

## Chapter-II

## Revenue Sector

## 2.1 Introduction

## 2.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Uttarakhand during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table 2.1.1**.

**Table 2.1.1**  
Trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1	<b>Revenue raised by the State Government</b>					
	• Tax revenue	3,559.04	4,405.48	5,615.62	6,414.25	7,355.34
	• Non-tax revenue	631.86	678.06	1,136.13	1,602.88	1,316.54
	<b>Total</b>	<b>4,190.90</b>	<b>5,083.54</b>	<b>6,751.75</b>	<b>8,017.13</b>	<b>8,671.88</b>
2.	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties <sup>1</sup>	1,550.01	2,460.07	2,866.04	3,272.88	3,573.38
	• Grants-in-aid	3,745.22	4,064.56	4,073.45	4,457.21	5,075.27
	<b>Total</b>	<b>5,295.23</b>	<b>6,524.63</b>	<b>6,939.49</b>	<b>7,730.09</b>	<b>8,648.65</b>
3.	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>9,486.13</b>	<b>11,608.17</b>	<b>13,691.24</b>	<b>15,747.22</b>	<b>17,320.53</b>
4.	<b>Percentage of 1 to 3</b>	44	44	49	51	50

Source: Finance Account

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 8,671.88 crore) was 50 per cent of the total revenue receipts. The balance 50 per cent (₹ 8,648.65 crore) of the receipts during 2013-14 were from the Government of India as the share of net proceeds of divisible Union taxes and duties, and Grants-in-aid.

**2.1.2** The details of the tax revenue raised during the period 2009-10 to 2013-14 are given in **Table 2.1.2**.

<sup>1</sup> Note: For details, please see statement No.11: Detailed accounts of revenue by minor heads in the Finance Accounts (Vol.-II) of Government of Uttarakhand for the year 2013-14. Figures under the "share of net proceeds assigned to States" under the major heads-0020-corporationtax, 0021-taxes on income and expenditure, 0032-taxes on wealth, 0037-customs, 0038-union excise duties and 0044-service taxes booked in the Finance Accounts under 'A-tax revenue' have been excluded from revenue raised by the State Government and included in the 'State share of divisible Union taxes' in the above table.

**Table 2.1.2**  
**Details of Tax Revenue raised** (₹ in crore)

Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in actual of	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	2013-14 over BE 2013-14	2013-14 over actual 2012-13
1.	Taxes on sales, trade etc.	2,220.80	2,246.84	2,586.00	2,940.48	3,187.60	3,643.51	4,088.10	4,289.41	4,847.22	4,902.91	(+) 1.15	(+) 14.30
2.	State excise	598.22	704.64	686.93	755.92	727.67	843.65	942.15	1,117.92	1,149.25	1,269.29	(+) 10.45	(+) 13.54
3.	Stamps Duty and Registration Fees	422.69	398.70	425.65	439.50	483.85	524.05	573.95	648.40	640.40	686.71	(+) 7.23	(+) 5.91
4.	Motor Vehicles Tax	193.09	184.56	225.30	227.26	249.53	334.69	275.00	304.29	320	368.83	(+) 15.26	(+) 21.21
5.	Taxes and duties on electricity	72.00	2.11	72.00	2.16	75.00	229.02	60.00	2.71	100.00	64.66	(-) 35.34	(+) 2,285.98
6.	Land revenue	7.68	8.80	11.73	18.31	13.48	10.18	8.55	10.59	8.15	21.65	(+) 165.64	(+) 104.44
7.	Other taxes and Duties on Commodities and Services	7.50	6.27	8.68	12.15	10.60	16.52	17.50	23.13	24.41	23.47	(-) 3.85	(+) 1.47
8.	Others	6.85	7.12	8.00	9.70	12.00	14.00	15.00	17.80	22.00	17.82	(-) 19.00	(+) 0.11
	<b>Total</b>	<b>3,528.83</b>	<b>3,559.04</b>	<b>4,024.29</b>	<b>4,405.48</b>	<b>4,759.73</b>	<b>5,615.62</b>	<b>5,980.25</b>	<b>6,414.25</b>	<b>7,111.43</b>	<b>7,355.34</b>	<b>(+) 3.43</b>	<b>(+) 14.67</b>

Source: Finance Account

The respective Departments reported the following reasons for variations:

**Stamps and Registration Fees:** - The increase in revenue receipts over the previous year was due to increase in number of registration of sale deeds from 2,25,831 (2012-13) to 2,30,816 (2013-14).

**Taxes on vehicles:** The increase of actual receipt in major head "0041" of 2013-14 in comparison to 2012-13 is due to reforms in Motor Yaan Sudhar Niyamawali/ Adhiniyam, 2003.

**Taxes and duties on electricity:** The significant increases in Taxes and Duties on Electricity over previous years was due to depositing previous year's arrears by Uttarakhand Power Corporation Ltd in the Government Accounts. There is no fixed time for depositing of arrears by the Uttarakhand Power Corporation Ltd.

The other Departments, despite being requested (September 2014), did not furnish the reasons for variations in their respective receipts from that of the previous year (October 2014).

**2.1.3** The details of the non-tax revenue raised during the period 2009-10 to 2013-14 are indicated in **Table 2.1.3**.

**Table 2.1.3**  
**Details of Non-tax revenue raised** (₹ in crore)

Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in actual of	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	2013-14 over BE 2013-14	2013-14 over Actual 2012-13
1.	Power	220.74	56.13	230.00	13.54	235.00	41.24	84.00	150.04	122.55	121.11	(-) 1.18	(-) 19.28
2.	Interest receipts	54.28	53.71	62.00	53.76	52.01	50.62	35.00	114.76	44.83	51.12	(+) 14.03	(-) 55.45
3.	Forestry and wild life	219.27	235.70	266.10	229.69	286.83	234.26	296.71	238.20	309.34	362.70	(+) 17.25	(+) 52.27
4.	Public works	10.46	19.50	14.51	24.83	17.27	17.85	16.16	18.13	9.15	15.51	(+)69.51	(-) 14.45
5.	Misc. general services	33.09	14.41	22.00	28.23	14.00	37.57	11.00	25.85	3.55	48.74	(+)1272.96	(+) 88.55
6.	Other administrative services	24.86	21.18	10.12	47.15	12.21	70.15	11.82	38.72	3.73	32.38	(+)768.10	(-) 16.37
7.	Police	6.92	9.62	9.00	11.26	9.00	11.41	10.11	10.98	11.21	13.39	(+) 19.45	(+) 21.95
8.	Medical and Public Health	7.57	11.73	11.48	29.01	17.93	23.20	23.16	30.00	22.10	44.04	(+)99.28	(+) 46.80
9.	Co-operation	7.32	1.78	5.18	1.70	1.02	2.93	2.21	1.38	2.23	9.78	(+) 338.57	(+) 608.70
10.	Major and medium Irrigation	6.31	7.08	3.32	5.10	3.31	8.07	2.37	7.65	2.42	6.75	(+) 178.93	(-) 11.76
11	Other Non-tax receipts	837.87	202.92	481.29	233.79	998.53	638.83	715.63	967.17	685.15	611.02	(-)10.82	(-) 36.82
	<b>Total</b>	<b>1,428.69</b>	<b>633.76</b>	<b>1,115.00</b>	<b>678.06</b>	<b>1,647.11</b>	<b>1,136.13</b>	<b>1,208.17</b>	<b>1,602.88</b>	<b>1,216.26</b>	<b>1,316.54</b>	<b>(+) 8.25</b>	<b>(-) 17.86</b>

Source: Finance Account

Non-tax Revenue decreased by 17.86 per cent during the current year over the previous year mainly as a result of decrease in 'Contribution and Recoveries Towards Pension and Other Benefits' and 'Interest Receipts'.

The Public Works Department stated (October 2014) that the decrease in revenue realisation in 2013-14 in comparison to 2012-13 was due to stoppage of Toll Tax recovery on two bridges of the Department after 2012-13.

The other Departments, despite being requested (September 2014), did not intimate the reasons for variation in receipts from that of the previous year (December 2014).

#### 2.1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 against some principal heads of revenue amounted to ₹ 4,470.44 crore of which ₹ 589.98 crore was outstanding for more than five years, as detailed in the **Table 2.1.4**.

**Table 2.1.4**  
Arrears of revenue (₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2014	Amount outstanding for more than 5 years as on 31 March 2014	Replies of Department
1.	Taxes/VAT on Sales, Trade etc.	4,026.94	579.25	Recovery of ₹ 178.96 crore (1,501 cases) is subjudice. Recovery certificates have been issued for remaining ₹ 3,847.98 crore in the cases wherever required.
2.	Taxes and Duties on Electricity	421.78	-	Department stated that it is in regular correspondence with the Uttarakhand Power Corporation Ltd.
3.	Co-operation	9.51	8.67	Demand for recovery has been processed through District Level Officer.
4.	Stamp Duty and Registration Fees	6.29	0.52	Recovery of ₹ 5.42 crore is subjudice and for rest of the cases, demand for recovery had been processed.
5.	Taxes on Vehicles	4.87	0.94	Ten cases (₹ 0.11 crore) were subjudice and for rest of the cases, demand for recovery is being processed through District Magistrate.
6.	State Excise	0.60	0.60	Two cases amounting to ₹ 0.25 crore is pending in the court of law. In other cases, action is being taken to recover the amount (₹ 0.36 crore).
7.	Taxes on purchase of Sugarcane	0.36	-	Taxes on purchase of Sugar cane are being regularly deposited on issue of sugar bags from sugar mills.
8.	Entertainment Tax	0.09	0.004	The cases amounting to ₹ 0.05 crore are pending in the court of law. In rest of the cases, recovery certificates have been issued.
<b>Total</b>		<b>4,470.44</b>	<b>589.98</b>	

Source: Concerned Departments

#### 2.1.5 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and the number of cases pending for finalisation at the end of the year as furnished by the Commercial Tax Department in respect of sales tax are given below in **Table 2.1.5**.

**Table 2.1.5**  
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2013-14	Total assessments due	Cases disposed of during 2013-14	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes/VAT on sales, Trade etc.	1,26,848	1,23,224	2,50,072	1,41,455	1,08,617	56.57%

Source: Information provided by the Commercial Tax Department

The Department should make more efforts for early disposal of the assessment cases.

