

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 9.66 crore from observations noticed during our test check of records in the Transport Department. We found several instances of non/short realisation of tax and penalty from goods and passenger vehicles, short realisation of vehicle tax due to wrong assessment of seating capacity, non-imposition of penalty on vehicles carrying excess load, non-imposition of penalty due to violation of terms and conditions of permit, non-realisation of application and renewal fees of permit, non/short realisation from seized vehicles, and non-levy of tax and fines on tractors registered for agricultural purposes engaged in commercial activities.
Trend of receipts	In 2012-13, the actual receipts increased by 25.76 <i>per cent</i> as compared to the previous year but are short by 1.54 <i>per cent</i> from the budget estimate.
Internal Audit Wing (IAW)	A five member Internal Audit Committee has been formed in the Department under Chairpersonship of Principal Secretary, Transport which meets periodically to discuss functioning of IAW. The Department had recovered ₹ 12.13 lakh in four cases at the instance of IAW during the year 2012-13.
Status of compliance to Inspection Reports (2012-13)	<p>We conducted test check of the records of 72 units relating to the Transport Department during the period 2012-13 and found cases of underassessment of tax and other irregularities involving ₹ 151.56 crore in 668 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 10.30 lakh and recovered ₹ 10.10 lakh.</p>
Our conclusion	<p>The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover non-realisation, short levy of tax, penalties etc. pointed out by us, more so in those cases where it has accepted our observation.</p>

CHAPTER-IV TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1 Tax administration

The Uttar Pradesh Motor Vehicles Taxation Act, 1997 (UPMVT Act), Uttar Pradesh Motor Vehicles Taxation Rules, 1998 (UPMVT Rules), Motor Vehicles Act, 1988 and Motor Vehicles Rules, 1989 provide for levy of various types of taxes viz. goods tax, additional tax (passenger tax) and fees etc. in the State.

The Principal Secretary, Transport, Uttar Pradesh is the administrative head at Government level. The entire process of assessment and collection of taxes and fees is administered and monitored by the Transport Commissioner (TC) Uttar Pradesh, who is assisted by two Additional Transport Commissioners at Headquarters and six Deputy Transport Commissioners (DTCs), 19 Regional Transport Officers (RTOs) and 72 Assistant Regional Transport Officers (ARTOs) (Administration) in the field.

4.2 Trend of receipts

Actual receipts from Taxes on Vehicles, Goods and Passengers during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the table no. 4.1:

Table No. 4.1

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	₹ in crore)
						Percent- age of actual receipts vis-à-vis total tax receipts
2008-09	1,600.00	1,391.15	(-) 208.85	(-)13.05	28,658.97	4.85
2009-10	1,574.89	1,674.55	(+) 99.66	6.33	33,877.60	4.94
2010-11	2,089.90	2,058.58	(-) 31.32	(-)1.50	41,355.00	4.98
2011-12	2,329.95	2,380.67	(+) 50.72	2.18	52,613.43	4.52
2012-13	3,093.90	2,993.96	(-) 99.94	(-) 3.23	58,098.36	5.15

Source: Finance Accounts of the Government of Uttar Pradesh.

It can be seen that the budget estimates are realistic and that there has been a steady growth in the revenue. In the year 2012-13, the actual receipts increased by 25.76 per cent as compared to year 2011-12, but are short by 3.23 per cent from the budget estimates.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ₹ 53.83 crore. The table no. 4.2 depicts the position of arrears of revenue during the period 2008-09 to 2012-13:

Table No. 4.2

Year	Opening balance of arrears	Addition during the year	Amount collected during the year	₹ in crore)
				Closing balance of arrears
2008-09	71.74	1,380.02	1,391.15	60.61
2009-10	60.61	1,661.41	1,674.55	47.47
2010-11	47.47	2,040.78	2,058.58	29.67
2011-12	29.67	2,380.69	2,380.67	29.69
2012-13	29.69	3,018.10	2,993.96	53.83

Source: Finance Accounts and Information provided by the Department.

There has been an increase in the closing balance of arrears. Information regarding arrears more than five years old and the various stages at which recovery of outstanding arrears are pending were not intimated by the Department despite request (December 2013).

4.4 Cost of collection

The gross collection from taxes on vehicles, goods and passengers, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2008-09 to 2012-13 along with the relevant all India average percentage of cost of collection to gross collection for the relevant previous year are mentioned below:

Table No. 4.3

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
2008-09	1,391.15	50.43	3.62	2.58
2009-10	1,674.55	69.16	4.13	2.93
2010-11	2,058.58	78.13	3.80	3.07
2011-12	2,380.67	79.86	3.35	3.71
2012-13	2,993.96	95.45	3.19	2.96

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

It may be seen from the above table that percentage of cost of collection to gross collection has gradually decreased during the period 2009-10 to 2012-13. However, cost of collection for the year 2012-13 is still higher than all India average.

4.5 Internal audit wing

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

A five member Internal Audit Committee has been formed in the Department under Chairpersonship of Principal Secretary, Transport which meets periodically to discuss functioning of IAW. The Department had recovered ₹ 12.13 lakh in four cases at the instance of IAW during the year 2012-13.

