the ITC claims with stabilisation of VAT regime but again gained a hike and increased by 30.87 per cent in 2010-11 over the previous year. During 2011-12, it increased by 23.91 per cent over previous year which was 6.96 per cent less in comparison to previous year's increase.
- The Commercial Tax Department stated (October 2012) that the increase in revenue receipts was due to increase in trade, escalation of prices, establishment of new industrial units, efficient working of staff, sufficient staff and special efforts made by the Department towards Input Tax Credit verification.
- The Stamp Duty and Registration Department's receipts registered an increase of 19 per cent (₹ 85 crore) in 2011-12 over previous year.

The Department stated that the increase in receipt over previous year was due to increase in number of registration of Sale Deeds from 1,79,980 (2010-11) to 2,11,379 (2011-12).

- Taxes and Duties on Electricity registered a quantum jump of ₹ 227 crore over previous year which was highest during last five years. As per Electricity Department, the increase was due to depositing previous years' arrear by Uttarakhand Power Corporation Ltd. in Government account.
- Taxes on Vehicles, Goods and Passengers registered an increase of ₹ 107 crore over previous year. As per Transport Department, the increase was due to increase in registration of new vehicles, enhancement in Permit Fees and depositing previous years' dues amounting to ₹ 80.11 crore by Uttarakhand Parivahan Nigam.

3.1.4.3 Non-tax Revenue

The details of the Non-tax Revenue raised during the period from 2007-08 to 2011-12 are given in **Table 3.1.3** and separately for 2011-12 in **Chart 3.2** below:

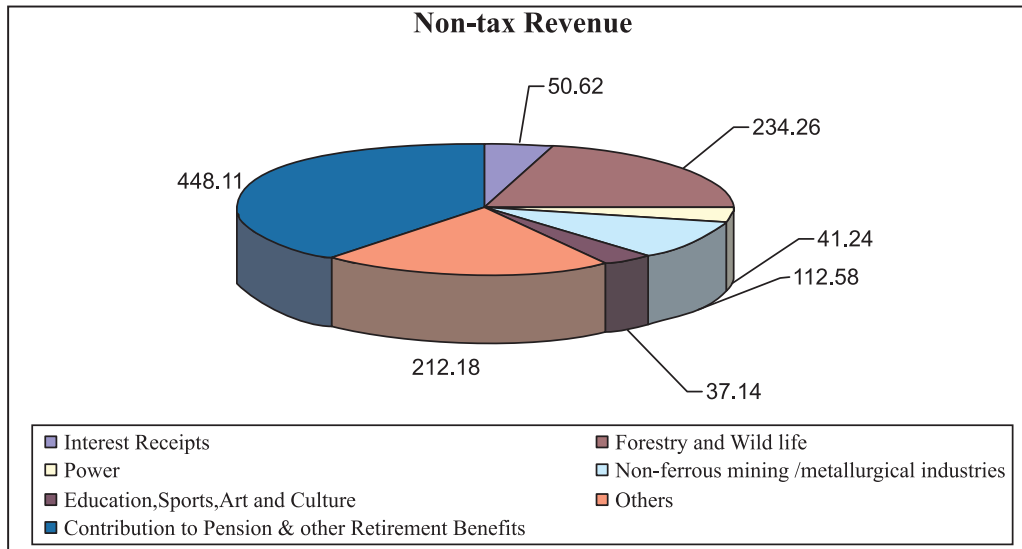
Table-3.1.3

(₹ in crore)

Sl. No	Head of revenue receipt	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage increase (+)/decrease (-) in 2011-12 over 2010-11
1.	Interest Receipts	41.56	68.49	53.71	53.76	50.62	(-) 5.84
2.	Forestry and Wildlife	209.75	207.16	235.70	229.69	234.26	(+)1.99
3.	Power	144.37	171.37	56.13	13.54	41.24	(+)204.58
4.	Non-Ferrous Mining/ Metallurgical Industries	73.06	63.73	74.08	93.62	112.58	(+)20.25
5.	Education, Sports, Art and Culture	30.69	28.66	34.18	47.47	37.14	(-) 21.76
6.	Public Works	13.96	15.53	19.50	24.83	17.85	(-) 28.11
7.	Major and Medium Irrigation	5.76	5.91	5.18	5.10	8.07	(+)58.24
8.	Police	5.96	7.01	9.62	11.26	11.41	(+)1.33
9.	Other Administrative Services	35.53	28.09	21.18	47.15	70.15	(+)48.78
10.	Medical & Public Health	5.29	6.84	11.73	29.01	23.20	(-) 20.03
11.	Co-operation	5.58	3.19	1.78	1.70	2.93	(+)72.35
12.	Crop Husbandry	3.94	3.62	4.55	3.78	4.54	(+)20.11
13.	Contributions & Recoveries towards Pension & other Retirement Benefits	26.31	27.21	37.43	49.09	448.11	(+)812.83
14.	Others	66.62	62.63	67.09	68.06	74.03	(+)8.77
Total		668.38	699.44	631.86	678.06	1,136.13	(+) 67.56

Source: Finance Accounts

Chart-3.1



The following trends were observed in collection of Non-tax revenue by the State:

- Non-tax revenue has remained more or less stagnant from 2007-08 to 2010-11, but it has increased by ₹ 458 crore (67.55 per cent) during the year 2011-12 over the previous year. Non-tax revenue at ₹ 1136.13 crore constituted 8.30 per cent of the total receipts.

The quantum jump in the Non-tax revenue during the year was due to the apportionment of pension liabilities of composite erstwhile State of Uttar Pradesh between Uttar Pradesh and Uttarakhand. Consequently, the State of Uttarakhand received ₹ 400 crore as apportionment from Uttar Pradesh.

- Contributions & Recoveries towards Pension & other Retirement Benefits (39.44 per cent), Forest and Wild life (20.62 per cent) and Non- Ferrous Mining/Metallurgical Industries¹ (9.91 per cent) were the main contributors to Non-tax revenue.

The other departments, having increase/decrease of more than 20 per cent, did not intimate the reasons for variations, despite being requested (August 2012).

3.1.5 Variation between the Budget Estimates (BE) and Actuals

The variations between the Budget estimates and Actuals of revenue receipts under the principal heads of Tax and Non-tax Revenue for the year 2011-12 are mentioned in the **Table-3.1.4** below:

¹ Royalty charges levied on Non-Ferrous Mining/Metallurgical Industries.

Table-3.1.4

(₹ in crore)

Sl. No.	Head of Revenue Receipt	Budget estimates	Actuals	Variation increase (+) decrease (-)	Percentage
Tax Revenue					
1.	Taxes/VAT on Sales Trade etc.	3187.60	3643.51	(+) 455.91	(+) 14.30
2.	State Excise	727.67	843.65	(+) 115.98	(+) 15.94
3.	Stamp Duty and Registration Fees	483.85	524.05	(+) 40.20	(+) 8.31
4.	Taxes on Vehicles	249.53	334.69	(+) 85.16	(+) 34.13
5.	Taxes and Duties on Electricity	75.00	229.02	(+) 154.02	(+) 205.36
Non-Tax Revenue					
6.	Interest Receipts	52.01	50.62	(-) 1.39	(-) 2.67
7.	Other Administrative Services	12.21	70.15	(+) 57.94	(+) 474.53
8.	Crop Husbandry	2.61	4.54	(+) 1.93	(+) 73.95
9.	Police	9.01	11.41	(+) 2.40	(+) 26.64
10.	Medical and Public Health	17.93	23.20	(+) 5.27	(+) 29.39
11.	Roads and Bridges	1.20	1.70	(+) 0.50	(+) 41.67
12.	Public Works	17.27	17.85	(+) 0.58	(+) 3.36
13.	Forestry and Wildlife	286.83	234.26	(-) 52.57	(-) 18.33
14.	Non-Ferrous Mining and Metallurgical Industries	110.01	112.58	(+) 2.57	(+) 2.34
15.	Education, Sports, Art and Culture	18.87	37.14	(+) 18.27	(+) 96.82
16.	Power	235.00	41.24	(-) 193.76	(-) 82.45
17.	Contributions & Recoveries towards Pension & other Retirement Benefits	831.00	448.11	(-) 382.89	(-) 46.08

Source: Receipt Budget and Finance Account

The reasons for the variations are as follows:

- The Commercial Tax Department stated that the variation between budget estimates and actual receipts was due to increase in trade, escalation of prices and establishment of new industrial units.
- As per Electricity Department, the variation in Taxes and Duties on Electricity was due to depositing previous years' arrear by Uttarakhand Power Corporation Ltd to Government Account.
- As per Transport Department, the variation was due to increase in registration of new vehicles, enhancement in Permit Fees and depositing previous dues amounting to ₹ 80.11 crore by Uttarakhand Parivahan Nigam.
- The Stamp & Registration Department stated that the variation was due to increase in number of registration of Sale Deeds.

The other departments, having variations of more than 20 per cent, did not intimate the reasons of variations, despite being requested (August 2012).

3.1.6 Cost of Collection of revenue receipts

The gross collection of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period 2009-10 to 2011-12 alongwith the all India average percentage of expenditure on collection to gross collections for 2010-11 are mentioned in the **Table-3.1.5** below:

Table-3.1.5 (₹ in crore)

Sl. No.	Head of revenue	Year	Gross Collection ²	Expenditure on collection	Percentage of expenditure on collection to gross collection	All India average percentage for the year 2010-11
1.	Sales/Commercial Tax/VAT	2009-10	2240.84	25.63	1.14	0.75
		2010-11	2934.95	33.46	1.14	
		2011-12	3635.97	35.30	0.97	
2.	State Excise	2009-10	703.71	7.33	1.04	3.05
		2010-11	755.98	8.57	1.13	
		2011-12	843.57	7.75	0.92	
3.	Taxes on Vehicles	2009-10	182.16	10.64	5.84	3.71
		2010-11	223.26	13.22	5.92	
		2011-12	329.51	13.47	4.09	
4.	Stamp Duty and Registration Fees	2009-10	398.75	5.72	1.43	1.60
		2010-11	439.45	11.37	2.58	
		2011-12	524.02	9.40	1.79	

Source: Concerned State Government Departments.

Thus, the cost of collection in respect of State Excise was lower than the All India Average percentage for the year 2010-11, while in the case of Taxes on Vehicles, Stamp Duty & Registration and Sales/Commercial Tax/VAT were considerably higher.

The Sales/Commercial Tax/VAT Department stated (October 2012) that out of 13 districts in Uttarakhand, nine are in hilly remote region having small traders; hence, cost of collection was higher.

The Transport Department stated (November 2012) that being a hilly state, the operating cost is higher.

The Stamp & Registration Department stated (November 2012) that higher cost of collection was due to enhancement of pay and allowances of the staff and hilly location of the districts.

3.1.7 Analysis of collection of tax revenue

The break-up of the total collection at the pre-assessment stage and after regular assessment of taxes on Sales, Trade *etc.*, and Entry Tax during the year 2011-12 as

² The figure for collection of all four taxes in the year 2009-10 to 2011-12, provided by the State Departments and reflected in the table are at variance with the figures reflected in the Finance Accounts.

furnished by the Commercial Taxes Department is mentioned in the **Table-3.1.6** below:

Table-3.1.6 (*₹ in crore*)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per Department	Percent of column 3 to 7
1	2	3	4	5	6	7	8
Taxes/ VAT on Sales, Trade	2011-12	3509.26	145.40	1.97	26.45	3630.18	96.66
Entry Tax	2011-12	5.79	-	-	-	5.79	100.00

Source: Concerned State Departments.

Collections made under Commercial Tax at the pre-assessment stage was 96.66 per cent whereas 3.34 per cent of the net collection was collected after regular assessment.