### 2.1.6 Evasion of tax detected by the department

The details of cases of evasion of tax detected by the Commercial Tax Department, cases finalised and the demands for additional tax raised in 2013-14 as reported by the Department are given in **Table 2.1.6**.

**Table 2.1.6**  
Evasion of Tax (₹ in crore)

Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalization as on 31 March 2014
				Number of cases	Amount of demand	
Taxes/VAT on sales, Trade etc.	215	1,119	1,334	1,118	228.80	216

The amount of recovery made against the demand raised was not intimated by the Department (October, 2014)

### 2.1.7 Refund cases

The number of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2013-14 as reported by the Commercial Tax Department are given in **Table 2.1.7**.

**Table 2.1.7**  
Details of refund cases (₹ in lakh)

Sr. No.	Particulars	Sales tax / VAT	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,255	1,079.15
2.	Claims received during the year	6,147	7,661.50
3.	Refunds made during the year	6,667	6,729.12
4.	Balance outstanding at the end of year	735	2,011.53

*Source: Concerned State Department.*

### 2.1.8 Response of the Departments / Government towards audit

The Accountant General (Audit), Uttarakhand conducts periodical inspection of the Government Departments to test-check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. 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 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 Accountant General within four weeks from the date of receipts of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued upto June 2014 disclosed that 1,944 paragraphs involving ₹ 173.54 crore relating to 891 IRs remained outstanding at the end of June 2014 as mentioned below alongwith the corresponding figures for the preceding two years in **Table 2.1.8**.

**Table 2.1.8**  
**Details of pending Inspection Reports**

	June 2012*	June 2013	June 2014
Number of IRs pending for settlement	851	919	891
Number of outstanding audit observations	1,797	1,936	1,944
Amount of revenue involved (₹ in crore)	151.30	178.58	173.54

\*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 figures.

**2.1.8.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in the **Table 2.1.9**.

**Table 2.1.9**  
**Department wise details of IRs** (₹ in crore)

Sl. No	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Numbers of outstanding audit observations	Money value involved
1.	Finance	Taxes on Sales, Trade etc. and luxury tax etc.	417	1,085	97.59
		Entertainment	8	14	0.14
2.	Excise	State Excise	71	120	29.60
3.	Transport	Taxes on motor vehicles	108	287	35.10
4.	Stamp and Registration	Stamp and registration fees	287	438	11.11
<b>Total</b>			<b>891</b>	<b>1,944</b>	<b>173.54</b>

Audit did not receive even the first replies from the heads of offices within the stipulated time, for 52 IRs issued during June 2013 to June 2014. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.

The Government may consider putting in place an effective system for prompt and appropriate response to audit observations.

### **2.1.8.2** *Departmental audit committee meetings*

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2013-14 and the paragraphs settled are mentioned in **Table 2.1.10**.

**Table 2.1.10**  
**Details of Departmental audit committee meetings** (₹ in crore)

Sl. No.	Head of revenue	Number of meetings held	Number of paras settled	Amount
1.	Entertainment Tax Department	2	51	10.77
2.	State Excise Department	1	13	2.91
<b>Total</b>		<b>3</b>	<b>64</b>	<b>13.68</b>

### **2.1.8.3** *Response of the Departments to the draft audit paragraphs*

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Accountant General to the Principal Secretaries / Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their

response within six weeks. The fact of non-receipt of the replies from the Departments / Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Two<sup>2</sup> Performance Audits and four<sup>3</sup> draft paragraphs were sent to the Principal Secretaries / Secretaries of the respective Departments by name between March 2014 and September 2014. The exit conference were conducted for the Performance Audits with the Principal Secretaries / Secretaries of the Departments concerned and reply of the Government have been incorporated in suitable places of the Performance Audits. In case of the Draft Paragraphs, the matters were reported to the Government, reply was awaited (December 2014) and the same have been included in this Report without the response of the Government. However, the Response from auditee units concerned has been received in these Draft Paragraphs and the same have been included in the paras suitably.

#### **2.1.8.4 Follow up on the Audit Reports-summarised position**

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Twenty paragraphs (including performance audit) included in the Audit Reports for the years 2008-09 to 2011-12 were placed before the State Legislature Assembly between 2009 and 2013. The action taken explanatory notes from the concerned Departments on these paragraphs were received late with average delay of 25 months in respect of each of these Audit Reports. Action taken explanatory notes in respect of 7 paragraphs from four<sup>4</sup> departments had not been received for the Audit Report year ended 31 March 2012 so far (October 2014). The Audit Report for the year 2012-13 was placed before the legislative assembly on 27 November 2014 and action taken explanatory notes is not due yet (December 2014).

The PAC discussed six selected paragraphs pertaining to the Audit Reports for the years from 2008 to 2012. However, ATNs have not been received in respect of one recommendation of the PAC from the Department concerned as mentioned in **Table 2.1.11**.

**Table 2.1.11**

Year	Name of the Department	Para Details	Total	Remarks
2010-11	Motor Vehicle Department	5.2 Performance Audit on "Computerisation in the Motor Vehicle Department. (5.2.30 Non-levy of additional tax on Industrial Buses)	1	Settled on 24.02.2014, but ATN has not been received in respect of one recommendation of PAC.

<sup>2</sup> "Levy and Collection of Taxes on Motor Vehicle Tax"(Exit Conference-12 November 2014) and Receipt of Minor Minerals (Exit Conference-20 November 2014).

<sup>3</sup> 03 Commercial Tax Department and 01 Stamp and Registration Department.

<sup>4</sup> Commercial Tax Department, Motor Vehicle Department, Stamp & Registration Department and State Excise Department.

### 2.1.9 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports / Audit Reports by the Departments / Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last five years for Commercial Tax Department is evaluated and included in this Audit Report.

The succeeding paragraphs 2.1.9.1 discuss the performance of the Commercial Tax Department under revenue head “0040” and cases detected in the course of local audit during the last five years and also the cases included in the Audit Reports for the years 2009-10 to 2013-14.

#### 2.1.9.1 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 2014 are tabulated below in **Table 2.1.12**.

**Table 2.1.12**  
**Position of Inspection Reports** (*₹ in crore*)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
		IRs	Para graphs	Money value	IRs	Para Graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value
1.	2009-10	274	694	38.61	44	105	12.04	6	48	0.64	312	751	50.01
2.	2010-11	312	751	50.01	54	158	89.37	6	32	0.70	360	877	138.68
3.	2011-12	360	877	138.68	54	192	8.56	12	46	65.94	402	1,023	81.30
4.	2012-13	402	1,023	81.30	37	151	23.79	27	78	11.20	412	1,096	93.89
5.	2013-14	412	1,096	93.89	35	140	21.26	36	156	10.38	411	1,080	104.77

The Government arranges ad-hoc Committee meetings between the Department and Accountant General’s office to settle the old paragraphs. As against 274 IRs with 694 outstanding paragraphs at beginning of 2009-10, the number of outstanding IRs rose to 411 with 1,080 paragraphs at the end of 2013-14, whereas only 360 paragraphs were cleared during the period 2009-14.

#### 2.1.10 Action taken on the recommendations accepted by the Departments/ Government

The Performance Audits conducted by the Accountant General are forwarded to the concerned Department/Government for their information with a request to furnish their replies. These are also discussed in an exit conference and the Department's/ Government's views are included while finalising the reviews for the Audit Reports.

Four Performance Audits (PA) on Commercial Tax Department and one PA on Transport Department featured in the last four years Audit Reports. Total 39 recommendations had been made to the Government for consideration in the PAs. The details of ATN on the recommendations are given in **Table 2.1.13**.

**Table 2.1.13**

<b>Year of Audit Report</b>	<b>Name of PA</b>	<b>Number of Recommendation</b>	<b>Status</b>
2008-09	Taxation on Transactions in the course of Inter-State Trade or commerce under Central Sales Tax Act, 1956	05	ATN received on 19.09.2013. Pending for discussion
2009-10	Transition from Sales Tax to VAT	08	ATN received on 07.08.2014. Pending for discussion
2010-11	Computerization in the MVT	11	Settled on 24.02.2014
	Cross Verification of Declaration Forms in Inter State Trade and Commerce	8	ATN not received
2011-12	Administration of VAT	7	ATN not received

### **2.1.11 Audit Planning**

During the year 2013-14, there were 242 auditable units, of which 87 units were planned and 80 units were audited.

Besides, the Compliance Audit mentioned above, two Performance Audits on “Levy and Collection of Taxes on Motor Vehicle Tax” and “Receipt of Minor Minerals” were also taken up to examine the efficacy of the tax administration of these receipts.

### **2.1.12 Results of audit**

#### **Position of local audit conducted during the year**

Test-check of the records of 80 units of five<sup>5</sup> Departments conducted during the year 2013-14 showed under assessment / short levy / loss of revenue aggregating ₹ 25.28 crore in 192 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 0.37 crore involved in 30 cases which were pointed out in audit during 2013-14. The Departments collected ₹ 0.37 crore in 73 cases during 2013-14, out of this, ₹ 0.08 crore in five cases pertaining to the audit findings of current year and the rest are for previous years.

### **2.1.13 Coverage of the Revenue chapter**

The Revenue chapter contains six paragraphs including two Performance Audit on “*Levy and Collection of Taxes on Motor Vehicle Tax*” and “*Receipts of Minor Minerals*” involving financial effect of ₹ 52.75 crore. The Departments/Government have accepted audit observations amounting to ₹ 19.29 crore in five cases, out of which ₹ 0.60 lakh in one case has been recovered. The replies in remaining cases have not been received. These are discussed in Chapter II.

<sup>5</sup> Commercial Tax, State Excise, Motor Vehicles, Stamp & Registration and Entertainment Tax Departments.



## COMPLIANCE AUDIT

### COMMERCIAL TAX DEPARTMENT

#### 2.2 Irregular tax rebate on false declaration forms

**Three false Form-C were accepted by a dealer for inter-State sales on concessional rate of tax which resulted in short levy of tax ₹ 29.01 lakh along with liability of penalty (₹ one crore) and interest accrued thereon.**

Provisions of the Section-8 (4) of CST Act, 1956 provide that the inter-State sales to registered dealers are taxable at concessional rate when such sales are supported by declaration in Form-C. Further, if a dealer issues or furnishes a false certificate or declaration, he shall be liable to a penalty of a sum exceeding forty *per cent* of the value of the goods involved or three times of the tax leviable on such goods, whichever is higher, under Section-58 (1) (xxix) of the Uttarakhand VAT Act, 2005. Further, Section-34(4) of the Uttarakhand VAT Act, 2005 also provides that tax admittedly payable shall be deposited within the time prescribed, failing which, simple interest at the rate of 15 *per cent* per annum shall become due and be payable on the unpaid amount with effect from the date immediately following the last date prescribed till the date of payment of such amount.