In IAW, one Assistant Audit Officer and three Auditors have been posted. However, the sanctioned strength of the wing, details of audit planning such as number of units planned for audit, number of units audited, number and amount of objection raised and settled during the year was not intimated by the Department despite request.

We recommend that the IAW may be strengthened and an annual audit plan prepared.

4.6 Impact of audit

4.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

We had reported cases of non/short levy of passenger tax/additional tax, under assessment of road tax/goods tax and other irregularities involving ₹ 121.51 crore in the Audit Reports for the year 2007-08 to 2011-12. Of these, the Department has accepted observations of ₹ 83.50 crore and recovered ₹ 12.76 crore up to 31 March 2013. The details are mentioned in the table no. 4.4:

Table No. 4.4

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made up to 31.03.2013
2007-08	82.02	73.22	8.80
2008-09	5.80	0	0
2009-10	15.80	8.16	2.61
2010-11	2.46	1.28	0.62
2011-12	15.43	0.84	0.73
Total	121.51	83.50	12.76

The amount recovered as compared to the accepted cases has been nil or extremely low during the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position, at least in the accepted cases.

4.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, we had pointed out through our Inspection Reports short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ₹ 399.45 crore in 1,819 cases. Of these, the Department/Government had accepted audit observations in 459 cases involving ₹ 10.13 crore and had since recovered the amount involved in these cases upto 31 March 2013. The details are shown in the table no. 4.5:

Table No. 4.5

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered up to 31.03.2013	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	62	213	94.45	4	0.25	4	0.25
2008-09	71	344	118.34	148	2.49	148	2.49
2009-10	71	245	26.46	40	0.85	40	0.85
2010-11	71	369	29.54	263	6.44	263	6.44
2011-12	96	648	130.66	04	0.10	04	0.10
Total	371	1819	399.45	459	10.13	459	10.13

In view of the large number of pending audit observations, the Government may ensure holding of audit committee meetings at regular intervals for expeditious settlement of the pending paragraphs.

4.6.3 Status of Compliance to Inspection Reports (2012-13)

Test check of the records of 72 units relating to the Transport Department during the period 2012-13 revealed underassessment of tax and other irregularities involving ₹ 151.56 crore in 668 cases which fall under the following categories as mentioned in table no. 4.6:

Table No. 4.6

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short levy of passenger tax/additional tax	126	72.87
2.	Underassessment of road tax	49	0.82
3.	Non/Short levy of goods tax	72	7.61
4.	Other irregularities	421	70.26
Total		668	151.56

During the year 2012-13, the Department accepted our observation of ₹ 10.30 lakh involved in four cases out of which recovered ₹ 10.10 lakh of underassessment and other deficiencies.

A few illustrative cases including a paragraph on “**Non compliance of provisions of Motor Vehicles Act/Departmental order**” involving ₹ 9.66 crore are mentioned in the succeeding paragraphs.

4.7 Non compliance of provisions of Motor Vehicles Act/Departmental Order

Under Rules 86 to 90 of Motor Vehicle Rules, 1989 (MV Rules) any goods vehicle intending to move on national level shall apply for a National Permit in a prescribed form to the Regional Transport Officer. As per Section 81 of Motor Vehicle Act, 1988 (MV Act) a permit is valid for 5 years. However as per Rule 87 (3) of MV Rules, authorisation of the National Permit is for one year.

Application for renewal of National Permit is required to be submitted 15 days prior to expiry of such permit.

As per orders of Transport Commissioner of February 2000 the authorities concerned shall issue notice to the permit holder within 15 days of expiry of authorisation calling his explanation as to why the permit should not be cancelled in case of his non renewal of authorisation and cancel the permit in case of non receipt of explanation within the prescribed time.

VAHAN Software⁴, these cases were not detected by the Department. The Department also did not initiate any action to issue notices to these permit holders and cancel the permit as prescribed in the order of the Transport Commissioner of February 2000.

4.7.1 With a view to examine the implementation of the provisions of the new National Permit System, we examined the relevant records¹ in all the 19 RTOs² in the State between May 2012 and March 2013. We noticed that out of 78,156 goods vehicles which had been issued National Permit in the State, authorisation of 2,939 vehicles³ became due for renewal between February 2010 and March 2013.

Despite the fact that all the information such as date of expiry of authorisation, tax paid and other details of vehicles with National Permit was available in

¹ Vehicles files, permit register, receipt books and cash-book.

² Agra, Aligarh, Allahabad, Azamgarh, Banda, Bareilly, Basti, Faizabad, Ghaziabad, Gonda, Gorakhpur, Jhansi, Kanpur Nagar, Lucknow, Meerut, Mirzapur, Moradabad, Saharanpur and Varanasi.

³ In 17 RTO's.

⁴ Designed for keeping vehicles details such as registration certificate, permit and taxes etc.

We noticed that only in Saharanpur⁵ action was taken by RTO as per orders of TC dated February 2000 and notice issued under Section 86 of MV Act, 1988.

