

CHAPTER 5 Other Tax and Non Tax Receipts

5.1 Tax Administration

This chapter consists of receipts from State Excise, Electricity Duty, Forest and Wild Life, Lottery Department etc. The tax administration is governed by Acts and Rules framed separately for each Department.

5.2 Results of audit

Test check of records relating to State Excise, Electricity Duty, Land Revenue, Other taxes and duties on commodities and services (Entertainment and Luxury tax), Forest and Wild Life and State Lotteries during 2012-13 showed irregularities involving ₹ 845.43 crore in 4,448 cases, which fall under the following categories as per details mentioned in table 5.1:

Table 5.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
A : Other Tax Receipts			
(i) State Excise			
1	Non levy of renewal fee	1	0.03
2	Short/Non deposit of licence fee	4	0.04
3	Non recovery of interest	3	0.12
4	Other irregularities	2	0.18
	TOTAL	10	0.37
(ii) Electricity Duty			
1.	Performance Audit on "Levy and collection of Electricity Duty	1	19.74
2.	Non/delayed recovery of electricity duty, irregular retention of government money etc.	37	676.49
	TOTAL	38	696.23
(iii) Land Revenue			
1	Non/ short recovery of chowkidara tax	21	1.88
2	Non recovery of arrear declared as land revenue	38	19.57
3	Loss to the Govt. Exchequer	13	3.75
4	Non recovery of rent from the unauthorised occupants of Govt. land	3	1.81
5	Non recovery of service charges/fee	1	0.01
	TOTAL	76	27.02

Sl. No.	Categories	No. of cases	Amount
Other taxes and duties on commodities and services			
1	Non levy of entertainment tax	100	0.15
2	Non levy of interest and penalty and non filing of annual return	74	0.07
	TOTAL	174	0.22
B: Non-tax Receipts			
(i) Forest and Wild Life			
1	Non recovery of dues from contractors/officials	264	5.75
2	Outstanding amount of royalty/interest	41	49.69
	Non realisation of cost of land used for non forest activities	79	30.30
	Other irregularities	3,761	25.41
	TOTAL	4,145	111.15
(ii) State Lotteries			
1	Loss of Revenue due to ill planning and defective bumper scheme, Non supply of lottery tickets.	2	1.79
2.	Loss of revenue due to non-conducting of draw of fortnightly scheme	1	0.25
3	Non deduction of establishment cost from the prize money of tickets.	1	8.18
4	Non disposal of unserviceable items of stock	1	0.02
	TOTAL	5	10.24
	Grand Total	4,448	845.23

During the year 2012-13, the Forest and Wildlife Department recovered ₹ 0.92 crore in two cases pertaining to previous year.

A few illustrative cases including performance audit on “Levy and Collection of Electricity Duty” involving ₹ 52.69 crore are discussed in succeeding paragraphs.

5.3 Unauthorised retention of royalty and its utilisation

Punjab State Forest Development Corporation (PSFDC) was required to deposit the amount of royalty on account of standing trees offered to it with the Department within a period of seven months from the date of offer of trees, failing which, interest at the rate of 12 *per cent* per annum was chargeable as per Government instructions (March 1999 and September 2003). Punjab Financial Rules (PFR) stipulate that it is primarily the responsibility of the departmental authorities to see that all revenue due to Government is regularly and promptly assessed, realised and credited into the Government account.

Rule 2.4 of PFR Vol.-I and Rule 8.1 of Punjab Treasury Rules prohibits utilisation of revenue towards expenditure.

Audit of Principal Chief Conservator of Forest (PCCF) for the period 2010-12 and information obtained from PSFDC disclosed that PSFDC had retained ₹ 32.95 crore royalty payable to Forest Department as mentioned in table 5.2:

Table 5.2

							(₹ in crore)
Year	Opening balance with PSFDC	Royalty due from PSFDC	Interest	Total	Royalty remitted to treasury	Balance royalty remaining with PSFDC including interest	Diverted for loan and lease rent
2010-11	6.61	15.01	1.73	23.35	4.11	19.24	2.35
2011-12	19.24	11.43	2.66	33.33	0.38	32.95	3.28
Total							5.63

- Forest Department did not recover royalty of ₹ 32.95 crore as on March 2012. The Department violated the prescribed financial and treasury rules.
- Forest Department raised a loan of ₹ 2.25 crore from PSFDC (October 2010) at an interest rate of 12.5 *per cent* per annum for fixture, furniture and land-scaping of the Forest Complex which was to be repaid by 31 March 2011. PSFDC adjusted ₹ 2.35 crore (Principal: ₹ 2.25 crore, Interest: ₹ 0.10 crore) from the royalty due for the year 2010-11 due to failure in repayment of loan by the Department.