Audit scrutiny of records (November 2012) of the Deputy Commissioner (Assessment)-I, Commercial Tax, Rudrapur and cross verification of some of the Form-C (from the issuing authority of respective State)<sup>6</sup> used for inter-State trade on concessional rate of tax disclosed that three<sup>7</sup> statutory Form-C amounting to ₹ 2.52 crore were not issued to the dealer by the Trade Tax Department of the State mentioned in the forms. However, the selling dealer of Uttarakhand had availed (December 2011) tax concession<sup>8</sup> amounting to ₹ 29.01 lakh on these forms.

Thus, the use of false certificate not only resulted in short deposit of tax of ₹ 29.01 lakh but it makes the dealer liable to pay penalty of ₹ one crore along with accrued interest on the unpaid amount of tax till the date of payment of such amount as per above mentioned provisions of the Uttarakhand VAT Act, 2005.

The matter was referred to the Department/Government (July-August 2013). The Department while accepting the facts reassessed (November /December 2013) the dealer and created a demand of ₹ 129.92 lakh including penalty of ₹ 100.91 lakh. The reply of the Government is still awaited (December 2014).

#### 2.3 Short levy of tax due to incorrect application of rate of VAT

**Incorrect application of rate of tax by the Assessing Authority resulted in short levy of tax of ₹ 16.32 lakh.**

Section-4 (2) (b) of the Uttarakhand Value Added Tax (VAT) Act, 2005 provides that goods mentioned in Schedule-II(A) are taxable at the rate of one *per cent*, goods mentioned in

<sup>6</sup> Office of the Value Added Tax Officer (Ward-73), Department of Trade and Taxes, New Delhi.

<sup>7</sup> No.-14P 834222 (₹ 80,07,248), No.-14P 393863 (₹ 1,12,10,942) and No.-14P 393869 (₹ 60,08,818).

<sup>8</sup> At the rate of 11.5 *per cent* out of total 12.5 *per cent* payable rate of VAT.

Schedule-II(B) are taxable at the rate of four *per cent*, goods mentioned in Schedule-II(C) are taxable at the specified rates therein, and goods not mentioned in any of the schedules *i.e.* unclassified items of sale would be taxable at 12.5 *per cent*. Further, Section-4(5) (a) provides that every dealer shall pay a tax on the net turnover, determined in the prescribed manner, in respect of transfer of the right to use any goods for any purpose (whether or not for a specified period) at the rate of four *per cent*.

Audit scrutiny of records (April 2013) of the Deputy Commissioner (A)-V, Dehradun showed that the Assessing Authority, while finalising the assessment (July 2012) of a dealer<sup>9</sup> for the year 2008-09 had levied tax at the rate of four *per cent* on sale of putty amounting to ₹ 1.92 crore as applicable to the classified goods of Schedule-II(B) whereas tax on sale of putty was required to be levied at the rate of 12.5 *per cent* being an unclassified item of sale. Thus, application of incorrect rate of tax in respect of sale of putty resulted in short levy of tax of ₹ 16.32 lakh at differential rate of 8.5 *per cent*.

The matter was referred to the Department/Government (May 2013/July 2013). The Department while accepting the audit observation re-assessed (March 2014) the case and created an additional demand of ₹ 16.32 lakh. The reply of Government is still awaited (December 2014).

#### **2.4 Utilisation of unauthorised declaration form**

**Utilisation of unauthorised declaration of Form XI for the transaction prior to the effective date of recognition certificate resulted in loss of revenue of ₹ 8.62 lakh and penalty of ₹ 55.68 lakh.**

Rule 23(1) of Uttarakhand Value Added Tax Rule, 2005 provides that where a dealer holding a recognition certificate purchases any goods referred to in clause (a) of sub-section (7) of section 4 for use as Capital goods and raw material for the purpose of manufacture of any goods, he shall, if he wishes to avail of the concession referred to therein, furnish to the selling dealer a declaration in Form XI (hereinafter called a "Declaration Form").

Further, Section 58 (1) (xxix) of Uttarakhand, VAT Act 2005 provides that any dealer issues or furnishes a false or a wrong form of declaration or certificate by reason of which a tax on sale or purchase ceases to be leviable under this Act, such dealer shall pay, by way of penalty of a sum not exceeding forty *per cent* of value of goods involved or three times of tax leviable on such goods under provisions of this Act, whichever is higher. Section 63 of this Act provides that notwithstanding anything to the contrary contained elsewhere in this Act, and without prejudice to Section 58, a person who issues a false or wrong certificate or declaration prescribed under any provision of this Act or the Rules framed there under, to another person by reason of which a tax leviable under this Act on the transaction of purchase or sale made to or by such other person ceases to be leviable or becomes leviable at a concessional rate, shall be liable to pay on such transaction an amount which would have been payable as tax on such transaction had such certificate or declaration not been issued.

---

<sup>9</sup> M/s Kansai Nerolac Paints Ltd. Dehradun.

Scrutiny of records of the Dy. Commissioner Vikasnagar showed (November, 2013) that recognition certificate (VN 00971) of the purchaser<sup>10</sup> was effective from 26 December 2009. The tax assessment for the year 2008-09 showed that the purchaser had purchased goods<sup>11</sup> worth ₹ 1,42,00,033 (amount of purchased goods without tax worth ₹ 1,39,18,971) against the concessional Form XI from a seller<sup>12</sup>. The seller availed the concessions in tax prior to the effective date of the recognition certificate. On cross verification with the documents of the seller, it was also observed that the purchaser had issued 33 Form XI to the seller for the purchase of goods. Thus, the purchaser furnished unauthorised declaration Form XI to the seller and the seller availed the concessional rate of tax on goods. The concessional rates of VAT allowed was irregular resulting in loss of revenue of ₹ 8.62 lakh and penalty of ₹ 55.68.lakh<sup>13</sup>.

On this being pointed out, the Department stated (November, 2013) that in the explanation to Section 63, it has been enumerated that if it is found that a person has issued a false or wrong certificate then he should be liable to pay the same amount as admissible without the form and it has also been explained that where a person issuing a certificate or declaration discloses therein his intention to use goods purchased by him for such purpose as will make the tax not leviable or leviable at a concessional rate but uses the same for a purpose other than such purpose, the certificate or declaration shall, for the purpose of this section, be deemed to be wrong and no amount is payable. Under section 58 (1) XXIX, as far as imposition of penalty is concerned, suitable action would be taken and communicated to the audit.

The reply of the Department regarding Section 63 of Uttarakhand VAT Act is not acceptable as the dealer was not holding the recognition certificate during the transaction period and accordingly the tax was leviable at full rate. The purchaser is not only liable to pay the tax of ₹ 8.62 lakh but also a penalty of ₹ 55.68 lakh as per the provisions given in Sections 63 and 58 of the Act.

The matter was reported to Government (February, 2014). The reply was awaited (December 2014).

## STAMP AND REGISTRATION DEPARTMENT

### 2.5 Short levy of Stamp duty and Registration fee

**Valuation of property was not done in accordance with the provision of Indian Stamp Act and as per applicable circle rates of the area which resulted in short levy of stamp duty amounting to ₹ 2.93 lakh and registration fee of ₹ 0.60 lakh.**

Provision of Section-5<sup>14</sup> of the Indian Stamp Act, 1899 stipulates that any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act. Further, the instructions contained in the rate list/circle rates issued

<sup>10</sup> Copernicus India, A-4, Industrial Area Selaqui, Dehradun.

<sup>11</sup> Brazing Rod, Service Valve and Raw material.

<sup>12</sup> E-Appliances A-4 Industrial Area Selaqui, Dehradun.

<sup>13</sup> Penalty @40 per cent on Amount of Purchased goods without tax= ₹ 1,39,18,971x40/100=₹ 55.68 lakh.

<sup>14</sup> Read with notes / example (IX) given below the rule.

by the District Collector, Udham Singh Nagar (effective from 1<sup>st</sup> April, 2012) provide that the sale of agriculture land above 50 Square-metre (sqm.) but less than 1,000 sqm. would be treated as sale of residential land and specified per sqm. rate of residential property of the area concerned shall be applied for valuation of the property.

Scrutiny of records of the Sub-Registrar, Sitarganj showed (June 2013) that 9.484 hectares of agricultural land was sold by several joint and distinct owners of the property through four instruments executed (April 2012) for total registration fee of ₹40,000 @ ₹10,000 each.

Audit scrutiny (June 2013) showed that the applicable<sup>15</sup> stamp duty and registration fee on these instruments were charged as transfer of joint agricultural lands measuring above 1,000 sqm. whereas each registered instrument also contains the sale of some individual properties measuring area<sup>16</sup> below 1,000 sqm. (together with some part of the sale as joint properties) and the stamp duty and registration fee should have to be charged at residential rates instead of rates applicable for agricultural land. This resulted in short levy of stamp duty and registration fee amounting to ₹ 2.93 lakh and ₹ 0.60 lakh respectively.

On this being pointed out, the Sub-Registrar, Sitarganj while accepting the facts replied (April 2014) that the short registration fees ₹ 0.60 lakh has been deposited (September 2013) by the concerned parties and the matter of stamp duty has also been referred (August 2013) to the District Collector for recovery.

The matter was referred to the Government (March 2014); reply is awaited (December 2014).

## TRANSPORT DEPARTMENT

### 2.6 Performance Audit on Levy and Collection of Motor Vehicle Taxes

#### Highlights:

➤ *State Urban Transport Fund was not established even after recovery of ₹4.09 crore from vehicle owners as green cess during the year 2013-14.*

*[Paragraph 2.6.7.1(ii)]*

➤ *Trade tax worth ₹43.88 lakh and penalty to the tune of ₹16.27 lakh was not realised in case of 1,14,225 vehicles sold by 136 dealers during the years 2012, 2013 and 2014.*

*[Paragraph 2.6.7.2(i)]*

➤ *Non-renewal of permits in 379 cases resulted in non-realisation of renewal fees to the tune of ₹13.96 lakh.*

*[Paragraph 2.6.7.3(ii)]*

➤ *Penalty of ₹1.13 crore was not levied against concessionaire for delays in providing High Security Registration Plates.*

*[Paragraph 2.6.8.1]*

<sup>15</sup> Circle rate for the agricultural land of the area was ₹ 21 lakh per hectare whereas the rates for residential land was ₹ 2,000 per sqm.