After we pointed out these cases, the Department stated⁶ (January 2014) that

- permits of 842 vehicles have been cancelled;
- authorisation of National Permit of 779 vehicles have been renewed after charging of consolidated fee and renewal fee of ₹ 1.10 crore;
- action under Section-86 of MV Act, in respect of 1,008 vehicles has been initiated.

Section 81(1) of the MV Act, 1988 provides that a permit other than a temporary permit issued under section 87 or a special permit issued under Sub-Section(8) of Section 88 shall be effective for a period of five years. Under Section 81(2), a permit may be renewed on an application made not less than fifteen days before the date of its expiry. As per Rule 22 of UPMV Rules, 1998, permits and other documents should be surrendered, if the vehicle is withdrawn from use. Further, if the permit and other documents are not surrendered, the vehicle is deemed to be in use.

4.7.2 We observed (May 2012) from the records⁷ of the office of the TC that validity of permit of 55 buses⁸ and 111 motor taxies⁹ expired between the period from January 2008 to March 2012.

As the owners did not surrender the documents the vehicles were deemed to be in use as per Rule 22 of UPMV Rules, 1998.

Despite the fact that all the information such as date of expiry of permit, tax paid

and other details of vehicles were available in VAHAN Software, these cases were not detected by the Department.

After we pointed this out to Department/ Government in June 2012, the Department stated (September 2013) that renewal of permit can be done only when the permit holder applies for the same, no permit and application fees were realised in these cases as permit holders in question never applied for its renewal or cancellation. We do not agree as the validity of the permits had expired and permits/documents were not surrendered. Thus, these vehicles were deemed to be in use as per Rule 22 of the UPMV Rules and the Department should have in the interest of the State Exchequer taken proactive action to issue notices to the vehicle owners.

The Government may consider devising a mechanism to ensure compliance of the provisions of the MV Act/UPMV Rules or the departmental order of February 2000, so that there is no leakage of State revenue.

⁵ 194 vehicles.

⁶ Reply of RTO Aligarh, Allahabad, Banda, Bareilly, Faizabad and Gonda is awaited.

⁷ Permit registers and concerned files

⁸ Out of 3,359 vehicles

⁹ Out of 34,789 vehicles

4.8 Commercial use of vehicles registered as private/agricultural vehicles

As per notification dated 28 October 2009 issued under Section 4(2) of UPMV Act, 1997 construction equipment vehicles or vehicles manufactured in special design or for special purpose and registered or used for commercial purpose, tax is leviable at the rate of ₹ 500 per quarter or ₹ 1,800 per year, for every metric tonne of the unladen weight of the vehicle or part thereof.

We scrutinised (between June 2012 and December 2012) the records¹⁰ of four RTOs¹¹ and three ARTOs¹² and observed as under:

4.8.1 During the period February 2010 to July 2012, 10 vehicles¹³ were registered as private

vehicles and deposited only a onetime tax. Since all these vehicles were used for commercial purposes, registration of these vehicles as private vehicles and levy of one time tax was wrong. The details are indicated in table no. 4.7:

Table No. 4.7

(₹ in lakh)

Sl. No.	Name of the office	Number of vehicle registered as private	Tax leviable @ 1800/- per tonne per year	Tax paid as one time tax	Period of registration
1.	RTO Azamgarh	04	8.64	5.23	02/2010 to 07/2012
2.	RTO Ghaziabad	04	8.50	5.11	07/2011 to 01/2012
3.	ARTO Hardoi	02	4.59	0.88	08/2011 to 12/2011
Total		10	21.73	11.22	

Further, in 14 cases, vehicles¹⁴ owners had not deposited even the quarterly tax for one to eight quarters and were plying unauthorisedly. This resulted in non-levy of tax of ₹ 3.06 lakh as shown in table no. 4.8:

Table No. 4.8

(₹ in lakh)

Sl. No.	Name of the office	Number of vehicle registered as private	Tax leviable @ 1800/- per tonne per year	Tax paid	Tax due	Period of registration
1.	RTO Lucknow	14	3.06	-	3.06	7/2010 to 3/2012
Total		14	3.06	-	3.06	

After we reported the matter to the Department and Government (July 2012 to February 2013), the Department accepted (September 2013) our observation in cases of Azamgarh, Lucknow and Hardoi and has begun the action for issue of notices and recovery. In case of Ghaziabad¹⁵ and one vehicle (crane) of Hardoi, the Department stated that as per affidavits given by the firms, the vehicles are being used as non-transport/private vehicle. We do not agree with the reply of the Department with reference to the above, as all these vehicles were registered with the firms and not with individuals and these were excavators and crane.

¹⁰ Tax posting register, registration register, tax register and Prosecution Books, Crime and Seizure Registers.

¹¹ Azamgarh, Ghaziabad, Kanpur Nagar and Lucknow.

¹² Hardoi, Maharajganj and Mau.

¹³ JCB machines (1), Cranes (1), Earth moving machines (4), Excavators (4).

¹⁴ Cranes (13), Cash van (1).