3.1.8 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 in respect of the principal Heads of Revenue as reported by the Departments was ₹ 1490.99 crore (excluding Public works Department) of which ₹ 249.72 crore (16.75 per cent) were outstanding for more than five years as mentioned in the **Table-3.1.7** below:

Table-3.1.7 (*₹ in crore*)

Sl. No.	Head of revenue	Amount outstanding		Remarks
		As on 31 March 2012	For more than five years	
1.	Taxes/VAT on Sales, Trades etc.	1073.23	199.51	Recovery of ₹ 73.43 (1,341 cases) crore is <i>subjudice</i> and Recovery and Duplicate Recovery Certificates have been issued in the cases wherever required.
2.	Taxes on Vehicles	3.82	2.29	Five cases (₹ 0.58 lakh) were <i>subjudice</i> and for rest of the cases demand for recovery had been processed through District Magistrate.
3.	State Excise	0.60	0.60	Two cases amounting to ₹ 24.66 lakh is pending in the court of law. In other cases, action is being taken to recover the amount.
4.	Taxes and Duties on Electricity	269.34	-	Department stated that regular correspondence is being made with Uttarakhand Power Corporation Ltd.
5.	Entertainment Tax	0.67	0.04	The cases amounting to ₹ 45.66 lakh are pending in the court of law. In rest of the cases, Recovery Certificates have been issued.
6.	Stamp Duty and Registration Fees	5.48	0.59	Effective steps are being taken to realize the outstanding amount.
7.	Land Revenue	132.02	46.69	Department stated that four cases (₹ 46.69 crore) are <i>sub-judice</i> .
8.	Taxes on purchase of Sugarcane	5.83	-	-
Total		1,490.99	249.72	

Source: Concerned State Departments.

The Government may take immediate steps for recovery of the arrears of revenue, particularly in those cases which are pending for a long time.

3.1.9 Arrears of Assessment

The details of assessment position as on 31 August 2012 in respect of Sales Tax/VAT returns pertaining to the period 2005-06 to 2010-11 is given in **Table 3.1.8** below:

Table-3.1.8

Year	Total No. of cases for tax assessment			Remarks
	During the year	Assessed so far	Not assessed so far	
2005-06	110620	110620	--	--
2006-07	84403	84403	--	--
2007-08	82172	82172	--	--
2008-09	87857	64890	22967	Will be time barred by November 2012.
2009-10	90989	17392	73597	Will be time barred by March 2013.
2010-11	66568	1852	64716	Will be time barred by March, 2014.

Source: Concerned State Department.

The Department stated (October 2012) that efforts are on to complete the assessments in time.

3.1.10 Evasion of tax

The details of cases of evasion of tax detected by the Commercial Tax Department, cases finalised and demands for additional tax raised in 2011-12, as reported by the Department concerned are mentioned in **Table-3.1.9** below:

Table-3.1.9

Name of tax/ duty	Cases pending as on 31 March 2011	Cases detected during 2011-12	Total	Number of cases in which assessments/ investigation completed and additional demand including penalty <i>etc.</i> raised during the year 2011-12		Number of cases pending as on 31 March 2012
				No. of cases	(₹ in lakh)	
Commercial Tax/VAT	1493	4329	5822	4299	1415.05	1523

Source: State Department.

The amount of recovery made against the demand raised was not intimated by the Department (December 2012).

3.1.11 Disposal of Refund cases

Commercial Tax Department settled 78.72 per cent of the refund claims in 2011-12 while in the case of Stamp Duty and Registration; all the cases were settled during the year as mentioned in the **Table-3.1.10** below:

Table-3.1.10

(₹ in lakh)

Sl. No.	Particulars	Commercial Tax		Stamp Duty and Registration Fee	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	331	1,594.67	Nil	Nil
2.	Claims received during the year	5,281	1,716.33	12	539.61
3.	Refunds made during the year	4,418	2,645.31	12	539.61
4.	Balance outstanding at the end of the year	1,194	665.69	Nil	Nil

Source: Concerned State Departments.

The increase in number of pending refund cases was not encouraging.

3.1.12 Response of the Departments/Government towards audit

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

3.1.13 Failure of Head of Department to enforce accountability and protect the interest of the State Government

Inspection Reports issued upto December 2011 disclosed that 1,797 paragraphs involving ₹ 151.30 crore relating to 851 IRs remained outstanding at the end of June 2012 as mentioned in the **Table-3.1.11** below along with the corresponding figures for the preceding two years:

Table-3.1.11

	June 2010	June 2011	June 2012*
Number of IRs pending for settlement	1,159	1,213	851
Number of outstanding audit observations	2,323	2,432	1,797
Amount involved (₹ in crore)	245.26	280.88	151.30

*Outstanding IRs, Paras and amount related to Electricity Duty, Land Revenue, Departmental Receipt and Court Fees have been transferred to other sectors hence excluded in June 2012.

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned in the **Table-3.1.12** below:

Table-3.1.12

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Commercial Tax	Taxes/VAT on Sales, Trade <i>etc.</i>	366	959	74.05
2.	Entertainment Tax	Entertainments Tax, Luxury Tax <i>etc.</i>	46	62	1.14
3.	Excise	State Excise	69	91	30.49
4.	Transport	Taxes on Motor Vehicles <i>etc.</i>	98	270	34.69
5.	Stamps and Registration	Stamp Duty and Registration Fees	272	415	10.93
Total			851	1,797	151.30

The large pendency of the IRs and audit observations indicated that the Heads of Offices and Heads of the Departments did not take prompt action to rectify the defects, omissions and irregularities pointed out by audit. The prolonged delay in settlement of the audit observations is fraught with the risk of their becoming too old for effecting recovery/taking action by the concerned departments.

3.1.14 Departmental Audit Committee Meetings

In order to expedite the settlement of the outstanding audit observations contained in IRs on Revenue Receipts of the Government of Uttarakhand, the Departmental Audit Committees were constituted by the Government. However, no audit committee meeting was held during the year 2011-12.

It is recommended that the Government may:

- advise the concerned Departments to hold audit Committee Meetings frequently and monitor the progress of settlement of paragraphs and ensure that demands/recoveries are timely made; and
- take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who fail to send replies to the IRs/Paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.

3.1.15 Response of the Departments to the draft audit paragraphs

Serious and important audit observations (draft paragraphs) noticed during local inspections are proposed for inclusion in the Report of the Comptroller & Auditor General of India are forwarded to the Secretaries of the Departments concerned, drawing their attention and requesting for their response within six weeks. The fact that in case of non receipt of replies from the Departments/ Government within stipulated time will tantamount to acceptance of facts and figures of draft paras by

the Department/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

3.1.16 Follow up on Audit Reports-Summarised position

After creation of the State, the Public Accounts Committee had been notified in May 2001. The Report of the Comptroller & Auditor General of India is laid in the Legislative Assembly and the Departments initiate action on the audit paragraphs. The action taken/ explanatory notes thereon are to be submitted by the Government for the consideration of the Committee. The explanatory notes on audit paragraphs of the Reports were being delayed inordinately by Department/Government. The Reports of the Comptroller & Auditor General of India on Revenue Receipts of the Government of Uttarakhand for the years 2000-01 to 2007-08 were discussed in the Public Accounts Committee during the period 2005-06 to 2011-12 and explanatory notes/action taken in 27 cases were awaited as on 31 March 2012.

3.1.17 Position of Inspection Reports

The summarised position of the Inspection Reports relating to Commercial Tax Department, issued during the last five years, paragraphs included in these Reports and their status as on 31 March 2012 is given in **Table-3.1.13** below:

Table-3.1.13

(₹ in crore)

Sl. No.	Year	Opening balance			Addition during the year			Clearance during the year			Closing balance at the end of the year		
		IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value
1.	2007-08	214	521	20.26	22	93	1.55	3	57	2.51	233	557	19.30
2.	2008-09	233	557	19.30	49	206	21.63	8	69	2.32	274	694	38.61
3.	2009-10	274	694	38.61	44	105	12.04	6	48	0.64	312	751	50.01
4.	2010-11	312	751	50.01	54	158	89.37	6	32	0.70	360	877	138.68
5.	2011-12	360	877	136.88	54	192	8.56	12	46	65.94	402	1023	79.50

As is evident from the above table, against 214 IRs with 521 outstanding paragraphs as on 2007-08, the number of outstanding IRs rose to 402 with 1023 paragraphs at the end of 2011-12, whereas only 252 paragraphs were cleared during the period 2007-12.

This is indicative of the fact that adequate efforts were not made by the Department to take action in the interest of revenue of the State, resulting in piling up of the outstanding IRs and paragraphs.

3.1.18 Recovery of revenue of accepted cases

In respect of paragraphs featured in the Audit Reports 2005-06 to 2010-11, the Department/Government accepted audit observations involving ₹ 10.49 crore

of which only ₹ two lakh was recovered till 31 March 2012 as mentioned in the **Table-3.1.14** below:

Table-3.1.14 (₹ in crore)

Year of Audit Report	Total Money value	Accepted money value	Recovered Amount
2005-06	7.58	3.19	0.01
2006-07	1.03	0.02	0.01
2007-08	60.48	0.05	Nil
2008-09	7.00	0.91	Nil
2009-10	8.47	6.21	Nil
2010-11	1.03	0.11	Nil
Total	85.59	10.49	0.02

The fact that only 0.19 *per cent* of the accepted amount has been recovered, points to the need for the Government to take concerted action in this regard.

3.1.19 Results of audit

Test check of the records of 107 units of Commercial Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 2011-12 revealed underassessment/short levy/loss of revenue aggregating to ₹ 16.18 crore in 272 cases, of which the Department accepted ₹ 0.15 crore in 15 cases. However, the Department recovered ₹ 0.49 crore in 41 cases during the year at the instance of audit.

3.1.20 Contents of the Revenue Chapter of this report

The Chapter contains one Performance Audit of Administration of VAT in Uttarakhand and one Departmental Central compliance Audit of State Excise Department, involving revenue implication of ₹ 6.26 crore relating to short levy of tax, irregular allowance of concessions and input tax credit and loss of Revenue due to low recovery of alcohol etc. The Departments concerned have accepted underassessment and other deficiencies of ₹ 0.15 crore.

3D. Audit findings

Highlights

Performance Audit of Administration of VAT in Uttarakhand

- *No provision/module has been mapped for issuance of Form-XVII, which is a certificate for import of goods by parties other than registered dealer and for Originating Certificate (OC), required by the dealers for transit of goods for intra-state trade but passing through other state without being taxed in that state and Tax Audit.*
(Paragraph 3.2.13.2 & 3.2.16.2)
- *In the absence of interlinking of the field units, Checkposts and Commissionerate, the intended objective of computerisation such as online transmission of data, cross verification of various details etc. could not be achieved in full.*
(Paragraph 3.2.13.5)
- *There was short/ non-levy of tax of ₹ 2.61 crore and interest of ₹ 1.97 crore due to imposition of tax at lower rates, escaped taxable turnover and suppression of sale/ turnover.*
(Paragraph 3.2.14.1 & 3.2.14.2)
- *Allowance of Input Tax Credit (ITC) amounting to ₹ 44.12 lakh was irregular. Similarly, irregular allowance of concession/ exemption resulted in short levy of tax of ₹ 39.88 lakh and interest of ₹ 25.69 lakh.*
(Paragraph 3.2.14.4 & 3.2.14.5)
- *Even though the VAT has been in place for six years, the VAT manual is yet to be prepared.*
(Paragraph 3.2.16.3)
- *In appeal, 762 out of 3,213 cases involving revenue of ₹ 10.37 crore were pending for disposal for more than five years.*
(Paragraph 3.2.16.4)

Department Centric Compliance audit of State Excise Department

- *Two District Excise Officers had booked 23 offences under Section 64, pertaining to sale of liquor exceeding MRP by nine licensees. These cases were settled on payment of nominal compounding fees. Out of these 23 cases, two and three licensees committed the violation four and three times respectively.*
(Paragraph 3.3.8.4)
- *Low recovery of Alcohol from molasses resulted in escaping of revenue of ₹ 20.66 lakh.*
(Paragraph 3.3.8.6)

Commercial Tax Department
3.2 Performance Audit of Administration of VAT in Uttarakhand

The Performance Audit on Administration of VAT in Uttarakhand was undertaken to verify whether proper systems are in place to ensure that the provisions of the VAT Act, Rules and Circulars issued by the Department are enforced effectively to safeguard the revenue of the State. The Performance Audit for the period 2008-09 to 2011-12 brought out deficiencies like non-mapping of different features in the computerized modules, short levy of tax, irregular allowance of concessions & Input Tax Credit, shortage of manpower, pendency of large number of appeal cases, lack of Tax Audit etc.