<sup>16</sup> Deed no. 1851/2012 (Khata no. 80, Khasra no.556): **Area = 695 sqm.**  
Deed no. 1852/2012 (Khata no. 80, Khasra no. 556): **Area = 695 sqm.**  
Deed no. 1855/2012 (Khata no. 21, Khasra no. 252/2M): **Area = 950 sqm.**  
Deed no. 1858/2012 (Khata no. 21, Khasra no. 252/2M): **Area = 950 sqm.**

### 2.6.1 Introduction

Transport Department regulates vehicles plying in the State and is responsible for registration of new vehicles, grant of permits to transport vehicles, issue of certificates of fitness, facilitating transfer of ownership of vehicles, issuing driving and conductors' licences etc. These services are offered through National Informatics Centre (NIC) designed software viz. VAHAN for registration of vehicles and SARATHI for licences of drivers and conductors. The Department levy's and collect's taxes and fees for facilitating these services.

### 2.6.2 Organisational set-up

The Department is headed by a Principal Secretary at Government level who also acts as Transport Commissioner. He is assisted by one Additional Transport Commissioner, three Deputy Transport Commissioners and one Assistant Transport Commissioner at headquarters. Four Regional Transport Officers (RTOs), two in each Garhwal and Kumaon divisions, are responsible for routine administrative functioning of the Department with the help of 12 Assistant Regional Transport Officers (ARTOs). Besides, there are 14 check posts headed by Transport Tax Officers.

### 2.6.3 Audit objectives

The objectives of the performance audit were to assess whether:

- budget estimates were realistic;
- taxes, additional taxes, fees, etc. were levied and collected as per provisions of the acts and rules made thereunder;
- scheme for affixing High Security Registration Plates on all vehicles had been implemented successfully; and
- internal controls in the Department were effective.

### 2.6.4 Scope and methodology of Audit

The performance audit was conducted during April 2014 to August 2014 through test-check of the records of office of the Transport Commissioner, all the four<sup>17</sup> RTOs, six<sup>18</sup> out of 12 ARTOs and five<sup>19</sup> out of 14 check posts for the period from 2009-10 to 2013-14. Offices of ARTOs and check posts have been selected for audit using probability proportional to size with replacement (PPSWR) method.

The audit objectives, scope and methodology were discussed in an entry conference held on 09 April 2014 with Additional Transport Commissioner and other officers of the Department. Draft Report was sent (September 2014) to the Government for their reply/response. Input obtained from these officers was taken into consideration while auditing records of field offices. An exit conference was also held on 12 November 2014 with the Deputy Secretary<sup>20</sup>, Department of Transport, Government of Uttarakhand to discuss the audit findings. The response of the Department has been incorporated at appropriate places.

<sup>17</sup> RTOs: Dehradun, Pauri, Haldwani and Almora.

<sup>18</sup> ARTOs: Rudraprayag, Haridwar, Kotdwar, Tanakpur, Udham Singh Nagar and Rishikesh.

<sup>19</sup> Check Posts: Narsan, Bhagwanpur, Chidiyapur, Asharodi and Rudrapur.

<sup>20</sup> Countersigned by the Additional Secretary, Transport Department.

## **2.6.5 Audit Criteria**

Audit criteria for the performance audit had been derived from the following sources:

- Central Motor Vehicle (CMV) Act, 1988;
- Central Motor Vehicle (CMV) Rules, 1989;
- Uttarakhand Motor Vehicle Taxation Reforms (UMVTR) Act, 2003;
- Uttarakhand Motor Vehicle Taxation Reforms (UMVTR) Rules, 2003; and
- Departmental notifications, orders, circulars etc.

## **Audit findings**

### **2.6.6 Trends of Revenue**

Position of revenue collected by the Department during last five years is depicted in **Table 2.6.1**.

**Table 2.6.1** (*₹ in crore*)

<b>Year</b>	<b>Budget Estimates</b>	<b>Actual Receipts</b>	<b>Percentage of Variation</b>
<b>2009-10</b>	203.00	182.16	(-) 10.27
<b>2010-11</b>	225.30	223.26	(-) 0.90
<b>2011-12</b>	249.53	329.63	(+) 32.10
<b>2012-13</b>	275.00	298.17	(+) 8.42
<b>2013-14</b>	320.00	362.93	(+) 13.42

*Sources : Finance Accounts of the Government*

It may be seen from the table that Actual Receipts (ARs) of the Department have witnessed an increasing trend during 2009-10 to 2013-14, excluding 2012-13 when it fell 9.54 *per cent* from AR of the previous year. This fall can be attributed to the fact that AR of 2011-12 unexpectedly increased due to deposit of ₹ 80.11 crore by Uttarakhand Transport Corporation as arrears of additional tax. Further, rationalisation of tax structure in November 2012 resulted in significant increase in actual receipts of the Department over the budget estimates.

### **2.6.7 Levy and Collection of Motor Vehicles Taxes**

The assessment and levy of taxes, additional taxes, fees and imposition of penalty on motor vehicles, plying in Uttarakhand, is regulated by the provisions of the Uttarakhand Motor Vehicle Taxation Reforms (UMVTR) Act, 2003 and Uttarakhand Motor Vehicle Taxation Reforms (UMVTR) Rules, 2003. RTOs, ARTOs or Passenger Tax Officers act as taxation officer within the local limits of their respective region or sub-region, as the case may be. Following deficiencies were noticed in levy and collection of taxes and fees during audit.

#### **2.6.7.1 Levy of taxes**

##### **(i) Non-levy of penalty on delayed registrations**

Rule 47(1) of the CMV Rules, 1989 stipulates that application for Registration of motor vehicle shall be submitted to the Registering Authority within seven days from the date of taking delivery of the vehicle failing which, the owner shall be liable to be charged a penalty of five *per cent* per month of due tax as per Rule 24 (1) of UMVTR Rules, 2003.

Test-check of the records of two RTOs<sup>21</sup> and four ARTOs<sup>22</sup> showed that the Department failed to levy the penalty amounting to ₹ 0.52 lakh in 12 cases during 2012-13 to 2013-14. Further in nine cases, the penalty amounting to ₹ 1.17 lakh was short levied due to calculating onetime tax for registration at ex-showroom price minus discounts instead of actual ex-showroom price.

During exit conference (November 2014), the Department stated that penalty would be realized.

**(ii) Non-levy of Green Cess and non-establishment of State Urban Transport Fund**

With a view to garner funds for the purpose of pollution control and improvements in urban transport sector, the State Government notified (November 2012) collection of green cess under Section 4(5) of UMVTR Act, 2003. The cess was to be collected at the time of registration of vehicles and thereafter, the cess collected was to be credited to State Urban Transport Fund, which was to be established under sub-section 8 A of the Act *ibid*.

Test-check of the records of three RTOs and five ARTOs showed that 260 vehicles were due for re-registration during the period 2013-14 and no notices were issued by the department in this regard which resulted in non-levy of green cess amounting to ₹ 1.31 lakh.

It was further noticed that a total of ₹ 4.09 crore had been collected in the name of green cess in the State by March 2014 but neither State Urban Transport Fund was established nor any amount was used for the specified purposes. Thus, the purpose of collecting green cess was not fulfilled.

During exit conference (November 2014), the Department stated that notices would be issued for realisation of green cess and assured that necessary action was being taken for establishment of State Urban Transport Fund.

**(iii) Short levy of one-time tax**

Section 4(1) of UMVTR Act, 2003 (as amended on 8 Nov 2012) stipulates that no motor vehicle shall be used in any public place in Uttarakhand unless a one-time tax has been paid at the rates prescribed by the Government. The Government has clarified (April 2013) that one time tax is leviable at ex-showroom price before discount.

Test-check of the records of three RTOs<sup>23</sup> and all the six selected ARTOs showed that one-time tax was levied at discounted price in 56 cases against the ex-showroom price during 2012-13 to 2013-14. This resulted in short-levy of one-time tax of ₹ 0.84 lakh<sup>24</sup>.

<sup>21</sup> RTO Haldwani: 2 cases for non-levy of ₹ 26,052 and Dehradun: 2 cases for short levy of ₹ 57,146.

<sup>22</sup> ARTO Haridwar: 5 cases for non-levy of ₹ 23,328 and 1 case for short-levy of ₹ 1,420, Kotdwar: one case for non-levy of ₹ 1,012, Rishikesh: six cases for short-levy of ₹ 58,815 and Tanakpur: four cases of non-levy of ₹ 1,876.

<sup>23</sup> Pauri, Almora and Haldwani.

<sup>24</sup> RTO Pauri: ₹ 25,506 against 9 cases, RTO Haldwani: ₹ 581 against 2 cases, RTO Almora: ₹ 10,357 against 11 cases, ARTO Kotdwar: ₹ 12,172 against 14 cases, ARTO Tanakpur: ₹ 8,174 against 8 cases, ARTO Rudrapur: ₹ 10,561 against 6 cases, ARTO Haridwar: ₹ 3,073 against 1 case, ARTO Rudraprayag: ₹ 3,240 against 4 cases, ARTO Rishikesh: ₹ 10,524 against 1 case.

During exit conference (November 2014), the Department accepted audit observation and assured that balance tax would be recovered.

**(iv) Short levy of taxes due to application of incorrect rates**

Tax rates for motor vehicles were revised in Uttarakhand with effect from 29 November 2012. However, test-check of records of all the selected RTOs and ARTOs, excluding ARTO Rudraprayag, showed that tax was short-levied to the tune of ₹ 3.57 lakh<sup>25</sup> on 38 vehicles owing to application of old rates, incorrect application of rates and inadmissible rebate on revised rates of tax.

During exit conference (November 2014), the Department stated that remaining tax would be realised.