¹⁵ Four Excavators in Ghaziabad

The rate of tax applicable to tractor used for commercial purposes other than agricultural purposes, for every metric tonne of the unladen weight of the vehicle or part thereof is ₹ 500 per quarter or ₹ 1,800 per annum. Further, under Section 192-A of the MV Act, use of a motor vehicle in contravention of the provisions of sub-section (1) of Section 66 or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine of ₹ 2,500 which was raised to ₹ 4,000 with effect from 25 August 2010 according to UP *Shashan* Notification No 1452/30-4-10-172/89 dated 25 August 2010.

4.8.2 During the period April 2011 to October 2012, in 86 cases, tractors registered for agricultural purposes were engaged in the commercial activities of transporting sub-mineral (sand and ordinary soil). This fact was verified from the MM-11 forms issued by the respective District

Mines Officers to these tractors. As seen from the prosecution registers, the Department did not initiate any action for levy and collection of the differential rate tax from these vehicles for their use as commercial vehicles and also did not impose the necessary fines for violation of act. This inaction led to non-realisation of tax and fines of ₹ 4.31 lakh as detailed in the table no. 4.9:

Table No. 4.9

(₹ in lakh)

Sl. No.	Name of unit	Unladen Weight of vehicle (in Tonne)	Period of plying of vehicle	No. of vehicles	Amount of tax payable @ ₹ 500 per quarter per tonne of unladen weight	Penalty leviable @ ₹ 4000 per vehicle	Total amount of tax and penalty
1.	RTO Kanpur Nagar	02	04/2011 to 07/2012	07	0.07	0.28	0.35
		03		02	0.03	0.08	0.11
2.	ARTO Maharajganj	02	03/2011 to 06/2011	37	0.37	1.48	1.85
3.	ARTO Mau	02	08/2009 to 09/2010	40	0.40	1.60	2.00
Total				86	0.87	3.44	4.31

After we reported the matter to the Department and Government (July 2012 to February 2013), the Department has not agreed with our observation and stated (November 2013) that none of the tractors have been found carrying minerals during checking of vehicles by enforcement wing. The reply of the Department shows that it did not take any proactive action against the tractors employed in commercial activities despite there being concrete evidence of the same being available in the records of the Mining Department and pointed out by us. The Department has not even cross-checked the records of District Mines Officers.

4.9 Short-levy of tax due to adoption of lesser seating capacity of Tata Magic Vehicle

Under the provisions of sub section (2) of Section-4 of the Uttar Pradesh Motor Vehicles Taxation Act, 1997 (as amended on 28 October 2009) no transport vehicle shall be used in any public place in Uttar Pradesh unless a tax prescribed under sub section (2) of Section-4 of the Act has been paid. The rate of tax applicable to motor cab (excluding three wheelers motor cab) and maxi cab was ₹ 550 per seat/per quarter upto 7 November 2010 and ₹ 660 per seat per quarter from 8 November 2010. The Transport Commissioner vide order dated 30 July 2007 and 24 May 2010 permitted eight seats in all for Tata Magic vehicle (basic model) having kerb weight of 1,000 kg.

We scrutinised (between May 2012 and September 2012) the records¹⁶ of two Regional Transport Offices (RTOs)¹⁷ and four Assistant Regional Transport Offices (ARTOs)¹⁸ and noticed that during the period from April 2011 to August 2012, taxes in respect of 723 Tata Magic vehicles (basic model) having kerb weight of 1000 kilogram were

assessed and realised on the seating capacity of seven instead of eight in contravention of the orders of the Transport Commissioner dated 30 July 2007 and 24 May 2010. The details of the vehicle are noted in the sale letter which is required to be presented at the ARTO / RTO office at time of registration. The ARTOs/RTOs concerned did not detect the same and this resulted in short realisation of tax of ₹ 16.75 lakh as shown in the table no. 4.10:

Table No. 4.10

(₹ in lakh)

Sl. No.	Name of unit	Number of vehicles (unladen weight 1000 Kg.)	Period	Tax leviable	Tax paid	Tax short levied
1.	RTO Bareilly	194	April 2011 to March 2012	18.31	15.69	2.62
2.	RTO Jhansi	90	August 2011 to July 2012	16.63	14.25	2.38
3.	ARTO Jalaun	166	July 2011 to June 2012	30.68	26.29	4.39
4.	ARTO JP Nagar	64	April 2011 to April 2012	12.15	10.41	1.74
5.	ARTO Maharajganj	120	April 2011 to June 2012	26.58	22.78	3.80
6.	ARTO Pratapgarh	89	August 2011 to August 2012	12.72	10.90	1.82
Total		723		117.07	100.32	16.75

After we reported the matter to the Department and the Government (April 2012 and October 2012), the Department accepted (October 2013) our observation and recovered ₹ 9.58 lakh in respect of 544 vehicles and stated that action has been initiated for remaining vehicles. In the case of Jhansi, the Department stated that no differences have been found in 67 cases cited by Audit and attached a list with the unladen weight and other details of the vehicles. We cross checked and found that the registration number of these

¹⁶ Passenger tax register, vehicles files and vehicles database.