Highlights

- *No provision/module has been mapped for issuance of Form-XVII, which is a certificate for import of goods by parties other than registered dealer and for Originating Certificate (OC), required by the dealers for transit of goods for intra-state trade but passing through other state without being taxed in that state and Tax Audit.*
(Paragraph 3.2.13.2 & 3.2.16.2)
- *In the absence of interlinking of the field units, Checkposts and Commissionerate, the intended objective of computerisation such as online transmission of data, cross verification of various details etc. could not be achieved in full.*
(Paragraph 3.2.13.5)
- *There was short/ non-levy of tax of ₹ 2.61 crore and interest of ₹ 1.97 crore due to imposition of tax at lower rates, escaped taxable turnover and suppression of sale/ turnover.*
(Paragraph 3.2.14.1 & 3.2.14.2)
- *Allowance of Input Tax Credit (ITC) amounting to ₹ 44.12 lakh was irregular. Similarly, irregular allowance of concession/ exemption resulted in short levy of tax of ₹ 39.88 lakh and interest of ₹ 25.69 lakh.*
(Paragraph 3.2.14.4 & 3.2.14.5)
- *Even though the VAT has been in place for six years, the VAT manual is yet to be prepared.*
(Paragraph 3.2.16.3)
- *In appeal, 762 out of 3,213 cases involving revenue of ₹ 10.37 crore were pending for disposal for more than five years.*
(Paragraph 3.2.16.4)

3.2.1 Introduction

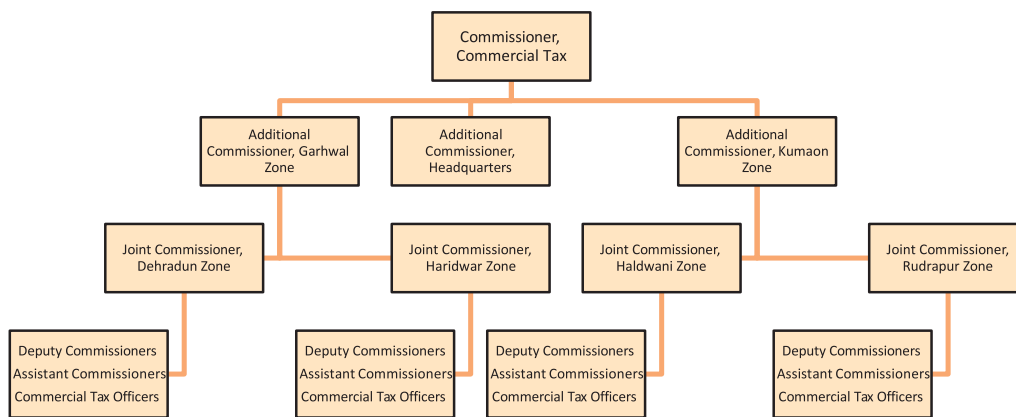
Value Added Tax (VAT) is a multipoint taxation system where the goods are subject to tax at each point of sale in the production and distribution chain till it reaches the consumer. The VAT system came into force in the State of Uttarakhand from 1st day of October 2005, by repealing Uttarakhand (The Uttar Pradesh Trade Tax

Act, 1948) Adaptation and Modification Order, 2002 and enacting an Act called ‘The Uttarakhand Value Added Tax (UVAT) Act, 2005’ to bring more efficiency in the tax administration and fairness in the taxation system. The Act comprises of XI Chapters relating to registration of the dealers, filing of returns, recovery and refund of tax, rates of tax, appeal and revision, penalties etc. The salient features of the Act are illustrated in **Appendix-3.1**.

Commercial Tax Department is responsible for assessment, levy and collection of VAT and ensures compliance of various provisions of the Act, Rules and Circulars issued in this regard.

3.2.2 Organisational Set-up

The organizational set-up of the Department is depicted in the chart below:



3.2.3 Audit Objectives

The Performance Audit was conducted with a view to ascertain:

- if the system of receipt, issue and use of forms was adequate;
- whether the system of registration of dealers and filing of returns by them was effective;
- the efficiency and effectiveness of computerization and to ascertain whether Information Technology Controls in place were adequate;
- that the levy and collection of taxes, allowance of Input Tax Credit (ITC), exemptions and concessions and payment of refunds are in conformity with the provisions of the prevailing Act and Rules;
- the human resources are managed in an efficient and effective manner; and
- whether the internal controls in the Department are adequate and effective.

3.2.4 Audit criteria

Audit criteria has been derived from the following sources:

- The Uttarakhand Value Added Tax Act, 2005;
- The Uttarakhand Value Added Tax Rules, 2005;
- The Uttarakhand Entry Tax Act, 2008;
- The Uttarakhand Entry Tax Rules, 2009; and
- Departmental Circulars and Notifications.

3.2.5 Scope and methodology of audit

The Performance audit was conducted during the period from May 2012 to September 2012 through test-check of the records and computerised data of Headquarter office of the Department, six³ out of 23 Deputy Commissioners (Assessments) {DCs (A)} 14⁴ out of 47 Assistant Commissioners (Assessments) {AC (A)} including Commercial Tax Officer (CTO), one Check Post⁵ and one Mobile Squad⁶ out of 22 Check Posts and eight Mobile Squads respectively for the period from 2008-09 to 2011-12. The sampling of the units was done by “Probability Proportional to Size without Replacement (PPSWOR) method”. An Entry Conference was held on 23 July 2012 with the Secretary (Finance), Government of Uttarakhand, wherein the audit objectives, scope and methodology of audit were discussed. The draft report was sent to the Government/ Department on 14 November 2012 for their response.

The findings of the Performance Audit were discussed (17 December 2012) with the Secretary, (Finance), Government of Uttarakhand, in an Exit Conference. The replies of the Government have been incorporated in the report at appropriate places.

3.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department in providing necessary information and records for audit.

³ DC-I, Haridwar, DC-II, Roorkee, DC-I & V, Dehradun, DC-II, Kashipur and DC-II, Haldwani.

⁴ AC-II, III, & V, Dehradun, AC-II, Rishikesh, AC, Kotdwara, AC-I & II, Roorkee, AC- II, Haridwar, AC, Kichha, AC-III, Rudrapur, AC-II, Haldwani, AC-I, Almora, AC, Nainital and AC, Ramnagar.

⁵ Check Post, Narsen.

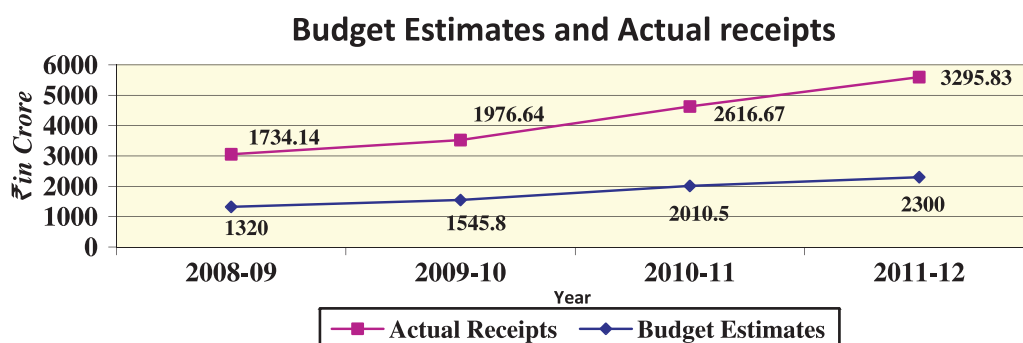
⁶ AC Mobile squad, Haldwani.

3.2.7 Trend of Revenue

The tax collection on account of VAT for the period from 2008-09 to 2011-12 as per the Finance Accounts prepared by the Accountant General (A&E), Uttarakhand along with the budget estimates during the above period and the growth rate in percentage over the previous years is given in **Table –3.2.1** below:

Table-3.2.1 (₹ in crore)

Year	Budget Estimates	Collection of VAT	Variation (Per cent)	Total receipt of the State	Per cent of VAT in total receipt	Growth Rate(%) of VAT over previous year
2008-09	1320.00	1734.14	(+) 31	8634.98	20	16.52
2009-10	1545.80	1976.64	(+) 28	9486.13	21	13.98
2010-11	2010.50	2616.67	(+) 30	11608.16	23	32.37
2011-12	2300.00	3295.83	(+) 43	13691.24	24	25.95



It is evident from above that there is an increasing trend in collection of VAT as well as the share of VAT in total revenue receipt of the State. The collection of VAT has also exceeded the Budget estimates in all the years under coverage. Further, it was noticed that the budget estimates were unrealistic for the year 2008-09, 2009-10 and 2011-12 as these were less than the collection of VAT for the previous year. The growth rate over the previous year touched a high of 32.37 per cent in the year 2010-11.

3.2.8 Registered dealers

The total number of registered dealers in the State had shown an increase during the period from 2008-09 to 2011-12 as depicted in **Table-3.2.2** below:

Table-3.2.2

Year	Total number of registered dealers
2008-09	66607
2009-10	79316
2010-11	84759
2011-12	84323

As can be seen from the above table, there was an increase in the number of registered dealers from 66,607 to 84,323 during the period 2008-12 which contributed to increase in VAT collection as discussed in the paragraph 3.2.7 above.

3.2.9 Cost of collection of VAT

The gross collection of revenue receipts under the Major Head, Taxes on sales, trade etc. (0040), expenditure incurred on collection and percentage of expenditure to gross collection during the year 2008-09 to 2011-12 along with the All India percentage of expenditure on collection to gross collection are given in **Table-3.2.3** below:

Table-3.2.3 (*₹ in crore*)

Year	Gross Collection ⁷	Expenditure on collection	Per cent of expenditure to collection	All India average percentage
2008-09	1902.38	22.69	1.19	0.91
2009-10	2240.84	25.63	1.14	0.88
2010-11	2934.95	33.46	1.14	0.96
2011-12	3635.97	35.30	0.97	0.75

It is evident from the above table that the Department was able to achieve reduction in cost of collection, but the same is higher than the All India Average. While audit appreciates the same, more efforts are needed to bring the cost of collection at par or below the All India Average.

3.2.10 Recovery of arrears of revenue under the repealed Act

- (a) Arrears of ₹ 36.50 crore were pending under the repealed Act as on 30 September 2005. Out of this, the total amount which remained unrealised as on 31 March, 2012 was not provided by the Commercial Tax Department. In the absence of details, pending recovery under repealed Act could not be arrived at by Audit.
- (b) A test-check of R3 register maintained by the field offices for monitoring of demand and recovery indicated that ₹ 12.99 lakh were pending for recovery for more than twenty years as illustrated in **Appendix-3.2**. Though Recovery Certificate (RC) had been issued by the Department in all the cases, yet no further action was initiated to settle these long pending demands either by way of recovery or by write off, if recovery is not possible.

During exit conference, the Secretary (Finance), Government of Uttarakhand, directed (December 2012) Commissioner, Tax to issue letters to the District

⁷ Includes collection on VAT, Entertainment Tax, Tax on Motor Spirits and Central Sales Tax.

Magistrates for issuing Recovery Certificates again and to depute the authorised officers of the Department to contact the District Magistrates personally for taking necessary action. In case of old arrears which are not recoverable, the Secretary Finance directed that the concerned assessing authorities of the Department with the authorised officers of the Revenue Department should initiate action under rules for write off within three months.

3.2.11 System of Receipt, Issue and Use of forms

The Department invites tenders for printing of the concessional forms and to safeguard any misuse while printing, various conditions are imposed in the tenders as well as supply orders. After printing, these forms are received by the stores of the headquarters office of the Department. From the stores, the forms are issued to the Joint Commissioners as per their requirement. The Joint Commissioners further issue these forms to the assessing authorities i.e. DCs and ACs based on indents. These forms are obtainable by registered dealers from the assessing authorities on payment of a fee fixed by the Department from time to time.

The Department has developed a form module for issuance of forms through computer. On receipt of the forms from concerned Joint Commissioner, their series/serial numbers are fed in the form module as “Master Entry”. These are being issued to the dealers as per the serial number generated by the module.

System of receipt, issue and use of forms in the sampled units through the module was analyzed for four forms viz., Form C, F, XI and XVI. The audit analysis revealed the following discrepancies:

- In the 12 sampled units of Garhwal division, only Forms C, F and XVI were being issued through the module.
- In seven out of eight sampled units in Kumaon division, only Form-XVI was being issued through the module.