The Department attributed (August 2013) raising of loan from PSFDC due to non-finalisation of the proposal to incur expenditure from CAMPA funds and also due to non allocation of funds by the State Government.

The reply of the Department was not in order as the inadmissible adjustment out of State Receipts was in violation of financial rules.

- Forest Department leased out a part (two towers) of the Forest Complex, Mohali to PSFDC for 51 years by entering (March 2009) into a Memorandum of Understanding (MoU), without fixing the amount of lease. In accordance with the MoU, the PSFDC rented out office accommodation in these towers to the State Government Departments through General Administration Department (GAD) being tenant for all administrative, financial and legal purposes. It was decided (October 2010) that the Finance Department would provide adequate budget grant to the GAD for payment of rent. Audit observed that the tenant offices stopped paying rent and PSFDC instead of getting the funds released from Finance Department in favour of GAD, adjusted an amount of ₹ 3.28 crore from royalty in 2011-12. The admittance of the debit against royalty in the absence of any approval for direct appropriation of revenue was unjustified. The Department

replied (August 2013) that the steering committee decided that dues from GAD would be paid to PSFDC by making adjustment of rent against royalty.

The reply of the Department was not in order as the inadmissible adjustment out of State Receipts was in violation of financial rules.

This resulted in blockade of government receipt to the tune of ₹ 32.95 crore inclusive of ₹ 5.63 crore adjusted for loan and lease rent.

The above matter was reported to Government; their reply was awaited (October 2013). **WER**

5.4 PERFORMANCE AUDIT ON “LEVY AND COLLECTION OF ELECTRICITY DUTY”

Highlights

- Non formulation of policy guidelines and notification of rules facilitated the Punjab State Power Corporation Limited (PSPCL) to retain the government revenue ₹ 251.38 crore.

{Paragraph 5.4.8 (a)}

- Incorrect adjustment of subsidy by PSPCL against electricity duty ₹ 270.22 crore resulted in understatement of government receipt in the year 2009-10.

{Paragraph 5.4.8 (b)}

- Loss of interest amounting to ₹ 1.47 crore due to retention of ₹ 18.50 crore misclassified as sale of power instead of electricity duty by PSPCL.

{Paragraph 5.4.8 (c)}

- Grant of inadmissible exemptions to the industrialists resulted in loss of revenue to state exchequer ₹ 19.74 crore.

(Paragraph 5.4.10.1)

- There was inadequate mechanism of monitoring, evaluation and prompt realisation of electricity duty.

(Paragraph 5.4.12)

5.4.1 Introduction

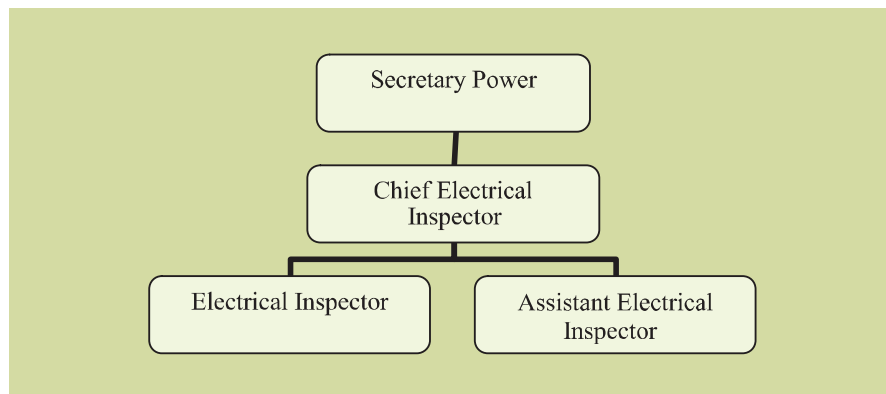
Electricity Duty (ED) is a tax regulated under the Punjab Electricity Duty Act 2005 (Act). ED is leviable on usage of electricity supplied to the consumers or licensees by the erstwhile Punjab State Electricity Board (PSEB) up to 16 April 2010 and thereafter by PSPCL at the prescribed rates. ED is collected

from the consumers on the sale of electricity through electricity bills and is credited into Government account. PSPCL thus assesses, levies, collects and credits the ED into Government account. The contribution of electricity duty (ED) to the total revenue of the State ranged between 1.91 and 9.01 *per cent* of the total tax receipt during 2007-08 to 2012-13.