¹⁷ RTO: Bareilly and Jhansi.

¹⁸ ARTO: Jalaun, J.P. Nagar, Maharajganj and Pratapgarh.

contested 67 vehicles are not the same as the ones pointed out by us, hence we do not agree with the reply of the Department in Jhansi.

4.10 Non-realisation of revenue due to vehicles plying without certificate of fitness

Under Section 56 of Central Motor Vehicle (CMV) Act, 1988 and Rule 62 of Central Motor Vehicle (CMV) Rules, 1989 made thereunder, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness. A fitness certificate granted in respect of a newly registered transport vehicle is valid for two years and is required to be renewed every year. Thereafter payment of the prescribed fee of ₹ 100, ₹ 200, ₹ 300 and ₹ 400 and fee of ₹ 100 is required to be made for issuing certificate of fitness for three wheelers, light, medium and heavy vehicles respectively. In case of default, an additional amount equal to the prescribed fee is also leviable. Plying a vehicle without certificate of fitness is compoundable under Section 192 of the MV Act, 1988 at the rate of ₹ 2,500 per offence which has been increased to ₹ 4000 vide notification no. 1452/30-4-10-172/89 dated 25 August 2010.

We scrutinised (between April 2012 and March 2013) the records¹⁹ of ten RTOs²⁰ and 15 ARTOs²¹, and observed that 8,792 vehicles²² plied between April 2010 and February 2013 without valid fitness certificates and only the tax due was realised. There is no system in the Department to check whether there is a valid fitness certificate while accepting

payment of tax due. Plying of such vehicles compromised public safety. These vehicles were liable for levy of fitness fee of ₹ 51.22 lakh and imposition of penalty of ₹ 3.52 crore as they were plying without a fitness certificate.

We reported the matter to the Department and Government (May 2012 and May 2013), the Department stated (November 2013) that in absence of proof of movement of vehicles without fitness certificate, penalty cannot be levied. Further, the Department stated that there is no loss of fitness fee as the same would be recovered at the time of renewal.

We do not agree with the reply as these vehicles were paying road tax for the period involved and as such these vehicles were plying without fitness certificate. Thus, the fact remains that the Department did not ensure production of fitness certificate at the time of payment of tax as pointed out above. Moreover, the Department has recovered ₹ 19.05 lakh as fitness fee and ₹ 14.16 lakh as penalty²³ and issued RCs for the recovery of fitness fee in remaining cases after audit pointed out.

¹⁹ Tax register, vehicles files, vehicles database, receipt books and cash-book.

²⁰ RTO: Allahabad, Bareilly, Faizabad, Ghaziabad, Jhansi, Kanpur Nagar, Meerut, Mirzapur, Saharanpur and Varanasi.

²¹ ARTO: Badaun, Bahraich, Bijnaur, Bulandshahar, Deoria, Fatehpur, J.P.Nagar, Kushinagar, Maharajganj, Mainpuri, Mahoba, Pilibhit, Shahjahanpur, Sonbhadra and Unnao.

²² Out of 3.18 lakh vehicles.

²³ ARTO Unnao ₹ 1.44 lakh and RTO Varanasi ₹ 12.72 lakh.

4.11 Non-realisation of permit fee on school vehicles

Under the provisions of the UPMTV Act, as amended in 2000 in respect of Notification number 27/2000 of Government of India, no Educational Institute shall use vehicles for transportation of students without proper permit. Further, Rule 125 of the UPMTV Rules, 1998 (as amended on 31 December, 2010) prescribes ₹ 3,750 for issue of new permit, its renewal and countersignature.

We scrutinised (between May 2012 and June 2012) the records²⁴ of one RTO²⁵ and four ARTOs²⁶ and observed that during the period May 2011 to May 2012, 255 school vehicles were plying in sub regions without permit. This resulted in non realisation of permit fees

of ₹ 9.56 lakh as shown in the table no. 4.11:

Table No. 4.11

(₹ in lakh)

Sl. No.	Name of unit	Number of vehicles	Permit fee leviable per vehicle	Amount of revenue involved
1.	ARTO Ambedker Nagar	31	3750	1.16
2.	RTO Bareilly	29	3750	1.09
3.	ARTO JP Nagar	30	3750	1.12
4.	ARTO Mahoba	09	3750	0.34
5.	ARTO Lakhimpur kheri	156	3750	5.85
	Total	255		9.56

After we reported the matter to the Department and the Government (June 2012 and July 2012), the Department accepted (October 2013) our observation and recovered ₹ 4.46 lakh in cases of 119 vehicles and stated that action has been initiated for the remaining vehicles.

4.12 Impact of non-establishment of Accident Relief Fund

As per provisions of Section 8(1) of UPMTV Act, 1997 as amended in 2009, for the purpose of providing relief to the passengers or other persons suffering casualty in any accident in which a public service vehicle is involved, or to heirs of such passengers or other persons, the State Government shall establish a fund to be known as the Uttar Pradesh Road Transport Accident Relief Fund (UPRTARF). The amount equivalent to two per cent of the tax levied under section 4 and two per cent of the additional tax levied under Section 6 shall be credited to the said fund.