Further, where forms were being issued through the module, it was observed that important data like details of lost/cancelled forms, fee deposited, challan number and date were not fed in the relevant fields provided in the module. In case of some dealers, even the Permanent Account Number was not fed in the database.

During Exit Conference, the Secretary (Finance), Government of Uttarakhand, stated that the functional Form Module was based on local server and the web based Form Module was being prepared. This module will be launched only after correcting the deficiencies pointed out by audit. After the module is launched, there would be uniformity in issuance of forms also. Further, it was stated that a circular

had been issued by Commissioner, Tax on 14 May 2012 for feeding of backlog in the system. The Secretary, Finance directed for its strict compliance.

3.2.12 Dealer Administration

Section 3 (7) read with Section 15 of the Act provides that a dealer shall be liable to tax if the aggregate of his turnover of sale of all goods is ₹ five lakh and such dealer shall get himself registered within such time and in such manner as prescribed. Further, Section 15 (4) (d) of the Act provides that every dealer in liquor including beer shall be liable for registration irrespective of his turnover at the commencement of the business in the State.

- (a) It was observed that only two⁸ out of 14 test checked ACs (A), conducted surveys to detect unregistered dealers liable for registration and got registered all the detected 40 dealers during the period under audit.
- (b) Audit had forwarded (16 August 2012) a list of 342 dealers, who had been issued licenses by the Mining Department for mining of Rodi, Bajri, Sand and Grit in Dehradun region for the period from 2008-09 to 2011-12, to the Commissioner, Commercial Tax Department Dehradun, to verify whether the dealers who were liable for registration, had been registered. The Department did not provide the said information till October 2012.

During Exit Conference, the Secretary (Finance), Government of Uttarakhand, stated that necessary action was in progress in this regard.

- (c) The department was asked to provide the details of total number of dealers who were identified as 'liable for registration' by the Special Investigation Branch (SIB) of the Department and number of dealers registered thereagainst. This information was not provided by the Department till October 2012.
- (d) No norms/targets were prescribed either by the VAT Act or by issue of any notification/instruction regarding conducting periodical surveys to unearth unregistered dealers liable for registration.

During Exit Conference, the Secretary (Finance), Government of Uttarakhand, directed the Commissioner, Tax to take necessary action for the observations pointed out by audit.

- (e) The stock accounts in case of three dealers show total amount of goods in the opening and closing stock without bifurcation under four *per cent* and 12.5 *per cent* category, leaving a chance for misappropriation.

⁸ AC Kichha and AC Almora.

- (f) In a number of cases, the purchase list enclosed with the returns does not bear the name of the commodity in the absence of which, correct rate of tax/ ITC cannot be ensured.

During Exit Conference, The Secretary (Finance), Government of Uttarakhand, directed for issuance of a circular regarding bifurcation of opening, closing stock and name of the commodity in the purchase list.

- (g) Under the Act, every dealer in liquor including beer is liable for registration irrespective of his turnover. The matter was also pointed out in Audit Report for the year ending March 2010, wherein the Department had stated that the matter shall be looked into and action will be taken. During the course of audit, it was noticed that neither the dealers got themselves registered nor did the Department initiate any action to register them.

During Exit Conference, the Secretary (Finance), Government of Uttarakhand, directed to issue a letter to Secretary and Commissioner, Excise for making a provision for the dealers to obtain TIN from the Commercial Tax Department before operating the liquor/beer shop. The Secretary further directed that necessary action should be taken to register the dealers, presently engaged in such trade.

3.2.13 Computerisation

National Informatics Centre (NIC) developed a web based VAT application software for the Commercial Tax Department. The software has the modules namely Dealers Administration, Return Module, Form Management, TINXSYS and Payment Module.

3.2.13.1 Good practices

- (a) The Department had effectively implemented the system to register the dealers through registration module. The dealer applies for registration online and TIN is allotted by the Department within a period of 30 days from the date of application.
- (b) The Return module monitors the filing of returns by the dealers. A list of defaulters who do not file their return in time was being generated and notices served to the defaulting dealers. The registrations of the dealers, who do not file their returns even after the notice, were suspended.

3.2.13.2 Deficiencies in system design

It was observed that certain key features were not there in the application software as detailed below:

- There was no provision in the software for cancellation of State and Central registrations independently. It was noticed during audit of AC (A) Kotdwar, that three dealers had applied for cancellation of their central registration, but the assessing authority could not cancel the registration as the state registration also gets cancelled simultaneously.
- During scrutiny of the Form module, it was noticed that the module had a provision to feed the total number of lost/cancelled forms, but there was no provision for feeding of the serial number of these forms. Further scrutiny of the module revealed that there is a field for amount of fee deposited for forms, but there is no check over the fee deposited and number of forms issued. In the absence of such validation check, the forms were issued to the dealers even if there was no balance at the credit of the dealer.
- There was no provision in the Form module for issuance of Originating Certificates (OC)⁹. This was being issued manually.
- It was observed that there was no provision in the Form Module for issuance of Form-XVII¹⁰. However, the software developed for the check-posts had a provision for feeding the details of Form-XVII and these details were fed into Panji 1 and Panji 2¹¹ in the test checked check-post at Narsen. In the absence of a provision for issuance of Form-XVII through the module by the field offices, the data of the check posts could not be utilized for cross verification by the field offices.
- There was no provision in the software to capture data pertaining to Mobile squads.
- There was no provision in the software for detection of late payment of tax and calculation of interest thereon.
- There was no provision in the software to capture data relating to refunds.
- There was no provision in the software to generate various Management Information System (MIS) Reports which are presently being prepared manually.

⁹ Which is required by the dealers for transit of goods for intra-State trade but passing through other state without being taxed in that state.

¹⁰ Which is a certificate for import of goods by parties other than registered dealers.

¹¹ Panji 1 : Register maintained at the check post wherein the details of the purchasing/ selling dealer and the transporter are recorded.

Panji 2 : Register maintained at the check posts wherein the details of the goods *viz.* name, quantity and amount and the details of forms used are recorded.

- E-filing of the returns was compulsory for the dealers having a turnover of more than ₹ 50 lakh. It was observed that there was no provision in the software to capture 'Purchase List' and 'Sale List' which are the most important enclosures of a return. The same enclosures were, however, found attached with the hard copy of the returns. Non-availability of the details of purchase/ sale hampered the cross verification of returns through computer as discussed in Paragraphs-3.2.14.2 & 3.2.14.4.
- Tax Information Exchange System (TINXSYS) is a centralized exchange of all inter-state dealers spread across various states and Union territories of India. TINXSYS helps to actively monitor the inter-state trade and verification of statutory forms issued under CST Act by other states submitted by the dealers for claiming concessions/exemptions. It was observed that the details of 'C' and 'F' Forms issued were not uploaded on TINXSYS.

3.2.13.3 Lack of General IT Controls

Information Technology controls in a computerised system are all the manual of programme methods, policies and procedures that ensure the protection of entity's assets, accuracy and reliability of its records and operational adherence to management standards. The following deficiencies were noticed in General IT Controls:

- No licensed version of Anti-virus software was found installed in the computers used for office work.
- There is no documented user guide to help the users understand the software for effective discharge of their functions.
- No documented disaster recovery system was operational in case of any failure of the system.

The Secretary (Finance), Government of Uttarakhand, stated during Exit Conference, that the functional form module is based on local server and the web based form module is being prepared. This module shall be launched only after correcting the deficiencies pointed out by audit. After the module is launched, there would be uniformity in issuance of forms also. The Department also stated that the observations pointed out by audit had been noted and IT section, Headquarter office, Commercial Tax has been instructed to take corrective measures. Regarding Form XVII, MIS and computerisation of Mobile Squads, the Commissioner Tax stated that the same shall be looked into after reorganisation due to closure of the check posts. As such it is not feasible to comment at this stage. The Secretary

(Finance), Government of Uttarakhand, also instructed the officers concerned of the Commercial Tax Department to take necessary action wherever needed.

3.2.13.4 Reliability of the data

‘Date of Registration’ of a dealer is a key field as the assessment of VAT of a particular dealer depends upon it. It was observed that in case of 209 dealers out of 2,269 dealers, data in this key field as available in the software was different from that in the manual records.

On this being pointed out, the units stated that the discrepancy was due to clerical mistake and would be set right. As database of dealers is the foundation on which the effectiveness of entire software package depends, presence of inaccurate data in key fields seriously undermined the reliability of the digitized data.

During exit conference, Secretary (Finance), Government of Uttarakhand, directed Commissioner Tax to instruct the concerned Joint Commissioners to look into the matter and take remedial action.

3.2.13.5 Computerisation of Check Posts

Check post is an important tool for cross verification of the credit claims and ensure authenticity of correct payment of tax by the dealers involved in inter-State trade. Therefore, their computerisation and online connectivity with field offices assumes importance.

Audit of the sampled check post at Narsen, revealed the following deficiencies:

- There was no online connectivity of this check post with the field offices and headquarters.
- Five Panjis namely Panji 1, 2, 3, 4 and 5 are maintained at each check post. Panji 1, 2, 3 and 4 are maintained to track movement of goods while Panji 5 contains the details of seizures and security deposits. Hiltron has developed a software package for check posts namely “Check Post Automation System”. Audit scrutiny of check post at Narsen revealed that the software was partially operational as only Panji 1, 2 and 3 were fed in the computer and Panji 4 and 5 were prepared manually although there was a provision in the software. As Panji 3 and Panji 4 are interrelated to each other, the data fed in Panji 3 can be usefully utilized only when data in Panji 4 is fed.
- A stand-by server provided in the check post was not in working condition. Thus, there was no arrangement to resume the work in case of server failure due to fault or crash.

The unit stated in reply that necessary action shall be taken to set right the server.

During Exit Conference, Commissioner stated that 38 V-SAT had been purchased and the online connectivity would be available after their installation. The IT section, Headquarter office, Commercial Tax, had been instructed for speedy compliance.

3.2.14 Implementation of UVAT Act

Audit of test checked units revealed various deficiencies in effective enforcement of the Act and Rules as brought out in succeeding paragraphs.

3.2.14.1 Short/ Non-levy of tax

According to Section 4 of UVAT Act, the tax payable by a dealer shall be levied on his taxable turnover at such rates as may be prescribed in the Schedules of the Act.

- Test-check of the records of four DCs (A)¹² and 12 ACs (A)¹³ (including CTO) revealed that, in case of 23 dealers, tax was levied at lower rate on a total sale of ₹ 3.11 crore, which resulted in short levy of tax of ₹ 26.69 lakh and interest of ₹ 18.34 lakh as detailed in **Appendix-3.3**.
- During scrutiny of the records of three DCs (A)¹⁴ and five ACs (A)¹⁵ (including CTO), it was noticed that tax was not levied at all on 11 dealers for sales transaction of ₹ 12.93 crore, treating the commodities as exempt resulting in non-levy of tax of ₹ 1.60 crore. Besides, interest of ₹ 1.25 crore was also leviable as detailed in **Appendix-3.4**.

Section 4 (5) (b) read with Rule 14 (2) stipulates that every dealer shall pay tax on the net turnover in respect of transfer of property in goods involved in the execution of works contract at such rates as are provided. The net turnover shall be arrived at after deducting the total value of goods on the sale or purchase where tax has been levied or is leviable and the amount representing the labour charges for the execution of the works contract from the total amount received or receivable by the contractor.

- Test-check of records of the AC (A), Nainital revealed that a contractor namely M/s Project Manager, UP State Construction Corporation Limited, Almora received gross payment of ₹ 5.20 crore and ₹ 7.21 crore for the year 2006-07 and 2007-08 respectively for construction of Government buildings. The assessing authority exempted the contractor during assessment for both

¹² DC(A)- I Dehradun, DC(A)-II Roorkee, DC(A)-II Kashipur and DC(A)-II Haldwani.

¹³ AC(A) –II & V Dehradun, AC(A) I & II Roorkee, AC (A) III (CTO), Dehradun, AC(A)-II Haldwani, AC(A) Nainital, AC(A)-II Haridwar, AC(A)-I Almora, AC(A) Kotdwara, AC(A) Kichha and AC(A) II(CTO) Rishikesh.