5.4.2 Organisational set up of the Department

The Secretary of the Power Department is the head of the Department at the Government level. The Chief Electrical Inspector (CEI), is responsible for monitoring the collection of ED from the licensees/self-generating units and its payment into Government account. The CEI is assisted by technical staff comprising of Electrical Inspectors (EIs) and Assistant Electrical Inspectors (AEIs) for conducting inspection of new installations and periodical inspection of old installations in the State.

Organogram



5.4.3 Audit objectives

The performance audit was conducted with a view to assess:

- whether the budget estimates prepared by Department were realistic and accurate;
- whether the system of collecting and crediting electricity duty in Government accounts was adequate,
- whether the provisions of the Act and instructions of the Government for granting exemptions to consumers/licensees were being adhered to;
- whether an effective internal control mechanism to ensure proper realisation of electricity duty existed.

5.4.4 Scope of audit and criteria

The performance audit on the efficacy of the system of collection of ED and its credit in Government account for the period from April 2007 to March 2012 was conducted by auditing the records in the office of the CEI during November 2012. As the ED was assessed, levied, collected and remitted into Government accounts by PSPCL, data/information collected from the office of PSPCL, was also cross verified with the records maintained by the CEI.

The following were the sources of criteria for the performance audit:

- The Punjab State Electricity (Duty) Act 2005 and Indian Electricity Rules 2003 (Rules);
- Notifications, circulars and instructions issued by the Government of Punjab;
- Returns of collection and remittances of electricity duty submitted by the licensees and companies.

5.4.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of Department of Power in providing necessary information and facilitating audit. An entry conference for the performance audit was held with the Chief Electrical Inspector to the Government of Punjab (November 2012) where the objectives and scope of the performance audit were explained. An exit conference was held (September 2013) with the Secretary, Department of Power where the audit findings were discussed.

5.4.6 Trend of revenue

The Punjab Budget Manual provides that budget estimates should take into account only such receipts as the estimating officer expects to be actually realisable or made during every financial year. The actual vis-a-vis estimates of ED for the period 2007-08 to 2012-13 is mentioned in table 5.3:

Table 5.3

Year	Budget estimates of ED	Receipt by PSPCL	ED credited into Govt. Account	₹ in crore	
				Excess(+)/ shortfall(-)	Percentage of Variation
2007-08	576	616.54	603.80	27.80	4.83
2008-09	653	650.77	631.33	-21.67	-3.32
2009-10	900	744.45	230.13	-669.87	-74.43
2010-11	980	1,135.88	1,422.90	442.90	45.19
2011-12	1,400	1,399.23	928.28	-471.72	-33.69
2012-13	1,540	1,540.00	2,035.31	495.31	32.16

Source: Finance accounts for actual receipts and budget estimates from detailed estimates of revenue of respective years of Govt. of Punjab.

It is seen from the above table that there was unrealistic preparation of budget estimates. The variations between budget estimates and actual realisation of electricity duty varied between (-) 74 to (+) 45 *per cent*. There was a sharp increase in ED from ₹ 230.13 crore in 2009-10 to 1,422.90 crore in the year 2010-11 owing to revision of rate of ED from 10 *per cent* to 13 *per cent* of sale of power charges with effect from April 2010. The less realisation of ED in years 2009-10 and 2011-12 was due to delay in remittance by PSPCL to Government account as mentioned in para 5.4.8.

The CEI admitted (November 2012) that the budget estimates were being prepared by increasing the amount of previous year collection of ED by five to 10 *per cent*. The CEI also averred in the exit conference that the contention of audit to consider the factors of installed capacity and power generation would be considered while preparing budget estimates.

5.4.7 Non reconciliation of receipt with the treasury accounts

Punjab Financial Rules (PFR), Volume I, requires that every Controlling Officer is required to conduct monthly reconciliation of departmental remittance with the treasury accounts to ensure that the amount remitted in the treasury through challans by the consumers of electricity is genuine and has been accounted for under proper head of accounts.