We observed (May 2012) from the records²⁷ of the office of the Transport Commissioner that the Department had realised a sum of ₹ 786.74 crore as tax and additional tax from goods and passenger vehicles during the period between April 2011 and March 2012. Two per cent of this amount ₹ 15.73 crore was to be credited to the UPRTARF, the same

has not been credited to the fund by the Department as the fund is yet to be established. We further noticed that compensation amounting to ₹ 61.90 lakh was paid from the budget major head "2235 Social Safety and Welfare" during the year 2009-10 to 2012-13 to the passengers or heirs of such passengers against 1039 cases of accident from UPSRTC buses. The non-establishment of

²⁴ Vehicles files, permit register and vehicles database.

²⁵ RTO: Bareilly.

²⁶ ARTO: Ambedkar Nagar, J.P.Nagar, Lakhimpur Khiri and Mahoba.

²⁷ Monthly statement of revenue receipts.

fund negated the very purpose of the provision of the Act and the compensation had to be paid out of revenue budget of the State.

When we reported the matter to the Department and the Government (June 2012), the Department stated (September 2013) that process of establishing the UPRTARF is in process. The tax and additional tax realised has been deposited in Government treasury, so Government was not deprived of revenue. Compensations were given under the head "2235" so no beneficiary was deprived of receiving compensation. We do not agree with the reply of the Department as the Department is showing inflated revenue earning by fully depositing the tax and additional tax in the major head "0041", rather than crediting two *per cent* of the same in UPRTARF. Moreover, non-establishment of fund has negated the very purpose of the provisions of the Act.

4.13 Non-imposition of penalty on the vehicles carrying excess load

Section 113 of the Motor Vehicles Act, 1988 (MV Act), defines the limits of weight and limitation of use, which are laid down by the Transport Commissioner (TC) who prescribes conditions for issue of permits for transport vehicles in the state. Section 113 (3) (b) states that no person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer, the laden weight exceeds the gross vehicle weight specified in the certificate of registration.

As per provisions made under Section 194 (1) of the MV Act, 1988, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with a load exceeding permissible weight, shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load, together with the liability to pay charges for off-loading of the excess load.

As per the certificate of registration issued by the TC for the vehicles the maximum laden weight for the vehicles is fixed and the maximum limit of weight* of sub minerals transported by different categories of vehicles is as below:

(In Tonnes)					
Sl. No.	Minor mineral	Two Wheel Tractor	Four Wheel Tractor	Six Wheel Truck	10 Wheel Truck
1.	Ordinary Sand	3.00	5.25	13	19
2.	Morrum	3.00	5.25	13	19
3.	Ordinary Soil	3.00	5.25	13	19
4.	Boulder/Gitti/ stone grit	3.00	5.25	13	19

* Maximum permissible Laden Weight = Gross Vehicle Weight (GVW) minus Un Laden Weight (ULW)

We scrutinised the records²⁸ of three RTOs²⁹ and 20 ARTOs³⁰ and Form MM-11 issued to the vehicles for carrying sub minerals³¹ in respective District Mines Offices between April 2012 and March 2013 and observed that in 3,706 cases, transportation of sub-mineral sand, grit and ordinary soil was carried out during the period February 2009 to January 2013 by different categories of vehicles. In all these cases the actual load³² carried by these vehicles as evidenced by the MM-11 forms³³ issued was higher than the permitted load as per their Registration Certificates. Hence all these vehicles were liable for action under Section 194(1) of the Motor Vehicles Act, 1988.

²⁸ Prosecution Books, Crime and Seizure Registers.

²⁹ RTO: Banda, Gorakhpur and Saharanpur.

³⁰ ARTO: Ambedkarnagar, Auraiya, Badaun, Bagpat, Bahraich, Balrampur, Barabanki, Bulandshahar, Farukhabad, G.B.Nagar, Kanshiramnagar, Kushinagar, Lalitpur, Maharajganj, Mainpuri, Mau, Pratapgarh, Santravidanagar, Sitapur and Unnao.

³¹ Sand, stone, grit and ordinary soil.

³² Conversion of volume to weight for sand/morrum 1 m³=2 tonnes and 1 m³ of ordinary soil = 1.70 tonnes.

³³ Transit Pass issued by the holder of the mining lease or mining permit or prospecting licence as the case may be.

We noticed that these vehicles were not mentioned in the Prosecution book, Crime or Seizure registers of the respective RTOs/ARTOs offices as having been checked and booked as overloaded and charged for offloading of the excess load. The RTOs/ARTOs did not take action to stop and off load these vehicles carrying greater than permissible load and penalise them.

The plying of overloaded vehicles compromised public safety. These vehicles were liable for imposition of penalty of ₹ 2.97 crore as detailed in **Appendix-XV**.