¹⁴ DC(A)-II & V Dehradun and DC(A) –II Haldwani.

¹⁵ AC(A)-V Dehradun, AC(A) Nainital, AC(A)-I Almora, AC(A)-II Rishikesh and AC(A) Kichha.

the years on the plea that no sale/ transfer of material had been made by the contractor. The plea of assessing authority was not in accordance with the above provisions wherein tax was leviable on the net turnover for the year 2006-07 and 2007-08 respectively. In absence of details of quantum of materials purchased by the contractor, the amount of tax leviable could not be arrived at by the audit since there are two different sets of 12.5 and four *per cent* depending upon the type of material.

Escaped taxable turnover

- During scrutiny of the records of two ACs (A)¹⁶, it was noticed that in case of a contractor for the years 2008-09 and 2009-10, the assessing authority deducted 30 *per cent* of the amount received by the contractor (₹ 2.45 crore), instead of actual labour charges of ₹ 11.52 lakh incurred to arrive at net taxable turnover. Further, in case of one contractor, purchase of ₹ 9.56 lakh instead of ₹ 8.92 lakh was deducted from total amount of ₹ 20 lakh received by the contractor to arrive at net taxable turnover. This resulted in escaped taxable turnover of ₹ 62.63 lakh led to non-levy of tax of ₹ 6.25 lakh and interest of ₹ 2.76 lakh thereupon as detailed in **Appendix-3.5**.

The reply on the above issues from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

Section 3 (1) of the Act read with Section 58 (1) (XXV) (h) stipulates that tax shall be levied and charged in accordance with the provisions of this Act on every sale made within the State by a dealer. Further, if a dealer has issued sale invoice and failed to account for it correctly in his books of accounts, a penalty of ₹ one hundred or double the amount of tax involved, whichever is higher, is leviable.

- Test-check of the DC (A) V, Dehradun revealed that a dealer namely M/s Rudra Wood Pack, Manglore, Roorkee had declared a sale of ₹ 4.72 crore for the year 2007-08 to M/s Asahi India Glass Limited, Roorkee, out of which, sale of ₹ 4.03 crore and ₹ 68.84 lakh was declared taxable at four *per cent* and 12.5 *per cent* respectively. Cross verification of assessment records of the seller and purchaser by Audit revealed that the entire sale of ₹ 4.72 crore was made at 12.5 *per cent*. Further verification indicated that the purchasing dealer had claimed and was allowed ITC @ 12.5 *per cent* amounting to ₹ 58.96 lakh on this purchase. The assessing authority failed to bifurcate and detect the actual taxable rate for the amount of sale by the dealer to M/s Asahi India Glass Limited, Roorkee. This resulted in short levy of tax on taxable turnover of sales of ₹ 4.03 crore amounting to ₹34.30

¹⁶ AC(A)-V Dehradun, AC(A)-II Haldwani.

lakh. In addition, interest of ₹ 23.15 lakh and penalty of ₹ 68.60 lakh was also leviable.

- A test-check of the records of DC(A)-V Dehradun, revealed that the assessing authority in case of a dealer¹⁷ levied tax on a total sale of ₹ 22.83 crore for the year 2007-08. Scrutiny of the sale list for the relevant period, furnished by the dealer, revealed that the dealer had sales turnover of ₹ 23.38 crore for that year. This resulted into escapement of tax of ₹ 2.19 lakh and interest of ₹ 1.48 lakh on escaped sale amount of ₹ 54.81 lakh and penalty was also leviable.

The reply on the above issues from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

3.2.14.2 Evasion of tax due to suppression of sale

Section 4 of the Act stipulates that the tax payable by a dealer shall be levied on his taxable turnover at such rates as may be prescribed in the Schedules of the Act.

During scrutiny of the assessment order from the confidential file of a dealer namely M/s Rudra Wood Pack, Roorkee, it was noticed that the dealer declared sale of ₹ 1.59 crore in his periodical returns for the month of January and February, 2007 and thereafter filed a revised return declaring sale as “Nil” for the year 2006-07 on the plea that the goods were received back due to substandard quality. The assessing authority in the assessment order (placed in confidential file) had mentioned that an affidavit in support was submitted by the selling and purchasing dealers. Thus, the assessing authority had not levied any tax for the said year due to “Nil” sale. The corresponding assessment file of the concerned dealer was not produced to Audit due to which Audit could not verify the authenticity of documents mentioned in the assessment order.

Cross verification by audit revealed that the dealer had actually sold goods worth ₹ 4.12 crore in the same year to M/s Asahi India Glass Limited, Roorkee registered in DC (A)-II, Roorkee. Further scrutiny revealed that the dealer had issued the invoices for the total turnover sale of ₹ 4.12 crore to M/s Asahi India Glass Limited, Roorkee and the purchasing dealer claimed and was allowed ITC of ₹ 51.26 lakh (@12.5 per cent). Thus, the dealer suppressed taxable sale of ₹ 2.53 crore. The assessing authority failed to detect the suppression resulting in non-levy of tax of ₹ 31.59 lakh and interest of ₹ 26.07 lakh. Besides, penalty was also leviable.

¹⁷ M/s Rudra Wood Pack, Roorkee.

The reply on the above issue from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

3.2.14.3 Short/ non-deposit of interest

Sub section (4) of Section 34 of the Act and departmental circular provides that, if a dealer fails to make payment of tax due by due date, the dealer shall be liable to pay interest @ 15 per cent per annum from the date of such default till the payment of said tax.

Scrutiny of the records of four DCs (A)¹⁸ and 11 ACs (A)¹⁹ revealed that 24 dealers deposited less interest and 40 dealers had not deposited interest at all on demands raised by the assessing authority. Further, it was noticed that the demands were removed/cancelled from R3 register also, even when the dealers had not deposited the amount of interest. No action for recovery of short/ non-deposit of interest was initiated by the assessing authority. This resulted in short/non-deposit of interest of ₹ 18.53 lakh as detailed in **Appendix-3.6**.

The reply on the above issues from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

3.2.14.4 Irregular allowance of Input Tax Credit

Section 6 (3) & (8) of the Act provides that Input Tax Credit (ITC) shall be allowed to a registered dealer for the goods purchased within the State from a registered dealer except for the goods, the sale of which is exempted under this act, loss and discount, job work, consumables (up to 31 March 2008) and special category goods as specified in Schedule III of the Act. Further, Section 58 (1) (XI) and (XXXV) (f) stipulates that if any dealer wrongly claims ITC, a penalty of a sum of ₹ five thousand or three times of the amount claimed, whichever is higher, shall be leviable.

- The benefit of ITC was allowed to the dealers on the basis of purchase list furnished with the returns. During audit, it was noticed that the process of cross verification before allowing ITC was miniscule. There was no institutional mechanism to confirm the genuineness of ITC claims through cross verification before allowing it. Lack of mechanism of cross verification resulted in irregular allowance of ITC as under:
- During audit of the records of DC (A)-II, Roorkee, it was noticed that a dealer M/s Asahi India Glass Limited, Roorkee claimed and was allowed ITC of ₹ 51.26 lakh (@ 12.5 per cent) on purchase of goods worth ₹ 4.12 crore for

¹⁸ DC(A)-I & V Dehradun, DC(A)-II Haldwani and DC(A)-II Roorkee.

¹⁹ AC(A)-III & V Dehradun, AC(A) Ramnagar, AC(A)-I & II Roorkee, AC(A)-III Rudrapur, AC(A) Kotdwar, AC(A)-II Rishikesh, AC(A)-II Haldwani, AC(A)-II Haridwar and AC(A)-I Almora.

the year 2006-07 from M/s Rudra Wood Pack, Roorkee registered in DC (A)-V, Dehradun (as discussed in paragraph 3.2.14.2). Cross verification revealed that goods worth ₹ 1.59 crore were returned back by the dealer due to substandard quality. Further, the selling dealer had submitted an affidavit from the purchasing dealer in support of goods returned. As such, ITC on the goods returned was to be disallowed. In absence of cross verification, the fact of returning of goods and producing an affidavit in support was not reflected during assessment, which resulted in irregular allowance of ITC amounting to ₹ 19.91 lakh. Besides, penalty of ₹ 59.74 lakh was also leviable.

- During test-check of records of two DCs (A)²⁰ and seven ACs (A)²¹ (including CTO), it was noticed that irregular ITC on account of exempted goods, consumables etc. amounting to ₹ 24.21 lakh was allowed in case of 14 dealers as detailed in **Appendix-3.7**.

On this being pointed out, the auditable entities stated that the matter would be looked into and action will be taken accordingly.

The reply on the above issues from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

3.2.14.5 Irregular allowance of Concession/Exemption

Section 4 (7) (a) & (e) of the Act read with Rule 23(1) of UVAT Rules, 2005 provides that if any goods liable to tax under this Act are sold by a dealer to another dealer and such another dealer furnishes to the selling dealer a declaration in Form XI, to the effect that he holds a recognition certificate, the selling dealer shall be liable, in respect of these goods, to tax at concessional rates.

Further, Section 63 of the Act and explanation below provides that a person who issues a certificate or declaration where he discloses his intention to use goods purchased by him for such purpose as will make the tax leviable or not leviable at concessional rate but uses the same for the other purpose other than such purpose, the declaration or certificate shall be deemed to be wrong and he shall be liable to pay on such transaction an amount which would have been payable as tax on such transactions had such certificate or declaration not been issued. Section 58(1) (XXIX) & (g) provide for imposition of penalty of a sum not exceeding 40 per cent of the value of goods involved or three times of tax leviable on such goods under any provisions of this Act, whichever is higher.

²⁰ DC(A) I & V Dehradun.

²¹ AC(A)-V Dehradun, AC(A) Nainital, AC(A)-II Haridwar, AC(A)-I(CTO) Almora, AC(A)-III (CTO) Rudrapur, AC(A)-Kichha and AC(A)-II (CTO), Rishikesh.

(i) During scrutiny of the records of two DCs (A)²² and one AC (A)²³, it was noticed that two dealers issued Form-XI against the purchase of goods amounting to ₹ 14.62 lakh, but the goods were not covered under the recognition certificate whereas one dealer issued Form-XI for the purchases amounting to ₹ 1.23 lakh, which were made prior to date of his recognition certificate. Thus, unauthorized issuance of concessional forms by the dealer to the seller resulted in short levy of tax of ₹ 1.31 lakh. Besides, interest of ₹ 0.93 lakh and penalty of ₹ 6.34 lakh is also leviable as detailed in **Appendix-3.8**.

On this being pointed out, the audited entities replied that the matter would be looked into and action would be taken accordingly.

(ii) Under Rule 23 (1), (3) & (4) of UVAT Rules, 2005 where a dealer holding a recognition certificate purchases any goods for the purpose of manufacture of any goods, he shall, if he wishes to avail of concession referred to therein, furnish to selling dealer a declaration in Form XI. The Form issued in a financial year shall be valid for the transactions of purchase or sale made during that financial year as also made during two financial years immediately preceding the financial year. No single form shall cover the transaction of purchase or sale, of more than one assessment year.

During the test-check of records of four DCs (A)²⁴ and five AC (A)²⁵, it was noticed that 13 dealers filed 67 declaration forms (Form-XI) against sale amount of ₹ 4.88 crore. The assessing authority allowed the concessional rate of tax on this sale even though the forms in support pertained to the transactions made beyond the prescribed time limit. This resulted in short levy of tax of ₹ 38.57 lakh. Besides, interest of ₹ 24.76 lakh was also leviable as detailed in **Appendix-3.9**.

On this being pointed out, DC-II, Roorkee stated that the observation pointed out by audit had been noted for future. However, DC-II, Kashipur replied that the forms have been received against sales at concessional rates. On the basis of natural justice, tax cannot be levied at full rates. The reply is not acceptable as the Rule does not provide for issuance of forms for the transactions beyond prescribed time limit. Other units stated that the matter shall be looked into and action will be taken accordingly.

²² DC(A)-I, Haridwar and DC(A)-II, Kashipur.

²³ AC(A), Kichha.

²⁴ DC(A)-I, Haridwar, DC(A)-II, Roorkee, DC(A)-II, Kashipur, DC(A)-II, Haldwani.