Audit of the CEI (December 2012) showed that the ED amounting to ₹ 3,816.44 crore for the years 2007-08 to 2011-12 had been deposited by PSPCL into Government account but monthly reconciliation of challans received as proof of deposit of ED was not carried out with the records of treasury/sub-treasury concerned as required under provisions of the PFR. It was also noticed that the CEI did not collect and reconcile the figures of Sale of power (SOP) on the basis of which the PSPCL assess, levy and collect ED from the consumers. The provision of the PFR needs to be followed strictly.

In reply, the CEI attributed the failure to reconcile the deposit of ED into treasury to shortage of staff. The plea taken by the CEI was not convincing as the statutory provision of the PFR was to be complied with to safeguard the interest of the Government.

5.4.8 Position of arrears of ED

Under Section 3 (1) and (3) of the Act, the licensee is required to collect the ED from all the consumers and credit the same into Government account as the State Government has the first charge on the ED so collected and none of the Board (now PSPCL) or any licensee is authorised to utilise the ED to meet its expenses therefrom without the previous sanction of the Government. In the event of failure to credit the ED in Government account, Section-8 and 9 of the Act provides for imposition of penalty up to four times the amount of ED due and its recovery as arrear of land revenue.

a) Audit of CEI disclosed that PSPCL collected ED of ₹ 2,286.69 crore but credited ₹ 2,035.31 crore into the Government account leaving

₹ 251.38 crore unpaid at the close of financial year 2012-13. The year wise details are given in table 5.4:

Table 5.4

(₹ in crore)

Year	Opening balance of unremitted ED	Receipt by PSPCL during the year	Credited to Government Account	Balance unremitted ED at the end of the year	Percentage of ED retained against receipt
2007-08	16.26	616.54	603.80	29.00	4.70
2008-09	29.00	650.77	631.33	48.44	7.44
2009-10	48.44	744.45	230.13	562.76	75.59
2010-11	562.76	1,135.88	1,422.90	275.74	24.28
2011-12	275.74	1,399.23	928.28	746.69	53.36
2012-13	746.69	1,540.00	2,035.31	251.38	16.32

The unremitted amount of ED collected by PSPCL grew from 29 crore at the end of 2007-08 to a staggering 251.38 crore at the end of 2012-13. In percentage term it ranged from 4.70 to 75.59 *per cent* in 2009-10 as evident from the table above. The CEI issued reminders but failed to impose penalty which could be up to four times the amount of ED unremitted to the tune of ₹ 1,005.52 crore.

The non-notification of rules and non-enforcement of penalty for non-remittance of ED allowed PSPCL to retain Government revenue while the State borrowed money even when revenues collected on its behalf were available.

The CEI admitted (December 2012) that due to non-formulation of Rules and absence of any time bound action plan by the Government, the PSPCL could not be forced to deposit ED along with interest. However, regular reminders were being issued to the PSPCL to deposit the unremitted ED into Government account.

b) Incorrect adjustment of subsidy against electricity duty

The cross verification of statements of ED realised by PSPCL with Finance Account for the year 2009-10, showed that the PSPCL carried out adjustment of subsidy on account of free/subsidised supply of power to agriculture sector at its own to the extent of ₹ 270.22 crore against ED payable to the Government in the year 2009-10 without governmental sanction orders. This receipt had not been reflected in the Finance Account for the year 2009-10 under head 0043-Taxes and Duty on Electricity. This violation of the provision of Government Accounting resulted in understatement of the government receipt to the tune of ₹ 270.22 crore in the year 2009-10.

The Department admitted that the ED was adjusted against the subsidy payable to PSPCL during the year 2009-10. The reply furnished by the Department was not in conformity with the financial rules and proper accounting procedure to adjust the departmental receipts towards subsidy should have been followed.

c) Loss of interest and penalty due to retention of misclassified electricity duty

Audit further noticed (December 2012) that CEI detected an amount of ₹ 18.50 crore (April 2011 and March 2012) misclassified as “sale of power (SOP)” instead of "Electricity Duty" by PSPCL but the CEI neither took any initiative to get the misclassification rectified nor made any effort to recover this amount of ED. The inaction on the part of the CEI not only reflected upon the poor control of the CEI over realisation of ED but also benefited the PSPCL to this extent at the cost of the Government exchequer. Had the amount of ₹ 18.50 crore been correctly classified and deposited in the Government account, payment of interest amounting to ₹ 1.47 crore¹ paid on Government borrowings could have been saved.

The CEI stated (September 2013) that action to recover the misclassified amount of ED had now been taken up, but expressed helplessness to charge interest on this misclassified amount of ED, due to the absence of rules/provisions.