After we reported the matter to the Department/Government (between May 2012 and May 2013), the Department stated (October 2013) that none of the vehicles have found overloaded during checking of vehicles by enforcement wing and hence penalty is not tenable. Only in two offices³⁴ the transport authorities have so far recovered ₹ 2.20 lakh from the vehicles mentioned in our observation and a further two offices³⁵ have issued notices to the defaulters.

The Department itself admits to failure of its enforcement wing as pointed out by us. Despite concrete evidence of vehicle-wise movement of overloaded vehicles in the District being available the enforcement wing of the Department failed to detect these overloaded vehicles while they plied on road and impose penalty.

We recommend that the Department develop a system to cross verify the same with the DMO offices and take action against overloaded vehicles plying in contravention of the MV Act.

4.14 Non-levy of penalty due to violation of terms and conditions of permit

As per Rule 70 of the UPMV Rules, 1998 the owner of the contract carriage vehicle other than motor cab is liable for submission of passenger's list and quarterly abstract of the vehicle log book as required under the terms and conditions of the permit issued by the competent authority. Section 192A of MV Act defines the penalties for violation of conditions of permits. Vide Notification No.1452/30-4-10-172/89 dated August 25, 2010 the Government has defined that violation of terms and conditions of the permit is an offence which may be compounded by imposition of penalty of ₹ 4,000.

We observed (May 2012) from the records³⁶ that 2,448 permit holders failed to provide the requisite documents³⁷ to the Uttar Pradesh State Transport Authority (UPSTA) during the period 2011-12. The Department did not impose and realise the penalty of ₹ 97.92 lakh for non-submission of requisite documents by the permit holders as

shown in the table no. 4.12:

³⁴ ARTO, Gorakhpur and ARTO Kushinagar

³⁵ ARTO, Sitapur and ARTO Unnao

³⁶ Permit registers and personal file of vehicles.

³⁷ List of passengers for every trip and quarterly log book.

Table No. 4.12

(₹ in lakh)

Sl. No.	Type of Permit	Seating Capacity	Number of Permits	Penalty at the rate 4000 per permit
1.	All India Bus Permit	43-56	25	1.00
2.	All Uttar Pradesh Bus Permit	43-56	376	15.04
3.	All India Mini Bus Permit	13-42	888	35.52
4.	All Uttar Pradesh Mini Bus Permit	13-42	675	27.00
5.	All India Maxi Cab Permit	8-12	355	14.20
6.	All Uttar Pradesh Permit Maxi Cab	8-12	129	5.16
Total			2,448	97.92

After we pointed this out to the Department and the Government in June 2012, the Department stated (September 2013) that non-production of log book and/or passengers list does not attract penalty as this is not violation of permit conditions. We do not agree with the reply of the Department as Section 192A of CMV Act clearly defines the penalties for violation of conditions of permits and submission of the above documents is required under the additional terms and conditions of the permits issued under Rule 70 of UPMV Rules, 1998.

4.15 Non/Short realisation from seized vehicles

Under the provisions of Section 22 of the UPMVT Act, vehicles seized by the enforcement wing of the Department are liable to pay dues and compounding fee imposed thereon and get it realised. Where owners of vehicles did not turn up to pay dues, these vehicles may be auctioned after 45 days from the date of seizure and revenue realised should be adjusted towards the tax, additional tax, penalty and the expenses of such auction. The balance, if any, shall be refunded to the owner of the vehicle.

We observed ((between August 2012 and December 2012) from the records³⁸ of six ARTO/ RTOs that 73 vehicles were seized under the provisions of the UPMVT Act during the period from February 2006 to October 2012 against which dues of ₹ 44.23 lakh remained to be

realised. The owners of these vehicles did not pay the dues within 45 days from the date of seizure. The concerned offices³⁹ also did not initiate action required under the Act to realise the dues through auction of these vehicles despite lapse of 22 to 80 months from the date of seizure. The details of the 73 vehicles are mentioned in the table no. 4.13:

Table No. 4.13

(₹ in lakh)

Sl. No.	Name of the offices	Number of vehicles	Period of seizure	Recoverable amount of Tax/Additional tax
1.	ARTO, Bijnour	16	11/2009 to 05/2012	2.66
2.	ARTO, Chandauli	24	02/2006 to 07/2011	3.61
3.	ARTO, Hamirpur	05	06/2007 to 10/2010	25.26
4.	RTO, Kanpur Nagar	11	01/2011 to 07/2012	1.06
5.	ARTO, Kushinagar	04	07/2006 to 10/2012	6.34
6.	ARTO, Sonbhadra	13	11/2008 to 11/2011	5.30
Total		73		44.23

Thus inaction on part of the RTOs/ARTOs led to non- recovery of dues of ₹ 44.23 lakh from seized vehicles.

³⁸ Seizure register and concerned files.

³⁹ RTO: Kanpur Nagar. ARTO: Bijnour, Chandauli, Hamirpur, Kushinagar and Sonbhadra.

After we pointed this out to the Department and the Government in February 2013, the Department accepted (September 2013) our observation and stated that action is being taken and ₹ 2.02 lakh has been recovered so far.