²⁵ AC(A)/ CTO, Ramnagar, AC(A) II (CTO), Haldwani, AC(A)-III (CTO), Rudrapur, AC(A) Kichha, AC(A) II Rishikesh,

(iii) As per the Act, declaration Form XI was substituted in place of Form 3B which was declared as invalid as per departmental Circular no 3897 dated 22 December 2006 w. e. f. 1 April 2007.

Test-check of the records of AC (A), Nainital revealed that Form 3B were issued (July 2007) by the assessing authority after the date from which these were declared as invalid. A dealer availed concession beyond 1 April 2007 on taxable turnover of ₹ 17.09 lakh for the year 2007-08 on the basis of these four Form 3B. Thus, the issuance of forms and allowance of concession was in contravention of the circular.

The reply on the above issues from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

3.2.14.6 Non-cancellation of recognition certificate

Section 4 (7) (a) & (b) of the Act provides where any goods liable to tax are sold by a dealer to another dealer and such other dealer furnishes to the selling dealer in prescribed form and manner a certificate to the effect that he/she holds a Recognition Certificate, the selling dealer shall be liable in respect of those goods to tax at concessional rates. Further, the ACT (as amended) provides that the Recognition Certificate shall be granted to a dealer manufacturing taxable goods.

As per the Act, manufacture means any activity that results in transformation into a new and different article. Further, the Hon'ble Supreme Court in the case of Commissioner of Sales Tax, UP vs M/s Lal Kunwa Stone Crusher Lal Kunwa, Haldwani dated 14 March 2000 had held that the crushing of stone into boulder, sand and grit does not transform and produce any new article and thus, cannot be treated as manufacturing.

During scrutiny of the records of one DC (A)²⁶ and two ACs (A)²⁷, it was noticed that the Recognition Certificate in case of two dealers²⁸ manufacturing atta, maida and suji was not cancelled as atta, maida and suji was declared exempt from August, 2009. The Recognition Certificates of these dealers was required to be cancelled as the dealers were not manufacturing taxable goods. Further, the Recognition Certificate in case of two dealers²⁹ involved in the crushing of stone was not cancelled by the assessing authorities as these dealers did not fall under the category of manufacturers. Non-cancellation of Recognition Certificates may allow the manufacturers of exempted goods to purchase raw materials, plant & machinery, packing materials etc. at concessional rate of tax leading to evasion of tax.

²⁶ DC(A)-II Roorkee.

²⁷ AC(A)/CTO Kichha, AC(A)Ramnagar.

²⁸ M/s Uttaranchal Roller Flour Mills Roorkee, M/s Jagdish Flour Mills, Ramnagar.

²⁹ M/s Tarai Stone Crusher Kichha, Dev Pushp Mining Industries Kichha.

The reply on the above issues from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

3.2.14.7 Non/late deposit of TDS

Section 35 (4), (8) & (9) of the Act provides that every person responsible for making payment in pursuance of a work contract shall at the time of making such payment deduct the amount of tax deduction at source (TDS) and deposit the same in the Government treasury before the expiry of the month following that in which deduction is made. Any deviation attracts a penalty of a sum not exceeding twice the amount deductible but not deducted or deducted but not deposited besides payment of simple interest at the rate of 15 per cent.

During audit of the records of AC (A), Nainital, it was noticed that a dealer³⁰ deducted an amount of ₹ 79934 in July, 2007 as TDS on payment of ₹ 34.86 lakh to a contractor in the year 2007-08, which was to be deposited in Government treasury by 31 August 2007, but the same was deposited on 14 September 2007. The assessing authority neither imposed the penalty nor levied the interest on delayed deposit.

Further, a contractor³¹ received a payment of ₹ 5.20 crore and ₹ 7.21 crore for the year 2006-07 and 2007-08 respectively from contractee departments, but no TDS was deducted for the payments made. During assessment, the assessing authority failed to detect and inform the contractees for non-deduction of TDS.

On this being pointed out by the Audit, the audited entity stated that the matter would be looked into and action taken will be intimated to audit.

The reply on the above issues from Secretary (Finance), Government of Uttarakhand was awaited (January 2013).

3.2.14.8 Functioning of the Check post

- When a goods vehicle going to another state passes through the state, an entry is made in panji 3 and a “behti” in triplicate given at the entry point check post which shall be cancelled in panji 4 on or before the date specified in panji 3, at the exit point check post. The responsibility of cancellation of behti lies with the vehicle owner/ driver. During scrutiny of the records, it was noticed that a penalty of ₹ one hundred per day was imposed on the vehicles, who got cancelled the ‘behti’ after the specified date. The vehicle owners who did not cancel the behti at all at the exit point were issued

³⁰ Executive Engineer Rural Engineering Services Department Circle Nainital.

³¹ M/s Project Manager UP State Construction Corporation, Almora.

notices. Further, these notices and ‘behtis’ had been cancelled on production of an affidavit by the transporter/ owner to the effect that the goods were not sold in the State.

Test-check of the records revealed that no penalty was imposed in 21 cases where the ‘behti’ was cancelled after issuing of notice and the period of delay for cancellation ranged from 36 to 46 months. Thus, there was non-uniformity in imposition of penalty for late cancellation of behti. Further, Audit noticed that there was no guidance available for imposition of penalty in such cases.

During exit conference, Secretary (Finance), Government of Uttarakhand, directed the departmental officials to examine this issue.

- Audit noticed that tax @ ₹ 125 per ton (under composition scheme) was levied on coal imported from other States without Form-XVI by Iron and Steel manufactures and Coal traders. There is no provision in the VAT Act/Rules for composition scheme either for Iron and Steel manufactures or for coal dealers. The rates levied were not specified in the VAT Act and Rules.

On this being pointed out, the audited entity stated that the rate was levied on the basis of old provision. The copy of the old provision in support was not made available to audit.

During exit conference Commissioner Tax stated that certain circulars/orders issued under the UP Trade Tax Act (as adopted in Uttarakhand) were still in force. Further, Secretary Finance directed the Commissioner, Tax to take necessary action after taking cognizance of the provisions in this regard.

3.2.15 Human Resource Management

3.215.1 Shortage of Manpower

Availability of manpower is a key factor for smooth and efficient working of a department. It was noticed that although there was an increase in the number of assessments from 66,607 to 84,323 during the coverage period, there was severe shortage of manpower, particularly in B & C cadres who are responsible for majority of the assessments and cross verification, general upkeep of records, assisting the assessing authority respectively. The manpower position of the Department as on 31 March 2012 is depicted in the **Table 3.2.4** given below:

Table-3.24

Cadre	Sanctioned Strength	Men in Position	Shortage	Shortage in per cent
Group A	57	52	05	9
Group B	294	189	105	36
Group C	989	418	571	58
Total	1340	659	681	51

From the above table, it is evident that there is an overall shortage of 51 *per cent* and it was 36 *per cent* in Group 'B' and 58 *per cent* in Group 'C' cadres. Further, it was observed that in one DC(A)³² and seven ACs (A)³³ out of sampled six DCs(A) and 14 ACs (A), no steno was posted for the period under audit. Thus, due to shortage in the posts of different cadres, as stated in the table above, adverse impact on the functioning of the tax administration cannot be ruled out.

Further, as per Commissioner Tax, Uttarakhand letter³⁴ dated 06 May 2006, the record of the outgoing vehicles transporting Rodi, Bajri, Stone and sand was to be maintained at six check posts including Narsen in the specified proforma. For this, additional posts of CTO Grade II were to be sanctioned. Moreover, the Additional Commissioner of the zone was to ensure posting of Group C and D employees for this purpose. During audit of check post at Narsen, it was noticed that neither the staff was posted nor such records maintained.

During exit conference the department stated that necessary action in respect of shortage of staff was in progress at Commissioner/ Government level.

3.2.15.2 Uneven distribution of man power

The ledger keepers and stenographers play an important role in upkeep and maintenance of dealer's records and in assisting the assessing authority for assessment of tax. During audit of the sampled units, it was noticed that the assessment/confidential files of the dealers were not properly maintained/stacked. Necessary documents like registration certificates, survey reports, returns and assessment orders were not filed properly in the relevant file of the dealer for further reference. No standard regarding total number of dealers per ledger keeper was fixed for maintenance of record. Analysis of the information collected from the sampled units indicated that total number of dealers per ledger keeper varied from 280 to 2,591.

3.2.15.3 Training

Training is an important tool of capacity building in a Department. The skill and the capability of the staff can be upgraded through imparting periodical trainings. Audit of sampled units and information collected from Commissionerate revealed that no annual training plan was being prepared by the Department. Further, no refresher course/ training was provided either to assessing authorities or to the staff for better implementation of VAT for the period from 2008-09 to 2011-12. Basic departmental training as well as training in field offices was provided to newly appointed CTOs and ACs of 2008 and 2009 batch. Further, the Department did not

³² DC(A) I Haridwar.

³³ AC(A)-II,III &V Dehradun, AC(A)-II Roorkee, AC(A) Kotdwara, AC(A)-II Haridwar, AC(A) Nainital.

³⁴ No: 312/Commissioner Tax Uttarakhand/Vanijya Kar/CP.

provide any computer training for handling of modules except three days training (one day each for Kashipur, Dehradun and Haridwar region) in 2010-11 and in 2011-12 one day training for Kashipur and Haldwani region was provided to the staff. One day training in a year may not be sufficient to train/upgrade the skill of the staff.

During exit conference the department stated that action to impart trainings to the officers as well as staff was in process.

3.2.16 Monitoring and Internal Controls

3.2.16.1 Internal audit

Internal audit aids, advises and guides the administration for better results. It also independently appraises whether the activities of the organization are being conducted efficiently and effectively.

It was observed that the Department has not created any Internal Audit Wing.

3.2.16.2 Tax Audit

As per Section 25 (8) of the Act, tax audit of records, stock in trade and related documents of the dealers may be conducted by officers posted in the Tax Audit Wing or by other officer of the Department including assessing officer so authorized by the Commissioner or by an officer of the tax audit wing not below the rank of Additional Commissioner for the purpose to ensure the correctness, admissibility of claims/ ITC and compliance by the dealer with the requirements of the Act.

The Tax Audit Wing plays an important role in bringing out deficiencies and irregularities besides advising and suggesting remedial measures. Information collected from the Tax Audit Wing of the Department revealed that:

- The wing was created in 2008 and a proposal for sanctioned strength for the wing was sent to the Government as late as in August 2012, which was still under consideration. However, one Group A, two Group B and four Group C employees were working in the Wing as of March 2012 as an internal arrangement.
- No annual plan was prepared at the beginning of each year.
- Total number of DC(A) and AC(A) along with total number of dealers selected for tax audit for the period from 2008-12 is shown in the **Table 3.2.5** below:

Table- 3.2.5

Period	Selected for tax Audit			
	Total DC(A)	Total Dealers	Total AC(A)	Total Dealers
2008-09	17	57	05	10
2009-10	13	31	03	07
2010-11	19	119	47	344
2011-12	21	144	-	-

It is seen from the above table that there was considerable increase in the selection of field offices as well as dealers for tax audit for the year 2010-11. However, no AC(A) was selected for tax audit for the year 2011-12.

- There was no manual for tax audit which would be a reference point for effective audit.
- The records of the Wing were not computerised, as no application software was developed for tax audit.

3.2.16.3 Creation of manuals

A manual maps the processes and provides a reference point to navigate the VAT as well as for organising training on the Act. It also lays down a framework of internal controls for effective monitoring. Audit observed that no manual was prepared for VAT. While finalizing the Audit Report for the year ended March 2010, the Department had informed in Exit Conference that a committee had been constituted and the old manuals were being updated for the VAT regime which was expected to be completed by October 2010. Although, VAT has been in place for more than six years, the Department could not finalise its manual as of December 2012.

3.2.16.4 Acceptance and disposal of appeal cases

The total number of pending appeal cases as on 31 March 2012 is tabulated in Table 3.2.6 below:

Table-3.2.6

Period	Opening Balance	Total number of cases during the year		Closing Balance
		Admitted	Disposed	
2008-09	1981	1224	639	2566
2009-10	2566	1767	1899	2434
2010-11	2434	3289	2674	3049
2011-12	3049	2834	2670	3213

It is evident from the above table that, out of 3,213 cases pending in tribunal and appellate courts, 1,420 cases involving an amount of ₹ 37.19 crore for the period between 1-2 years, 1,031 cases involving amount of ₹ 19.30 crore for the period between 2-5 years and 762 cases involving an amount of ₹ 10.37 crore above five

years were pending for disposal. Audit further noticed that no time limit has been prescribed for disposal of an admitted appeal.