**2.6.7.2 Collection of taxes**

**(i) Non-realisation of trade tax**

Section 4(4) of UMVTR Act 2003 provides that a trade tax at such rate as may be specified by the State Government by notification in Gazette shall be levied on motor vehicles kept in possession of a dealer for the purpose of sale. Accordingly, the Government has fixed the same as ₹ 50 on sale of each two-wheeler and light motor vehicle and ₹ 100 on sale of each medium and heavy motor vehicle. Further, penalty @ 5 per cent per month of tax due shall be leviable as per provisions of Rule 24 of UMVTR Rule 2003, as amended with effect from 29 November 2012.

Test-check of the records of three<sup>26</sup> RTOs and four<sup>27</sup> ARTOs showed that the Department had failed to realise ₹ 43.88 lakh as trade tax in case of 1,14,225 vehicles sold by 136 dealers during the calendar years 2012-2014, besides penalty of ₹ 16.27 lakh was also leviable.

During exit conference (November 2014), the Department stated that Trade Tax would be realised.

**(ii) Non-realisation of tax from transport vehicles**

Section 4(2) of UMVTR Act 2003, as amended with effect from 8 November 2012, stipulates tax for every transport vehicle plying in Uttarakhand at the rate specified by the Government. Failure to pay specified taxes within stipulated period shall attract maximum penalty of 25 per cent (hundred per cent from 8 November 2012) of the due amount under Section 9(3) of the act *ibid*.

Test-check of the records of all the four RTOs and five<sup>28</sup> out of six selected ARTOs showed that tax and additional tax of ₹ 80.12 lakh for the period October 2007 to April 2014 due in case of

---

<sup>25</sup> RTO Dehradun: ₹ 1,37,627 against 12 cases, RTO Pauri: ₹ 47,348 against 4 cases, RTO Haldwani: ₹ 597 against 1 case, RTO Almora: ₹ 16,207 against 2 cases, ARTO Kotdwar: ₹ 32,275 against 4 cases, ARTO Tanakpur: ₹ 7,821 against 1 case, ARTO Rudrapur: ₹ 893 against 1 case, ARTO Haridwar: ₹ 38,809 against 3 cases, ARTO Rishikesh: ₹ 75,842 against 10 cases.

<sup>26</sup> Pauri, Haldwani and Dehradun.

<sup>27</sup> Rudraprayag, Kotdwar, Udham Singh Nagar and Rishikesh.

<sup>28</sup> Rudraprayag, Haridwar, Tanakpur, Udham Singh Nagar and Rishikesh.



562 motor cabs/maxi cabs/goods vehicles was not paid. No efforts were found to have been made by the Department to realise these arrears.

During exit conference (November 2014), the Department stated that tax and penalty would be realised.

**(iii) Non-realisation of tax due to irregular surrender of motor vehicles**

Rule 22(4) of the UMVTR Rule 2003, as amended on 29 November 2012, stipulates that the taxation officer shall not accept the non-use of vehicle for more than three calendar months in a calendar year. However, upon the recommendations of taxation officer, the RTO concerned may allow the non-use of vehicles for more than three calendar months, if vehicle owner applies for the same along with prescribed fee, failing to which surrender shall deemed to have been withdrawn and the vehicle owner shall be liable to pay tax.

Test-check of records of four RTOs and six ARTOs during April 2014 to August 2014 showed that surrender of 170 vehicles was accepted between February 2011 and March 2013. Vehicle owners did not apply for extension of period of non-use of vehicles along with prescribed fees after expiry of their permissions of non-use. This made them liable for payment of taxes, as stipulated in the aforementioned Rule. The Department failed to initiate any action for realisation of tax of ₹ 37.64 lakh from these owners for the period of November 2011 to March 2014.

During exit conference (November 2014), the Department stated that matter would be looked into.

**(iv) Non-realisation of tax due to vehicle owners being untraceable**

Rule 18 of the UMVTR Rules, 2003 stipulates that if tax due against vehicle owner is not deposited within time allowed, a recovery letter (RC) may be issued to him through District Magistrate (DM) for realization of the same.

Test-check<sup>29</sup> of the records of two RTOs and three ARTOs showed that 14 RCs involving tax amount of ₹ 2.54 lakh for the period 2009-10 to 2012-13 were sent to respective DMs but returned by them without realization of tax due with remarks that vehicle owners were not residing at the address mentioned in RCs, had no movable or immovable property, were not traceable; hence recovery was not possible.

Thus, failure to take prompt and timely action against the vehicle owners resulted in non-realization of tax amounting to ₹ 2.54 lakh.

On this being pointed out, the Department during exit conference (November 2014) stated that guidelines from the government would be obtained to write off the tax demand.

**2.6.7.3 Realisation of fees**

Under Section 200 of CMV Act, 1988 the officers authorised by State Government may compound penal action for certain offences punishable under the Act. Compounding fees for various offences have been fixed by the Government vide notification No. 153/IX/108/2009

<sup>29</sup> RTO Pauri and Almora and ARTO Haridwar, Tanakpur and Udham Singh Nagar.

dated 15 July 2009. No motor vehicle can be used as a transport vehicle unless a Regional or State Transport Authority grants a permit in this regard. Such permit, other than a temporary or special permit, shall be effective from the date of issuance or renewal thereof for a period of five years and can be got renewed after payment of prescribed fees.

Rule 33 of CMV Rules, 1989 provides that a motor vehicle in the possession of a dealer shall be exempt from the necessity of registration subject to the condition that the dealer obtains a trade certificate from the registering authority having jurisdiction in the area in which the dealer has his place of business. The trade certificate is valid for 12 months and can be renewed further. The dealer has to pay requisite fee of ₹ 50 in case of motor cycles and ₹ 200 in other cases, under Rule 81.

Rule 62 of CMV Rules 1989 stipulates that 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 on payment of the prescribed fee.

Audit noticed (between April 2014 and August 2014) that the department short realized compounding fee, renewal fee of permits, renewal fee of trade certificates, fitness fee amounting to ₹ 21.09 lakh as per details given in **Table 2.6.2:**

**Table 2.6.2**

S.No.	Name of RTO/ARTO	Period	Short realisation of fee	Nature of irregularities
1.	Four RTOs <sup>30</sup> and five ARTOs <sup>31</sup>	October 2012 to March 2014	₹1.24 lakh	Offences viz. overloading of passengers, lack of second driver on national permit vehicles and lack of driving license etc. in respect of 38 vehicles were compounded by collecting compounding fees of ₹ 0.59 lakh as against ₹ 1.83 lakh at prescribed rates.
2.	Transport Commissioner and three <sup>32</sup> RTOs	2009-2014	₹ 13.96 lakh	Permits of 379 vehicles expired during the years 2009 to 2014 were liable to pay fee for renewal of the same but department failed to realise renewal fee till date. Besides, penalty under CMV Act 1988 was also leviable against these vehicle owners.
3.	Two RTOs and four ARTOs	2009-2014	₹ 2.46 lakh	136 dealers did not get their trade certificates renewed. This resulted in non-levy of requisite fees from these dealers. Penalty was also leviable against these dealers.
4.	Two RTOs <sup>33</sup> and six ARTOs	2009-2014	₹ 3.43 lakh	Fitness certificates of 892 transport vehicles had got expired between April 2009 and March 2014. Vehicle owners were liable to pay fitness fee but the Department failed to realize the same. Besides, penalty was also leviable against these vehicle owners under CMV Act 1988.
	<b>Total</b>		<b>₹ 21.09 lakh</b>	

On these being pointed out, the Department during exit conference (November 2014) stated that compounding fee, fitness fee, renewal fee of permits and trade certificate renewal fee would be realized.

<sup>30</sup> RTO: Pauri, Haldwani, Almora and Dehradun.

<sup>31</sup> ARTO: Rudraprayag, Haridwar, Kotdwar, Tanakpur and Rishikesh.

<sup>32</sup> Dehradun, Haldwani and Almora.

<sup>33</sup> RTO Haldwani and Almora.

## **2.6.8 Implementation of High Security Registration Plate Scheme**

The scheme for affixing High Security Registration Plates (HSRPs) on motor vehicles was implemented in the State in February 2012 with an objective to implement Rule 50 of the CMV Rules, 1989 regarding affixing of High Security Registration Plates and orders issued by Central Government to ensure uniformity in size, colour and specifications of the registration plates in all types of vehicles being registered/already registered. Link Utsav HSRP (Pvt.) Limited was selected through tendering process and an agreement was made (December 2011) with it for manufacturing, supply and affixing of HSRPs on 'Build, Own and Operate' basis. Following deficiencies were noticed in implementation of the scheme.

### **2.6.8.1 Delay in supply of HSRPs**

Clause 4.6 of the HSRP agreement stipulates that in case the concessionaire does not supply the minimum number of plates as per clause 4.5.1(1) within seven days from the receipt of payment, the concessionaire shall be liable to pay penalty at the rate of ₹ 100 per day per plate subject to maximum 50 *per cent* of HSRP to be affixed during the month in which the default in supply of HSRP has occurred.

As per information provided by RTO, Almora and ARTO, Tanakpur and Rudrapur, a total of 2,961 HSRPs were affixed with a delay ranging from one day to 130 days in the period from 28 January 2014 to 6 June 2014. The concessionaire was liable to pay penalty of ₹ 1.13 crore for this delay but, the Department failed to levy the penalty against the concessionaire.

On this being pointed out during exit conference (November 2014), the Department stated that notice has been issued for realisation of penalty.

### **2.6.8.2 Non-setup of programme monitoring mechanism / expert committee.**

Clause 5.3 of the HSRP agreement stipulates that the Transport Department, in consultation with the Government, shall set up a programme monitoring mechanism including an expert committee comprising of domain experts from Government and the Department to periodically monitor the project deliverables. If the committee finds the performance of the concessionaire as low or moderate, the Department would be directed to plan and implement corrective actions.

Audit found that the Department/Government had still not been able to set up such committee which could monitor the project deliverables periodically. At the same time, the concessionaire could not ensure quality of service as evident from instances of inordinate delay in manufacturing of HSRPs.

## **2.6.9 Internal control and monitoring**

An inbuilt internal control mechanism and strict adherence to codes provides reasonable assurance to the Department about compliance of applicable rules, achieving reliability of financial reporting, effectiveness and efficiencies in its operations.

Various deficiencies mentioned *supra* indicate that the internal control and monitoring in the Department was not strong enough to ensure full realization of various taxes and fees levied and collected by the Department. Lack of inspections from Transport Commissioner's office and absence of internal audit wing further weakened the internal control system.