5.4.9 Non formulation and notification of rules

Section 13 of the Act requires, Rules governing the implementation of the Act to be notified by the State Government. Besides, specifying the role of CEI, the rules with regard to manner of collection and payment of electricity duty, manner of ascertaining the amount of electricity duty, format of maintenance of records, manner of submission of returns and the powers and duties to be exercised by the CEI to check the authenticity of ED collected and inspection of installation.

Audit observed that even after a lapse of more than seven years of the Act coming into force, the State Government neither notified the Rules for its implementation nor framed any supplementary provisions regarding time frame for remittance of ED collected into government account, getting the arrears recovered as arrears of Land revenue, empowering the departmental authorities to enforce the provision of Act, expeditious recovery of arrear and initiate penal actions against defaulting assesseees.

Failure to promulgate the Rules facilitated the PSPCL to prepare and submit periodical returns² at their own convenience. Audit observed delay ranging between one to 12 months in depositing the ED into Government account. The delayed remittance of ED forced the Government to borrow more money for meeting its liabilities. We observed that had the ED been received in time the State could have saved the payment of interest of ₹ 161.89 crore on its loans during 2010-12.

CEI stated (December 2012) that the draft Rules framed for implementation of the PED Act, 2005 were pending with Government since November 2009. CEI

¹ Calculated at average rates of interest of 7.96 per cent on Government borrowings paid during 2011-12 respectively.

² Statement of electricity sold to consumers and licensee, balance of ED from the defaulters, ED assessed and paid by generating licensee along with details of electricity consumed for his own use or consumption.

also stated that in the absence of framing ED Rules, not only policy guidelines for time bound action plan suffered but also the arrears of ED kept on increasing year by year and the monitoring of correctness of ED became difficult.

5.4.10 Operationalisation of Dedicated Social Security Fund

5.4.10.1 Loss of revenue to state exchequer due to inadmissible grant of exemptions to the industrialists

With a view to provide financial assistance to needy, deserving and weaker sections of the society in the State of Punjab, the State Government (March 2005) enhanced the rate of ED from five to ten *per cent* for making contribution to the Dedicated Social Security Fund (DSSF) on the SOP with effect from March 2005. Further, the State Government also clarified (June 2005) that exemptions on the payment of electricity duty would be granted/adjusted only at the rate of five *per cent* of SOP and should not be adjusted against the DSSF which was also five *per cent*, because the head of the account for the same being different.

Audit of the CEI (December 2012) disclosed that during 2006-2012, licensees were found to have been granted exemptions even on the enhanced element of ED which was meant for creating DSSF and exemptions on this segment of the ED was strictly inadmissible. Audit calculated that the inadmissible exemption so granted worked out to ₹ 19.74 crore in 27 cases in 2005-10 and 36 cases in 2010-12.

The CEI stated (September 2013) that matter was taken up with the Secretary, Power and outcome would be intimated to Audit.

5.4.10.2 Irregular adjustment of DSSF towards subsidy payable by the Government

For creation, operation and maintenance of the Social Security Fund, the Government of Punjab notified (January 2005) that the authority which is responsible for collecting the Electricity Duty under the head “0043-Taxes and duties on electricity” would transmit this amount into the Personal Ledger Account (PLA) of the Department of Social Security and Women Welfare and Department of Welfare of SC and BC at District Treasury, Chandigarh.

Scrutiny of record for the period 2007-12 of CEI showed that PSPCL adjusted ₹ 270 crore (₹ 135.11 crore-2009-10 and 134.89 crore-2010-11) out of DSSF component of the ED against the subsidy payable by the Government, which was irregular as Government notification did not envisage and permit any adjustment/diversion. This deprived the Government of finances for providing financial assistance to needy, deserving and weaker sections of the society.

The Department stated that the amount of subsidy was adjusted against DSSF by the PSPCL. The reply furnished by the Department was not convincing as the DSSF component of the ED is not adjustable.

5.4.11 Inadequate mechanism of inspections by field staff

Section 7(2) specify the powers and duties to be exercised and performed by the inspecting officers for carrying out the provisions of the Act and Rules to be framed by the state government as per provision of section 13(2)(f) of the Act. In addition, Rule 46 and 63 of the Indian Electricity Rules, 1956 prescribes that every installation connected to supply system of the supplier shall be inspected periodically and tested at an interval not exceeding five years³ by CEI or any subordinate officer, on payment of fees in advance at the prescribed rates depending on the connection load. The payment of fee for inspection of electrical installations was discontinued by Government of India while notifying (September 2010) Safety Regulations Rules 2010.