3.2.16.5 Lack of monitoring of DAK Register

Scrutiny of R 29 register (register of received DAK) indicated that a number of receipts were left blank and were not cancelled by the concerned assessing authorities which may lead to misuse of such receipts. Further, it was also noticed that handmade receipts instead of printed ones were issued in some field units due to non-availability of printed R 29 register. It was also noticed that the handmade receipts were not issued serially as the receipt numbers were found repeated.

During exit conference the department stated that a module has been developed by IT section, Headquarter office, Commercial Tax wherein all the dak receipts would be through computer. Further, The Secretary (Finance), Government of Uttarakhand, directed to implement the module at the earliest to upgrade the process of receipt of dak.

3.2.17 Conclusion

VAT collections form a major chunk of tax-receipts of the State. While it is appreciable that there was increasing trend in collection of VAT as well as the share of VAT in total revenue receipt of the State, Performance Audit revealed that mechanisms in the Department to unearth dealers who are liable for registration were inadequate. Though the process of computerisation had been initiated in the Department, all the modules of the software were yet to be made fully operational. Provisions for capturing data pertaining to critical areas like Tax Audit, Originating Certificate ticket, Form-XVII and mobile squads were absent in the existing software. Check posts were not interlinked with the Commissionerate/ field units. There were cases of non/ short levy of tax, interest & penalty and irregular allowance of concessions & ITC and lack of cross verification of various claims. The Department was functioning with more than 50 *per cent* of manpower shortage. Internal control mechanism was weak as the department did not have any internal audit wing. Tax audit being a vital part of the tax administration was neglected as no posts were sanctioned for the same. Even after six years of implementation of VAT in the State, the VAT manual has not been prepared.

3.2.18 Recommendations

The Government may like to consider the following recommendations:

- Rationalising the manpower for improving the tax administration and for rendering better service to the dealers.
- Developing modules for areas that are yet to be computerized and ensuring full operationalisation of the existing modules of the software.

- Conducting Refresher courses/ training for VAT administration as well as for computerization, periodically for departmental officials.
- Developing an effective system for cross verification of ITC claims.
- To cancel the recognition certificates in case of the dealers engaged in the manufacture of exempt goods to safeguard against any misuse.
- Strengthening internal controls and the internal audit wing for effective operationalisation of VAT administration.
- Preparing VAT manual for effective administration of VAT Act and the Rules made thereunder.

STATE EXCISE DEPARTMENT

3.3 DEPARTMENT CENTRIC COMPLIANCE AUDIT OF STATE EXCISE DEPARTMENT

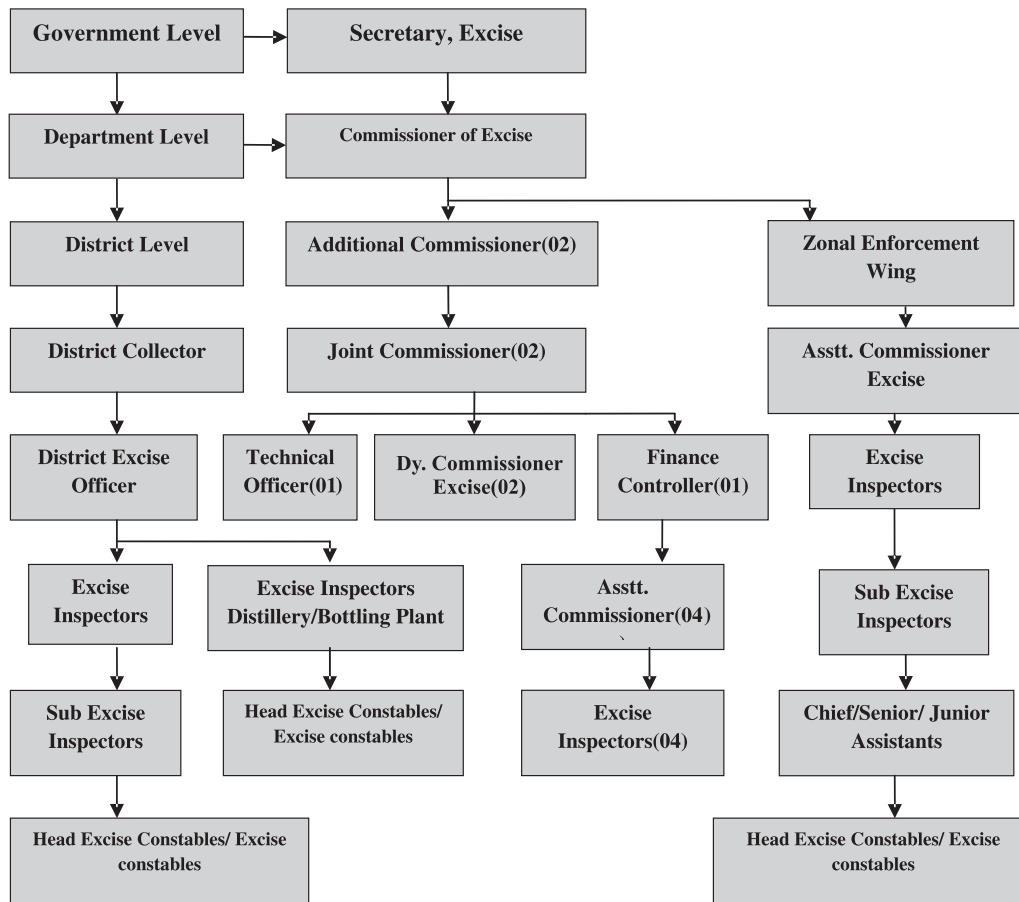
3.3.1 Introduction

The Department deals with regulation, production, manufacture, selling, buying and transport of excisable liquor. Excise revenue is the second largest source of tax revenue for State. The Department plays a dual role of enforcement activities and earning revenue through regulation of Indian Made Foreign Liquor (IMFL) and Country Liquor (CL). The Department is responsible for control over excise related offences through detection, prevention, investigation and prosecution of offenders under the Act.

State excise duty is levied by the State Government under entry 51 of the list –II (State list) of the VIIth Schedule of Constitution. In Uttarakhand, the excise duty is levied and governed by United Province Excise Act 1910 (UPEA). This UPEA, 1910 was adopted by the State of Uttarakhand. The UPEA, 1910 and rules made thereunder govern the law relating to the production, manufacture, purchase and sale of liquor and levy of duties of excise thereon. The major part of excise revenue is received from alcohol, which is produced in distilleries mainly from molasses obtained as a byproduct during manufacturing of sugar. Various kinds of liquor, such as CL and IMFL like whisky, brandy, rum and gin are manufactured from alcohol. Apart from excise duty, license fee also forms part of excise revenue. The District Collector (DC) with the assistance of the District Excise Officer (DEO)/ Assistant Excise Commissioner (AEC) is responsible for establishment of liquor shops in the district.

3.3.2 Organisational Setup

At the State level, the Department is headed by a Commissioner functioning under the Secretary, Excise. The Commissioner is assisted by two Additional Commissioners, two Joint Commissioner and two Deputy Commissioners in the Commissionerate. At the district level, District Excise Officer is assisted by Excise Inspectors, Sub-Inspectors Excise and Excise constables. The organisational structure of the Excise Department is given in the organogram below:



3.3.3 Audit Objectives

The objectives of the audit were to obtain assurance as to whether:

- the Department had collected revenue through regulation of liquor efficiently and effectively ;
- the provisions and the system of regulating, levy and collection of excise duty and other applicable taxes and fees in manufacture of liquor and allotment of licenses for sale of liquor were adequate and they were complied with; and
- an adequate monitoring and control mechanism was in place for preventing and detecting revenue leakage and associated offences.

3.3.4 Audit methodology and scope of audit

The Department Centric Compliance Audit covered the test check of the records of 8³⁵ out of 13 DEOs, four³⁶ distilleries/bottling plants along with State Excise Commissioner, Dehradun during the period 23rd July 2012 to 5th September 2012 for the financial year 2009-12. The DEOs were selected on the basis of quantum of revenue receipt and along with these units, four distilleries/bottling plant were also selected.

The Secretary was conveyed about the commencement of Department Centric Compliance Audit (20th July 2012) and the exit conference was held with Additional Secretary/Commissioner, Excise Department on 15th December, 2012. The replies of the Government have been incorporated at appropriate places in the Report.

3.3.5 Audit Criteria

The audit criteria have been derived from the following sources:

- UP Excise Act, 1910;
- Utrakhand Excise Manual;
- State Excise Policy for the year 2011-12;
- Government Orders, Rules and Regulations; and
- Provisions of the Financial Rules and other budget manuals.

3.3.6 Trend of Revenue

Budget estimates *vis-à-vis* actual receipts of the State Excise Department and its share in total state's tax receipts for the years 2009-10 to 2011-12 are exhibited in **Table-3.3.1** below:

Table-3.3.1 (*₹ in crore*)

Year	Budget estimates	Actual receipts	Variations excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the state	Percentage of actual state excise receipts vis-à-vis total tax receipts
2009-10	598.22	704.64	+106.42	+17.79	3559.04	19.80
2010-11	686.93	755.92	+68.99	+10.04	4405.48	17.16
2011-12	727.67	843.65	+115.98	+15.94	5615.62	15.03

Source : Finance Account & Budget

From the above it is seen that the Department's revenue had increased by ₹ 139.01 crore from ₹ 704.64 crore in 2009 to ₹ 843.65 crore in 2012. However, its share

³⁵ DEO Almora DEO Dehradun, DEO Haridwar, DEO Nainital, DEO Pithoragarh, DEO Tehri Garhwal, DEO U.S. Nagar (Rudrapur) and DEO Uttarkashi.

³⁶ Distilleries: 1. Bazpur distillery, Bazpur, U.S. Nagar; 2. Doon distillery, Dehradun 3. IGL distilley, Kashipur, U.S. Nagar and 4. Bottling plant: Radico khaitan, Bazpur, U.S. Nagar.

in total tax receipt had decreased from 19.80 per cent (2009-10) to 15.03 per cent (2011-12).

3.3.7 Cost of collection of excise duty

The gross collection of the state excise revenue receipts, expenditure incurred on collection and percentage of such expenditure to the gross collection during the period 2009-12 *vis-à-vis* previous year's all India average percentage of cost of collection to gross collection are as given in **Table- 3.3.2** below:

Table- 3.3.2 (₹ in crore)

Year	Gross collection	Cost of collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection of previous year
2009-10	704.64	7.33	1.04	3.66
2010-11	755.92	8.57	1.13	3.64
2011-12	843.65	7.75	0.92	3.05

Source: Finance Accounts & Departmental Figures

The above table indicates that cost of collection for the State Excise Department, Uttarakhand was well below the All India Average during the period 2009-12.

3.3.8.1 Arrears of Revenue

The position of arrears of revenue of the State Excise Department as on 31 March 2012 is given in **Table 3.3.3** below. From the table below, it is seen that ₹ 55.38 lakh were outstanding for more than five years.

Table-3.3.3

Period	Outstanding balance as on 31 March 2007		Outstanding balance as on 31 March 2012		Recovery during 2011-12 (₹ in lakh)	Percentage of recovery
	No. of cases	Amount (₹ in lakh)	No. of cases	Amount (₹ in lakh)		
More than 10 years	02	22.21	02	17.39	4.82	22
More than 5 years and upto 10 years	03	37.99	03	37.99	-	-
Total	05	60.20	05	55.38	4.82	8

Source: Information provided by the Department.