### **Conclusion**

Various instances of non-levy and short levy of taxes, fees and penalties are indicative of deficient compliance of rules and inefficiency of operations of the Department. The Department was deprived of major portion of revenue due to non-realisation of trade tax from dealers of vehicles, tax from transport vehicle owners, and non-renewal of permits, trade certificates and fitness certificates by vehicle owners. State Urban Transport Fund was not established. There were delays in affixing HSRPs in motor vehicles.

### **Recommendations**

The Government/Department may consider:

- (i) Establishing a mechanism in the Department for detecting cases of non-levy and short levy of taxes, fees and penalties;
- (ii) Setting up of State Urban Transport Fund on priority and closely monitoring the affixing of HSRPs; and
- (iii) Strengthening internal control by setting up internal audit wing.

The above points were reported to the Government (September 2014), reply was awaited (December 2014).

## GEOLOGY AND MINING DEPARTMENT

### 2.7 Performance Audit on Receipts of Minor Minerals

#### Highlights

- *There was no control mechanism in the Department for receipt, issue and use of forms.*  
[Paragraph 2.7.8.1]
- *Non-detection of short payment of royalty and incorrect application of rates resulted in short realization of revenue amounting to ₹6.38 crore in 14 cases.*  
[Paragraphs 2.7.9.1 & 2.7.9.2]
- *Failure of the Department to identify the brick kilns, which had not obtained permit, resulted in loss of revenue amounting to ₹5.88 crore in 782 cases.*  
[Paragraph 2.7.9.3]
- *Delayed / non-registration of lease deeds resulted in non-levy of Stamp Duty of ₹4.08 crore in 14 cases.*  
[Paragraph 2.7.10.1]

#### 2.7.1 Introduction

Minerals are classified into two groups, namely (i) Major minerals and (ii) Minor minerals. Minor minerals have been defined under section 3 (e) of Mines and Minerals (Regulation and development) Act, 1957. The responsibility for the management of mineral resources is shared between the Central and the State Governments in terms of entry 54 of the Union list (List I) and entry 23 of the State list (List II) of the Seventh Schedule of the Constitution of India. Grant of mineral concession for major minerals are governed by the Rules and Regulations formulated by Central Government and Rules for grant of concession in respect of minor minerals are framed by the State Government as per powers delegated under Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957.

The State Government framed the Uttarakhand Minor Minerals (Concession) Rules, 2001(UMMCR) and Uttarakhand Mineral policy, 2001 which governs mining of minor minerals in the State. This has been amended from time to time.

#### 2.7.2 Management of mineral resources

Uttarakhand is endowed with varieties of major<sup>34</sup> and minor<sup>35</sup> minerals. There are three agencies in the State engaged in removal of minor minerals. Uttarakhand Van Vikas Nigam (UVVN) extracts minor minerals from forest land of whole State while Garhwal Mandal Vikas Nigam (GMVN) and Kumaun Mandal Vikas Nigam (KMVN) extract minor minerals from revenue (Government) land of Garhwal and Kumaun regions respectively. At the same time, private parties extract these minerals from privately owned land and also from such revenue land where the GMVN or KMVN have refused to work.

<sup>34</sup> Soap stone, magnisite, lime stone, dolomite and silica sand.

<sup>35</sup> Bolder, Bajri, Ordinary sand, Ordinary clay, River Bed Material (RBM) etc.

### **2.7.3 Organisational set-up**

The Department of Geology and Mining is responsible for the levy and collection of mineral receipts of the State. The Additional Chief Secretary, Industrial Development Department and Director, Geology and Mining Department are the key officials responsible for administration and implementation of the Mining Act, Rules and Policies. The Director is assisted by a Joint Director at Headquarters and Deputy Directors and Mining officers in the field. The mining offices are located at each District under the direct control of the District Collector.

### **2.7.4 Audit Objectives**

The Performance Audit was conducted to ascertain whether:

- Budget estimates were realistic;
- the provisions of various Acts, Rules and Policies made thereunder are adequate and are being enforced effectively;
- an effective system for computation, levy and realization of receipts; and
- an effective internal control mechanism existed.

### **2.7.5 Scope and methodology of audit**

The Performance Audit was conducted during the period from April 2014 to August 2014 through test-check of the records of Headquarters of the Department, five<sup>36</sup> out of 13 District Mining Offices, GMVN, KMVN, seven Divisional Forest Offices (DFO) for the period from 2009-10 to 2013-14. The selection was made by 'Probability Proportional to Size with Replacement (PPSWR)' method on the basis of total revenue collection for each unit and random sampling method has been used for selection of the units. An entry conference was held (30 May 2014) with the Additional Secretary, Geology and Mining Department, Government of Uttarakhand, wherein the audit objectives, scope and methodology of audit was discussed. An exit conference was held with Additional Chief Secretary, Industrial Development Department (20 November 2014). The reply of the Government has not been received, however, the responses of the Government received during the Exit Conference have been incorporated in the relevant paragraphs of this report.

### **2.7.6 Audit Criteria**

The audit criteria are derived from the following sources:

- The Mines and Minerals (Development and Regulation) Act, 1957
- The Mining Concession Rules, 1960.
- Uttarakhand Minor Minerals (Concession) Rules, 2001
- Uttarakhand Mineral Policy, 2001,
- Uttarakhand Mineral ( Prohibition of illegal mining, transportation and storage) Rules, 2005
- Stone Crusher , Screening Plant, Palvrisor Permit Policy, 2011; and
- Guidelines, amendments, Circulars, Orders issued from time to time by the State Government.

---

<sup>36</sup> Dehradun, Haridwar, Pauri, U.S.Nagar and Nainital (at Haldwani).

## 2.7.7 Financial Position

### 2.7.7.1 Revenue Contribution of Mining Sector

Receipts from mines and minerals mainly consist of royalty which is levied on the basis of the quantity of minerals removed. Other receipts include license fees, prospecting charges, demarcation and survey charges, penalties and interest for delayed/belated payments of dues *etc.*

The details of Budget estimates, revenue realised under the head of Account “0853 Non-ferrous Mining and Metallurgical Industries”, for the years 2009-10 to 2013-14 are depicted in **Table 2.7.1**.

**Table 2.7.1** (₹ in crore)

Year	BEs	ARs	Variation in AR with BE	Percentage of variation	Variation in Revenue over previous year	Percentage of Revenue increase(+)/ decrease(-) over previous year
2009-10	90.00	74.08	(-) 15.92	(-) 17.69	12.35	(+) 20*
2010-11	99.01	93.62	(-) 5.39	(-) 5.44	19.54	(+) 26
2011-12	110.01	112.58	(+)2.57	(+)2.34	18.96	(+) 20
2012-13	131.00	109.85	(-) 21.15	(-) 16.15	(-) 2.73	(-) 2
2013-14	151.00	249.99	(+) 98.99	(+) 65.56	140.14	(+)128

Source: State Government Budget.

\* The revenue collection for 2008-09= ₹ 61.73 crore; BE: Budget Estimates; ARs: Actual Receipts.

It is evident from the above table that:

- there was a shortfall between the budget estimates and actual receipts ranging from 5.44 per cent to 17.69 per cent except in the years 2011-12 and 2013-14 where the receipts exceeded the budget estimates;
- there was an increasing trend in revenue collection ranging from 20 per cent to 128 per cent for the period 2009-10 to 2013-14 except in 2012-13, where revenue collection decreased by 2.73 per cent over the previous year. The significant increase in the revenue for the year 2013-14 was due to revision of royalty rates, penalties imposed on illegal mining and increase in mineable area; and
- the percentage of receipts from mining sector with respect to non- tax revenue of the State showed an increasing trend for the year 2009-10, 2010-11 and 2013-14. However there is a considerable decline in the years 2011-12 and 2012-13. The reasons for variations were not provided by the Department.

No records were found to be maintained by the Headquarter of the Department/ Directorate relating to:

- the details of total revenue realised such as royalty, fee, penalty *etc.*;
- year wise break up / total quantity of minor minerals removed for the last five years; and
- total area leased out for the last five years.

In the absence of these records, audit could not analyse the total area/ total quantity removed *vis-à-vis* royalty realised.

During Exit Conference the Additional Chief Secretary (ACS) directed the Joint Director, Mining, that the records of year wise breakup, as pointed out by audit, of the revenue, quantity of the mineral removed and the total area leased out may be maintained from 1 April 2014.

## **2.7.8 System deficiencies**

### **2.7.8.1 Printing, Issue and Use of Forms**

The Department uses a variety of forms for its functioning. The forms, (Form MM 11<sup>37</sup> and Form J<sup>38</sup>) are printed by each District Mining Office from Government Press, Roorkee separately but the payment of cost of printing is made by the Headquarter office of the Geology and Mining Department. The District Mining Offices located at each District are responsible for receipt, issue and use of these forms. These forms are obtainable by the lessee on payment of a fee. There is no control of the Headquarters of the Geology and Mining Department on printing, issue and use of these forms in the absence of an effective Management Information System (MIS). During test-check of the records relating to forms in the sampled districts, audit noticed that:

- out of 250 booklets test-checked, in 15 booklets there were more than three copies having same serial number, in 20 booklets some serial numbers were missing and in 12 booklets some forms did not contain any serial number;
- the Department has not evolved a system of issue and control of Form 11 as in checking of allowable limit of quantity to be removed. Form 11 are issued by receiving a payment but without linking it to any of the available records of the lessee resulting in issuance of much higher number when compared to requirement which led to removal of excess quantity of minor minerals than the approved quantity as mentioned in *paragraph 2.7.11.1*;
- in DMO, Haridwar, 37 lessees had not returned the unused Form 11 even after the expiry of their lease. The unit had not initiated any action for return of unused Form 11 by the lease holders;
- though the printing cost of forms was uniform for all the districts, but the amount of fee charged varies from one district to another ranging from ₹ 100 to ₹ 500 except in Nainital district; and
- transit passes (MM-11 and Form J) authorize the lease holder to transport minor minerals. They contain vital information regarding minor mineral, being transported. Their issue and use impact upon revenue realisation. Thus, maintenance of stock register by the DMOs enable in watching receipt, issue and use of these forms. Test-check of the records in the sampled DMOs showed the following discrepancies:
  - in three<sup>39</sup> DMOs out of five test-checked DMOs, stock register was not maintained;
  - in two DMOs viz. U.S Nagar and Haldwani, the stock register was maintained from the years 2012-13 and 2013-14 respectively ; and
  - no physical verification of stock was conducted in any of the sampled DMOs. In the absence of stock register and physical verification, audit could not verify and ensure the correctness of receipts, issues and balances of transit passes. The chance as of loss/ misuse of forms could not be ruled out.