Audit noticed (December 2012) from the records of CEI that in the absence of specifying the role of CEI due to non-formulation of rules there-against, the CEI could not evolve any mechanism in the Department to conduct inspections to ensure the correctness of the assessment, collection and remittance of ED at the sub-division level, for cross verification of ED assessed and remitted by the PSPCL into Government Account. Consequently, the CEI had to rely upon the figures of the ED remitted by the PSPCL and this might lead to short levy of ED at any stage.

Further, out of 22,22,795 electrical installations due to be inspected, only 2,62,195 (12 *per cent*) were inspected during 2007-12 thereby leaving 19,60,600 installations uninspected as per details mentioned in table 5.5. Audit observed that all the inspections conducted by the CEI were of HT, EHT and MVI electrical installations only and none of the available 10,46,537 LVI electrical installations were got inspected by the CEI during this period which was indicative of non-prioritising the inspections by the CEI.

Table 5.5

Year	Inspections due	Inspections done	Inspections not done	Percentage shortfall (column 4 to 2)
2007-08	4,17,776	74,694	3,43,082	82.12
2008-09	4,21,096	56,417	3,64,679	86.60
2009-10	4,36,683	50,135	3,86,548	88.52
2010-11	4,66,401	48,422	4,17,979	89.62
2011-12	4,80,839	32,527	4,48,312	93.24
	22,22,795	2,62,195	19,60,600	

The shortfall in inspections of electrical installations ranging between 82 and 93 *per cent* was a great risk to public safety as is evident from 1,278 cases of electrocution reported during 2007-12 which could have been avoided. Moreover, the CEI should keep a check over inspections of electrical installations becoming due, actually conducted and shortfall and investigate

³ High Tension (HT) and Extra High Tension (EHT) installation once every year, Medium Voltage Installation (MVI) once every three years and Low Voltage Installation (LVI) once in every five years.

reasons thereof. Owing to non carrying out targeted inspections, possibility of theft/unauthorized electric connection cannot be ruled out.

On being pointed out, the CEI attributed the shortfall in inspection of electrical installations to shortage of staff. While appreciating the shortage, we feel that the reply of the CEI was not convincing as with the available staff, strategically selected electrical installations should have been prioritised for inspection rather than totally ignoring all the LVI electrical installations. However, no reply was furnished in respect of non-conducting of inspections at sub-division level by field staff.

5.4.12 Inadequate monitoring, evaluation and internal control

An independent and effective monitoring by the CEI to ensure compliance of the provisions of the Act and Government instructions regarding assessment of ED, raising of demands, its collection, accounting and timely credit to the Government account, besides overall functioning of system is of utmost importance.

Scrutiny of records in the office of CEI (November 2012) showed that the monthly return was submitted by distribution company in an unprescribed format and the return also did not include the SOP charges on the basis of which, ED was to be levied. The incomplete return was merely compiled by the CEI and forwarded to the Government without ensuring the veracity of data furnished by the field units. The follow up system to improve the working of the Department also did not exist.

On being pointed out, CEI admitted the fact of not receiving the returns in the prescribed format and also stated that in the absence of Rules for collection of ED, the monitoring of returns was not possible but assured that in future, the returns would be obtained in prescribed format, monitored and evaluated as suggested by Audit.

5.4.13 Conclusions

The budget estimates were unrealistic and there was huge variation between estimates and actuals. Non-formulation of Rules under the Act led the PSPCL to deposit ED into Government account at its own convenience causing the State Government to suffer losses as the ED collected by the company was either not deposited or was deposited with a delay. The distribution company irregularly adjusted the DSSF against their claims, and granted inadmissible exemptions to industrialists. Reconciliation of Government receipts with treasury records was absent and there was a weak internal control in the Department.

5.4.14 Recommendations

The Government may consider the following:

- Budget estimates be prepared realistically;
- approve rules for proper implementation of the provision of the Act without any further delay along-with insertion of clause of interest and penalty for delayed remittance of ED into Government Account;
- strengthening of internal control mechanism to ensure the adequacy of collection and remittance of ED into Government account; and
- reconcile the figure of ED and provide adequate manpower to carry out inspection of electric connections as per norms.

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