Audit observed that out of total dues of ₹ 55.38 lakh, three cases regarding recovery amounting to ₹ 37.99 lakh were pending in Hon'ble High Court (July, 2012) whereas recovery to the tune of ₹ 22.21 lakh could not be realized from two other defaulters pertaining to Haridwar, as these licensees were not having any assets. The two District Excise Officers (DEOs) of district Haridwar were held responsible after departmental enquiry as they failed to ascertain the assets of the licensees before granting licence by the DC. Hence, the Government of Uttarakhand has imposed the penalty of ₹ 6.30 lakh against them. Out of these, one DEO has deposited the

entire amount of ₹ 4.82 lakh to Government account while the other is depositing @ ₹ 4700 per month w.e.f. June 2012 against the penalty of ₹ 1.48 lakh. Thus, the non-verification of the assets of the defaulter resulted into loss of revenue amounting to ₹ 15.91 lakh i.e. difference of amount to be recovered (₹ 22.21 lakh) and amount realizable from two DEOs (₹ 6.30 lakh).

Commissioner, Excise replied (15th December, 2012) that recovery of actual loss of ₹ 6.30 lakh (upto 3rd August, 2001) is being made from the two District Excise Officers while Department had not given any response towards loss of ₹ 15.91 lakh.

3.3.8.2 Non-revision of overtime fees

As per the order (21 September, 2004) of Commissioner Excise, in case the excise staff stationed at a distillery/ bottling plant is required to attend the distillery/ bottling plant on any of the holidays, the distilleries shall be required to pay the Government an overtime fee at prescribed rates³⁷.

Audit scrutiny of the records of District Excise Officers U.S. Nagar, Rudrapur (IGL distillery Kashipur, Bajpur distillery, Bajpur, and Radico Khaitan bottling plant, Bajpur) and Dehradun (Doon distillery) revealed that overtime fee to the tune of ₹ 10.01 lakh was received during 2009-12 from these three distilleries and one bottling plant at the prescribed rates. Since these rates were seven years old and after the implementation of Sixth Pay Commission Report, the pay of staff has been enhanced considerably, even then no provision has been made by the Government in the rules to revise the rate of overtime fees with reference to the increase in the Pay & Dearness Allowances of concerned excise staff from time to time.

Commissioner, Excise replied (15th December 2012) that the proposal for revision of overtime fee of the staff deployed at distillery/bottling plant will be submitted to the Government for approval.

3.3.8.3 Enforcement activities

Section 48 and 49 of the UPEA 1910 empowers the excise officer not below the rank of a Sub-Inspector of Excise to exercise powers conferred on an officer-in-charge of a police station by the provision of the Code of Criminal Procedure 1973 with regard to offences under the Act. These powers include power to enter and inspect places of manufacture and sale at any time, by day or night, to check the accounts and registers, measure or weigh any materials, utensils, implements, apparatus or intoxicant found in such places.

³⁷ Excise Inspectors: ₹ 60 per hour, Excise Clerk/Sub Inspector: ₹ 36 per hour and Excise Constable: ₹ 32 per hour.

The details of information based on raids conducted by enforcement wing pertaining to four DEOs³⁸ during 2009-12 are as given in **Table-3.3.4** below:

Table-3.3.4

Sl. No.	Year	No. of raids conducted	No. of cases booked/ registered	Percentage of cases booked / registered to no. of raids.
1	2009-10	1226	392	32
2	2010-11	1254	401	32
3	2011-12	1643	456	28

The above table indicates that cases booked/registered against the offenders were only between 28 and 32 *per cent* of total raids conducted during 2009-12.

On this being pointed out (July-August, 2012), the concerned DEOs stated (July-August, 2012), that the names/identifications of offenders were not known in majority of raids. Further, DEO Nainital further stated (August, 2012) that there is a lack of training and infrastructure facility in the Department for adequate enforcement task. Seeing the low percentage of booked/registered cases, there is a need for imparting periodical training to the staff engaged in enforcement activity and to provide proper infrastructural facilities for analyzing of evidence against the offences.

3.3.8.4 Sale of liquor exceeding Maximum Retail Price (MRP)

Section 34 (b) of the UPEA, 1910 stipulates that the authority granting any license, permit or pass under this Act may cancel or suspend it in the event of any breach, by the holder thereof or by his servant or by any one acting on his behalf with his express or implied permission, of any of the terms and conditions thereof. The sale of liquor exceeding the MRP is also one of the conditions which violates terms and conditions of license.

Audit observed that two DEOs (Tehri and Uttarkashi) had booked 23 offences³⁹ under Section 64, pertaining to sale of liquor exceeding MRP by nine licensees. These cases were settled on payment of compounding fees. Out of these 23 cases, two and three licensees committed the violation four and three times respectively.

Commissioner, Excise replied (15th December, 2012) that action for suspension/ cancellation of license of retail outlet had not been initiated keeping in view of probable loss of excise revenue in re-allotment of concerned outlets and smuggling of liquor and the action of compounding was taken as per provision of Section 74 of the UPEA, 1910.

³⁸ Almora, Nainital, Tehri and Uttarkashi.

³⁹ **Tehri** (i) Sh. Mangal Singh, Chamba-3, (ii) Sh. Ratan Mani Lekhwar, Chham-3, (iii) Sh. Avval Singh Ghansali-4, (iv) Sh. Shurbir Singh, Dhanolty-2;
Uttarkashi (i) Smt. Samudro Devi, Uttarkashi-4, (ii) Sh. Chandra Dev, Chinyalisaur-2, (iii) Sh. Purna Chandra Ramola, Badkot-2, (iv) Sh. Jeet Singh, Dunda-3.

The reply was not acceptable as it was responsibility of the Department to take stringent steps (suspension/cancellation of license) in cases of repeated violation of terms and conditions of license by retail outlets to prevent sale of liquor exceeding MRP.

3.3.8.5 Issuance of Receipts by Sales Outlets

As per Consumer Protections Act 1986, every consumer has a right to get a receipt for the purchases made.

Further Excise Policy, 2010-11 envisaged that retail shops of foreign liquor having highest licenses fee pertaining to Dehradun, Haridwar, Nainital and U.S. Nagar Districts are required to issue receipt on sale of liquor to the consumers. However, in order to minimize the possibility of over charging the customer (refer to paragraph 3.3.8.4), the issuance of receipt by every retail sales outlet of liquor could have been made mandatory in Excise Policy.

Commissioner, Excise replied (15th December, 2012) that proposal for issuance of sale receipt of liquor by each outlet will be submitted to Government for approval to include in Excise Policy, 2013-14. All DEOs had already been instructed (23rd November, 2012) to ensure issuance of receipt by each outlets to the consumers.

3.3.8.6 Low Recovery of Alcohol from Molasses.

Rule 15 (B) of Rules Regulating Distilleries provides that every quintal of fermentable sugar content present in molasses shall yield minimum 52.5 Alcoholic Litre (AL) of Alcohol. For this purpose, composite samples of molasses are required to be drawn by the officer-in-charge of the distillery and sent for examination to the alcohol technologist. Failure to maintain the minimum yield of alcohol from molasses entails, in addition to imposition of penalty, cancellation of license of the distillery and forfeiture of security deposit.

Scrutiny of the records of the officer-in-charge excise Bajpur Sahkari Aswani, Bajpur, Udham Singh Nagar and Doon Valley Aswani, Kuanwala, Dehradun revealed that in three cases (detailed in **Table 3.3.5** below) of the composite sample drawn (April 11 & January 12), only 366912.80 AL was extracted from 7594.14 quintal of fermentable sugar against a minimum of 398692.35 AL as per norm. Thus, the production of the alcohol was low by 31779.55 AL which resulted in escaping of revenue of ₹20.66 lakh (@ ₹65 per AL) of the Government.

Table – 3.3.5

Sl. No.	Name of distillery	No of cases	Quantity of molasses (in Qtls)	Fermentable Sugar (in Qtls)	Required production (in AL)	Actual production (in AL)	Loss (in AL)	Amount (in ₹) @ 65 per AL
1	2	3	4	5	6	7	8	9
1	Bajpur Sahkari Aswani	2	18635	6705.65	352046.79	320381.40	31665.39	2058251
2	Doon Valley Aswani	1	2121	888.49	46645.56	46531.40	114.16	7420
	Total	3	20756	7594.14	398692.35	366912.80	31779.55	2065671

However, the Department simply imposed and recovered a penalty of ₹ 0.50 lakh in one case of Bajpur Distillery, but no action was initiated for forfeiture of security deposit and cancellation of license (September, 2012).

Commissioner, Excise during exit conference replied (15th December, 2012) that ₹ 0.50 lakh was forfeited from security deposit in one case of Bajpur Distillery under rule 15 (B) of Rules Regulating Distilleries. The reply was not acceptable as Rules stipulated that in addition of penalty, the Department had to cancel the licence of the Distillery alongwith forfeiture of security deposit.

3.3.8.7 Manpower Management

The status of field staff in the State as on 31 March 2012 is as given below in **Table -3.3.6**:

Table -3.3.6

Designation	Sanctioned strength	Men in position	Shortage	Shortage in per cent
Excise Inspector	73	35	38	52
Dy. Excise Inspector	42	27	15	36
Head Excise Constable	61	55	06	10
Excise constable	190	42	148	79

Source: State Excise Digdarshika 2011-12

The above table indicates that there was a shortage of field staff ranging between 10 to 79 per cent, which had direct impact on enforcement activities. While reviewing the deployment of the field staff it was observed that five out of 27 DEI⁴⁰ were deployed in those areas for which no post was sanctioned by the department as on March 2012. Similarly, 17 out of 55 (31 per cent) Head Excise Constables were posted in excess of sanctioned strength in seven districts⁴¹, without any proper justification. To check excise offences at 13 check posts of the state, the post of one Excise Inspector, one Sub Inspector Excise and two Excise Constable were

⁴⁰ Haridwar : Area-3 Laksar, Chamoli : Area -1 Chamol, Uttarkashi : Area-2 Parola, Almora : Bhikia Sand & Champavat : Area : 2 Tanakpur Total Five Sub Excise Inspector.

⁴¹ (i) Dehradun - 7 (ii) Haridwar- 4 (iii) Pauri -2 (iv) Almora - 1 (v) Champawat - 1 (vi) Nainital -1 & Pithoragarh-1 Total- 17 Head Excise Constable.

sanctioned by the department for each check post while only one Excise Inspector at Kauria check-post in Pauri and 12 ex-service men (as Excise Constable) at other check post were deployed to check the transportation of intoxicants, round the clock.

Thus, the Department could not utilize the available manpower properly which has direct impact on the prevention and detection of excise offences and effective control over liquor licensees for adherence of license conditions to sale IMFL/CL.

Commissioner, Excise replied (15th December, 2012) that appropriate action is being taken to recruit field staff. The action on excess deployment of staff over sanctioned strength will be taken in the next transfer session.

3.3.8.8 Training of Staff

Considering the nature of duties, upgradation of skills and upgrading existing levels of knowledge is very important for the enforcement wing of the staff, for which training is essential. Beside physical training, staff must be exposed to the issue of communication and analysis of evidence in present era of communication revolution. Audit observed that no training was imparted to the staff by the Department.

Commissioner, Excise replied (15th December, 2012) that Action Plan for imparting training to newly recruited staff is being prepared and after availability of all arms and ammunitions, training will be imparted by the Police Department.

3.3.8.9 Inspection of Subordinate Offices

Periodical inspection of subordinate offices is an important component of the internal control function.

It was observed in audit that no system was in existence in the Department to get an assurance on the working of sub-ordinate offices as there were no formal arrangement/norms for inspection of subordinate offices by the senior functionaries for this purpose.

Commissioner, Excise replied (15th December, 2012) that inspection of subordinate offices will be ensured in future.

3.3.9 Conclusion

The Department Centric Compliance Audit on State Excise revealed a number of shortcomings. The overtime fees of excise staff posted at distillery/bottling plant were not revised since 2004, despite increase in pay and allowances of the staff as per the 6th Pay Commission. In cases of repeated offence, the stringent provisions (suspension/cancellation of licence) were not initiated as per UPEA, 1910. There were cases of low yield of alcohol from molasses in the distilleries. Shortage of field staff hampered the enforcement activities. In view of the above and in the absence

of any formal plan for inspection of subordinate offices by higher functionaries, the internal control mechanism was found inadequate.

3.3.10 Recommendations

For improvement in the system and compliances, the Government may like to consider the following recommendations:

- providing infrastructure support to the enforcement wing for communication and analysis of evidence;
- issuance of receipts by the sales outlets on the sale of liquor in order to prevent overcharging, and
- taking stringent measures in repeated offences as per provisions of the Act/ Rules.