---

<sup>37</sup> MM 11, also called as rawanna, is a transit pass that authorises to transport the minor mineral. The details viz; quantity of mineral, date and time, vehicle number, capacity of the vehicle etc are recorded in this form.

<sup>38</sup> Form J is a document used for transportation of minor mineral from stores.

<sup>39</sup> Pauri, Haridwar and Dehradun.



During Exit Conference, the ACS while agreeing with the audit observations stated that steps were being taken for online issuance of forms. Once this was in place, all the system deficiencies pointed out by audit would be resolved. Regarding return of unused Form 11 on expiry of the lease, the ACS directed the Dy. Director Mining concerned to recover these forms from the lessees. Further, ACS directed the Joint Director, Mining to note the observations of audit relating to control mechanism of forms and preparation of stock register for taking corrective measures. He also agreed that the fee should be charged at uniform rate in all the districts and the same would be ensured by 1<sup>st</sup> April 2015.

#### **2.7.8.2 Check posts**

Check posts are vital enforcement points where vehicles are checked for possession of valid permit and permissible load. Further, as per the provisions of the Uttarakhand Mineral Policy, 2011, in order to curb illegal mining and transportation of minor mineral, check posts with modern surveillance were to be established at the mining sites and other such sensitive areas. Audit observed that no check post had been established in the State so far.

During Exit Conference, the ACS stated that though the check posts had not been established, however, installation of electronic surveillance system at all the mining sites along with cameras at the exit points was under active consideration of the Department.

#### **2.7.8.3 Non formation of Khanij Vikas Nidhi**

As per the provisions of the Uttarakhand Mineral Policy, 2011 a fund for mineral development and research was to be established. A provision of ₹ one crore as seed capital was also to be made for the year 2012-13. Further, development fee, as determined, was also to be realised from the lease holders for development of the area affected by mining. Audit noticed that neither the provision of seed capital was made nor such fund was created till the date of audit. Further, development fee was neither determined nor realised from the lessees.

During Exit Conference, the Department stated that formation of Khanij Vikas Nidhi is under process.

#### **2.7.8.4 Non registration of vehicles engaged in transportation of minor mineral**

As per the provisions of the Uttarakhand Minor Mineral Policy, 2011, in order to curb illegal mining, vehicles engaged in the transportation of minor minerals are to be registered in the office of the Director, Geology and Mining after payment of such fee as may be determined.

Audit noticed that no vehicle, engaged in transportation of minor minerals, was registered which not only defeated the intended objective but also resulted in loss of revenue in the form of fee to be realized from registration of vehicles for the purpose.

During Exit Conference, the ACS while agreeing with the audit observation stated that Radio Frequency Identification system would be installed and all the vehicles engaged in transportation of minor minerals will be given codes.

#### **2.7.8.5 Submission of returns**

Rule 73 of UMMCR, 2001 stipulates that the holder of the lease shall submit quarterly return in form MM 12, failing which a penalty of ₹ 400 shall be imposed. Scrutiny of records relating to

submission of returns in three<sup>40</sup> DMOs showed that the lessees had either not submitted the returns or had submitted the returns late. However, no action was initiated by the DMOs to ensure compliance or to levy penalty for omission. Further, audit noticed that no record relating to submission of returns was prescribed or maintained by the DMOs. In the absence of such returns, there was no mechanism available with the Department for monitoring periodical removal.

During Exit Conference, the Department stated that the audit observation had been noted and the ACS directed to take steps to watch the timely submission of returns.

## **2.7.9 Compliance deficiencies**

### **2.7.9.1 Short realisation of Royalty**

Rule 21 read with Rule 22 of the UMMCR, 2001 stipulates that the holder of a mining lease shall pay royalty/ dead rent, whichever is higher and not both, in respect of any minor minerals removed by him from the leased area as per the rates specified in Schedule I and II of the Act. As per notification<sup>41</sup> dated 5 October 2009, the rates of royalty in respect of RBM (in riverbed) was revised to ₹ 45 per cum and (outside riverbed) to ₹ 40 per cum. These rates were further revised to ₹ 90 per cum and ₹ 80 per cum as per Notification<sup>42</sup> dated 18 January 2013. The yearly rate of dead rent was also revised to ₹ 20,000 per acre and further to ₹ 40,000 per acre respectively under these notifications.

- (i) Audit observed during scrutiny of the records of DMO, Haridwar, GMVN and KMVN (lease holders) for the period from 2009-10 to 2012-13, that the lessees removed a total quantity of 31.29 lakh cubic meter and 0.29 lakh cubic meter of minor minerals (RBM) respectively, for which royalty of ₹ 14.33 crore, was payable. However, audit noticed that the lessees had paid royalty of ₹ 12.81 crore only. Thus, failure of the Department in detecting lesser royalty paid by the lessees resulted in short realisation of revenue of ₹ 1.52 crore.

During Exit Conference, the ACS directed the Joint Director to examine the cases and take necessary action.

- (ii) On removal of minor minerals from forest area, UVVN is to pay certain charges such as transit fee, road maintenance fee etc, at prescribed rates, to the Forest Department. The charges are calculated on the basis of statement of total quantity of minor mineral removed submitted to the DFO concerned.

During scrutiny of the records of two<sup>43</sup> DFOs, and cross verification with the information provided by UVVN relating to mineral removed and royalty paid, audit found that the quantity on which the transit fee was collected by the DFOs was at variance with the quantity on which royalty was paid by the UVVN, for the year 2012-13 and 2013-14 as depicted in **Table 2.7.2**.

---

<sup>40</sup> Dehradun, Haridwar and Udham Singh Nagar,

<sup>41</sup> Notification No: 2390/VII-2-09/24 kha/2007 dated 5 October 2009.

<sup>42</sup> Notification No: 162/VII-II-13/24 kha/2007 dated 18 January 2013.

<sup>43</sup> Dehradun and Tarai East, Haldwani.

Table 2.7.2

Sl. No	Name of DMO	Year	Quantity on which Transit Fee collected by DFO (in cum.)	Quantity on which royalty paid by UVVN (in cum.)	Difference (in cum.)	Rate of royalty per cum. (in ₹)	Royalty payable (in ₹)	Royalty paid (in ₹)	Short payment of royalty (in ₹)
1	DMO Dehradun	2012-13	16,03,284.75 (9,20,584.23+ 6,82,700.52)	12,02,581.00 (9,20,584.23 +2,81,996.77)	4,00,703.75	90	10,28,69,337 (9,20,584.23x45 +6,82,700.52x90)	6,68,06,000 (9,20,584.23x45 +2,81,996.77x90)	3,60,63,337 (4,00,703.75x90)
2	DMO Nainital	2013-14	54,07,289.164	53,12,897.977	94,391.187	90	48,66,56,025	47,81,60,818	84,95,207
<b>Total</b>									<b>4,45,58,544</b>

From the above table, it is evident that the lessee understated the quantity of 4.01 lakh cubic metres in 2012-13 and 0.94 lakh cubic metres in 2013-14 of mineral for the purpose of payment of royalty. Lack of a system for periodic reconciliation of figures with the Forest Department resulted in short payment of royalty of ₹ 4.46 crore remaining undetected.

During Exit Conference, the ACS directed the Joint Director to examine the cases and take necessary action.

### 2.7.9.2 Application of incorrect rate of royalty on temporary permits

Audit observed during scrutiny of the records of two<sup>44</sup> DMOs relating to temporary permits issued in case of private lands for removal of minor minerals that in 14 out of 204 cases, less royalty was realized due to application of incorrect rate. Out of these 14 cases, in three cases royalty was realised at incorrect rate and in 11 cases the royalty was realised item wise though the lease holders removed only RBM (outside river bed). This resulted in short realization of royalty of ₹ 40.04 lakh.

During Exit Conference, the ACS directed the Joint Director to examine these cases and take necessary action.

### 2.7.9.3 Non-realisation of royalty for Brick Kiln

As per the orders of the Pr. Secretary vide letter no 2391/VII-2-09/24-B/2007 dated 5 October 2009, the list of brick kiln owners was to be obtained from the Department of Commercial Tax / Pollution Control Board/ Tehsil for comparison to identify the operational brick kilns along with their status (Number of *Paya*). Further, action was to be initiated for realization of royalty in respect of those brick kiln owners who did not obtain mining permit. The application fee as per rule 52 of UMMCR, 2001 was payable at the rate of ₹ 400.

On cross verification of the list with the records of DMOs Haridwar and U.S. Nagar, audit noticed that 782 out of 877 Brick Kiln owners had not paid royalty for the period 2009-10 to 2013-14. The Department had neither obtained the list as directed by the Pr. Secretary nor had initiated any action for realisation of royalty. The inaction of the Department resulted in non realization of revenue to the tune of ₹ 5.88 crore. Besides, a fee of ₹ 3.13 lakh and penalty was also leviable on the defaulting brick kiln owners.

<sup>44</sup> Dehradun and Udham Singh Nagar.

During Exit Conference, the ACS directed that the Director, Mining would enquire and issue RC for recovery of royalty for the defaulting brick kiln owners.

#### **2.7.9.4 Non-levy of Demarcation and Survey fee**

As per Rule 17 of the UMMR, 2001, whenever a lot is allotted for removal of minor minerals, the Director, Geology and Mining shall arrange for survey and demarcation of such lot at the rates prescribed from time to time. The survey and demarcation shall be made only after the authorised person in this regard, ensures that the payment of such fee, has been deposited in the Government Treasury.

During test-check of the records of the office of three<sup>45</sup> DMOs and GMVN for the period 2009-10 to 2013-14, it was noticed that GMVN and UVVN did not pay any fee for demarcation and survey of 15 and 17 lots respectively, allotted to them during the period from 2008-09 to 2013-14. The Department neither arranged for survey and demarcation of the said lots nor initiated any action for realization of the prescribed fee. This resulted in non-realisation of revenue of ₹ 37.05 lakh.