4.16 Absence of monitoring and follow up mechanism for realisation of arrears

Under the provisions of Section 20 of the UPMVT Act, arrears of any tax or additional tax or penalty shall be recoverable as arrears of land revenue. Further, the taxation officer shall raise a demand in the form as may be prescribed from the owner or operator, as the case may be, for the arrears of tax and additional tax and penalty of each year, which shall also include the arrears of tax, additional tax or penalty, if any of preceding years.

Section 22 authorises the taxation officer to seize and detain the vehicle and to get the dues recovered by auction of the vehicle if the dues are not paid within 45 days from the date of seizure or detention of the vehicle.

We scrutinised (between November 2011 and March 2013) the records⁴⁰ of three RTOs⁴¹ and four ARTOs⁴² and observed that there were arrears of tax/additional tax amounting to ₹ 2.13 crore in 251 cases for which Recovery Certificates (RCs) were issued during the period January 2010 to September 2012. We noticed that these RCs were issued seven

months to 92 months after the date when revenues become due and recovery of these outstanding dues could not be made. No evidence of regular follow up with the revenue authorities for the recovery of these outstanding RCs was seen on files. The taxation officers of the districts did not initiate any action under Section 22 regarding seizure of vehicles etc against the motor vehicle owners who had defaulted on their dues. We noticed that no provision for a time frame regarding issue of RCs was made in the rules and the Department also had no system to monitor the issue of the RCs within a specified time frame. Absence of internal control and monitoring mechanism led to non-realisation of revenue amounting to ₹ 2.13 crore as shown in the table no. 4.14:

Table No. 4.14

(₹ in lakh)

Sl. No.	Name of office	No of RCs issued	Time taken in issuing RCs	Amount of RCs
1.	RTO Allahabad	147	8 to 92 months	56.21
2.	RTO Azamgarh	24	7 to 18 months	15.77
3.	ARTO Bahraich	5	21 to 69 months	1.82
4.	ARTO Mathura	13	Not mentioned	59.99
5.	RTO Saharanpur	4	17 to 45 months	1.45
6.	ARTO Sant Kabir Nagar	30	8 to 58 months	10.49
7.	ARTO Sant Ravidas Nagar	28	19 to 79 months	67.55
Total		251		213.28

We pointed this out to the Department/Government (between August 2012 and March 2013). The Department accepted (September 2013) our observation and stated that ₹ 52.04 lakh has been recovered and action has been initiated for recovery in the remaining cases.

⁴⁰ Tax register, arrear register, recovery certificate issue register and vehicles files.

⁴¹ RTO: Allahabad, Azamgarh and Saharanpur.

⁴² ARTO: Baharaich, Mathura, Sant Kabir Nagar and Sant Ravidas Nagar.

4.17 Non-realisation of tax/additional tax in respect of vehicles surrendered beyond three months

Rule 22 of the Uttar Pradesh Motor Vehicles Taxation Rules (UPMVT Rules), 1998 (modified in October 2009), provides that when the owner of a transport vehicle withdraws his motor vehicle from use for one month or more, the certificate of registration, tax certificate, additional tax certificate, fitness certificate and permit, if any must be surrendered to the Taxation Officer. The Taxation Officer shall not accept the intimation of non-use of any vehicle for more than three calendar months, within a calendar year, however, the period beyond three calendar months may be accepted by the Regional Transport Officer of the region concerned, if the owner makes an application with requisite fee to the Taxation Officer. If any such vehicle remains surrendered for more than three calendar months during a year without extension of acceptance of surrender by Regional Transport Officer it shall be deemed to be revoked and the owner shall be liable to pay tax and additional tax, as the case may be. Further, subject to the provision of sub-rule (4), the owner of a surrendered vehicle in respect of which intimation of non-use has already been accepted, shall be liable to pay tax and additional tax for the period beyond three calendar months during any calendar year, whether the possession of the surrendered documents have been taken from the taxation officer or not.

We scrutinised (between April 2012 and November 2012) the records⁴³ of one RTO⁴⁴ and ten ARTOs⁴⁵ and noticed that 179 vehicles were surrendered for periods beyond three calendar months during the period from May 2011 to October 2012. However, despite the fact that extension of acceptance of surrender beyond three months was not granted by concerned RTO, the Taxation Officers⁴⁶ did not initiate any action to realise the tax/additional tax due thereon. This resulted in non-realisation of revenue amounting to ₹ 87.55 lakh.

After, we pointed this out to the Department and the Government (between June 2012 to December 2012), the Department accepted ₹ 3.89 lakh. Recovery

(November 2013) our observation and recovered certificates have been issued for the remaining cases.

⁴³ Surrender register, vehicles files, passenger tax register and goods tax register.

⁴⁴ RTO: Barielly.

⁴⁵ ARTO: Auraiya, Bijnaur, Farukhabad, Kannauj, Kushinagar, Mahoba, Mathura, Mau, Muzaffarnagar and Sonbhadra.

⁴⁶ Taxation Officer: RTO or ARTO is defined as Taxation Officer within the local limits of their respective region or sub-region under UPMVT Rules, 1998.