During Exit Conference, the ACS directed the Joint Director for enquiry and issue notices in these cases.

#### **2.7.9.5 Impending loss due to incorrect fixation of royalty**

As per office memorandum<sup>46</sup> dated 22 March 2013 issued by Pr. Secretary, Government of Uttarakhand, the removal of minor minerals is to be done by GMVN and KMVN for revenue land and UVVN for forest land and the royalty is to be paid in advance with an increase of twenty five percent every year. Further, Sl. No 35 (a) (ii) of Schedule-I-B-35 of the Indian Stamp Act, 1899, provides that where the lease period exceeds one year but less than five years, the stamp duty to be paid shall be calculated on a consideration amount equal to three times the amount of value of the average annual rent/ royalty.

During audit of two<sup>47</sup> DMOs, audit observed that six and four lots were allotted to GMVN and KMVN respectively, in the year 2013-14. Scrutiny showed that correspondingly, in one out of six lots and three out of four lots, royalty were fixed without an increase of 25 *per cent*. The inaction on the part of the Department has resulted in an impending loss of ₹ 24.31 crore and short realisation of stamp duty in respect of four lots allotted to KMVN as the consideration amount was not calculated on increased rates. This resulted in short realization of stamp duty of ₹ 26.94 lakh.

During Exit Conference, the ACS stated that the rates had been revised in January, 2013 and therefore the yearly hike of 25 *per cent* is not relevant. However Audit pointed out that as per OM dated 22 March 2013, (issued after revision of rates), the hike of 25 *per cent* was leviable

---

<sup>45</sup> Nainital (at Haldwani), Dehradun and Haridwar.

<sup>46</sup> 608/VII-1/2013/146-kha/2010 Dehradun. dated 22 March 2013.

<sup>47</sup> Dehradun and Udham Singh Nagar.

and it had been increased in five out of six cases while fixing the amount of royalty. The ACS directed the Joint Director to examine the cases.

### **2.7.10 Registration of lease deed**

Rule 14(3) and (4) of the UMMCR, 2001 provides that the lessee shall register the lease deed within a period of one month from the date of issue of the sanction order of removal of minor mineral from the leased area and the date of start of the lot shall be the date of registration of such lease deed. Section 17 of the Indian Registration Act, 1908, provides that any lease exceeding a period of one year shall be registered compulsorily. Further, S.No 35 (a) (ii) of Schedule-I-B-35 of the Indian Stamp Act, 1899, provides that where the lease period exceeds one year but less than five years, the stamp duty to be paid shall be calculated on a consideration amount equal to three times the amount of value of the average annual rent/ royalty.

#### **2.7.10.1 Delay in registration of lease deed**

During scrutiny of the records of KMVN relating to allotment of lots, Audit noticed that eight lots and six lots were allotted in October 2013 and January 2014 respectively. Contrary to the above provision, three lots were registered after a delay of two months, registration of one lot was delayed by three months and ten lots were not registered till the date of audit. (June, 2014) The installment for payment of royalty is to commence from the date of start of the lot. Delay and non-registration of lots resulted in loss of royalty amounting to ₹ 4.08<sup>48</sup> crore.

During Exit Conference, the ACS directed the Joint Director to examine the cases and initiate necessary action.

#### **2.7.10.2 Non-registration of Sub lease deed**

During test-check of the records of GMVN and KMVN, it was noticed that 13 and four lots respectively, were sub leased for more than one year by way of tendering in the year 2013-14 but these sub-lease deeds between lessee and the tenderer were not registered. Thus non-registering of sub lease deed resulted in non-levy of stamp duty of ₹ 2.24 crore and registration fee of ₹ 1.70 lakh.

During Exit Conference, the ACS stated that these lot holders could not cope up with the bids, they had quoted and had left the lots midway and therefore these lease deeds could not be registered. The reply is not tenable as the sub lease deed was to be registered within a period of one month from the date of issue of the sanction order. Delay in registration gave an opportunity to the tenderer to run away midway.

### **2.7.11 Penalty on unauthorized removal/transportation of minor mineral**

As per section 21 (1) read with section 4(1) and 4(1A) of the Mines and Minerals (Development and Regulation) Act, 1957, no person shall undertake any mining operation, transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this act and the rules made thereunder and terms and conditions defined in the mining lease granted and if so, the defaulter shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twenty five thousand rupees or both. This amount of penalty was amended under Uttarakhand Mineral policy, 2011, and a penalty of

<sup>48</sup> Three lots ₹ 1.62 crore, one lot ₹ 0.19 crore and 10 lots ₹ 2.27 crore.

Rupees twenty five thousand and value of material (five times royalty) is to be levied on illegal mining/ transportation. Further, as per the conditions laid down in Temporary permit (Form MM 10), the permit shall automatically get cancelled after removal of maximum quantity permissible or the time period prescribed, whichever is earlier.

#### **2.7.11.1 Unauthorised removal of minor mineral**

The sanction/ allotment letter issued to the lessee on allotment of a lot contains terms and conditions which are to be observed during removal of minor minerals. During audit of the sampled DMO's, audit noticed that regular surveys are neither prescribed nor conducted by the Department to ensure that these terms and conditions are not violated by the lessee. Lack of regular surveys and supervisions resulted in violation of conditions resulting into unauthorized removal of minor mineral as discussed below:

- (i) During test-check of mining lease case files in DMO U.S. Nagar audit noticed that eight out of 41 temporary permit holders removed a total quantity of 69,219.94 cubic metres of minor minerals against a permissible quantity of 47,300 cubic metres. Thus, a quantity of 21,919.94 cubic metres was removed over and above the permissible quantity.
- (ii) In one lot leased to KMVN for a period of three years, the permissible quantity to be removed was 15,090 cubic metres per year but the lessee removed 16,136 cubic metres of minor mineral in excess of the permissible quantity in three years. The DMO neither initiated any action against the lessees for removal of excess mineral nor took any action for recovery of the cost of excess mineral removed and penalty amounting to ₹ 1.65 crore.

On this being pointed out, DMOs stated that the royalty had been paid for excessive removal. The reply is not acceptable as the conditions laid down in the temporary permit clearly indicate that after removal of maximum permissible quantity or expiry of the prescribed period whichever is earlier, the temporary permit will automatically get cancelled. Therefore, the excessive quantity removed was unauthorised and would also attract penalty.

#### **2.7.11.2 Short levy of penalty on illegal mining**

During test-check of the records of two<sup>49</sup> DMOs it was noticed that 150 cases of illegal mining of minor mineral pertaining to the year 2012-13 and 2013-14 were detected by different authorities viz SDM, Joint Magistrate etc. In these cases, the penalty imposed was less than the prescribed amount in the policy. Thus, failure to impose the prescribed amount of penalty resulted in less imposition of penalty amounting to ₹ 19.38 lakh.

On this being pointed out, DMO Haridwar stated that in some cases less penalty was imposed as per the orders of the DM. However, penalty as per the policy shall be imposed in future.

During Exit Conference, the ACS replied that the penal provisions did not discriminate between the first time and subsequent offenders and that penal provisions on an incremental graded basis, were under consideration where in the amount of penalty would increase with increase in number of offences. (1<sup>st</sup>, 2<sup>nd</sup> and subsequent offences). The reply is not tenable as the prevailing penal provisions were to be imposed till the revision.

---

<sup>49</sup> Haridwar and Dehradun.

### 2.7.12 Non-Levy of interest on belated payment of royalty

Rule 58(2) of the UMMCR, 2001 provides that interest at the rate of 24 *per cent* per annum will be charged for the delay in payment of any rent, royalty, demarcation fee and any other dues to the State Government. This rate was amended and reduced to 18 *per cent* per annum vide notification<sup>50</sup> dated 23 September 2013 read with notification<sup>51</sup> dated 22 March 2013.

Audit observed during audit of records of DMO, U.S. Nagar that in ten cases, there was belated payment of royalty. The delay ranged between 36 and 315 days for which no interest was charged by the Department. This resulted into non realization of interest to the tune of ₹ 3.43 lakh.

During Exit Conference, the ACS directed the Joint Director to examine the cases and take necessary action.

### 2.7.13 Other Points of interest

- As per office memorandum<sup>52</sup> dated 23 September 2013, the permissible quantity to be removed from a lot shall be calculated on the basis of formula given in the memorandum. Audit noticed in DMO, Dehradun that in five cases the permissible quantity fixed was less than the quantity to be fixed as per formula.
- As per notification<sup>53</sup> dated 05 October 2009, the rate of royalty in case of ordinary clay is ₹ 5.56 per ton and ₹ 8.00 per cubic metre and for lime stone ₹ 55 per ton and ₹ 108 per cubic metre. On conversion from ton to cubic metre, the rate works out to ₹ 10.01 per cubic metre<sup>54</sup> for clay and ₹ 99 per cubic metre<sup>55</sup> for lime stone which was at variance with the rates notified. Thus, for the same quantity of mineral, the amount of royalty differs when calculated in ton and cubic metre.
- As per office memorandum<sup>56</sup> dated 22 March 2013, for the lease exceeding one year, the royalty by the corporations shall be paid in advance with a hike of twenty five percent every year but there is no provision for any hike in the case of private lots exceeding one year.
- In DMO Dehradun, it was noticed that in 24 cases, the store owners applied for renewal of permit in the year 2011-12. The requisite fee was also deposited by these owners and in five cases report of the Tehsildar recommending renewal was also found attached. Audit noticed that the renewal was still pending even after a lapse of two years.
- As per the provision of Stone crusher policy, 2011, the stone crusher owners are required to seek environmental clearance every year. In DMO, Haridwar audit observed that in the case of 10 stone crushers, renewal was done without obtaining environmental clearance certificate.
- UVVN realise the stamp duty at eight *per cent* instead of the applicable rate of two *per cent* from the customers and deposited the same in the head of account concerned. The amount of stamp duty which is to be paid at the start of the lot is being paid in instalments.

<sup>50</sup> No. 1917/VII-1/13 /Kha/2013.

<sup>51</sup> No. 608/VII-1/146-Kha/2010.

<sup>52</sup> No: 1917/VII-1/130-kha/ 2013 dated 23 September 2013.

<sup>53</sup> No: 2390/VII-2-09/24-kha/2007 dated 5 October 2009.

<sup>54</sup> ₹ 5.56 per ton X 1.8 (1.8 ton=1 cubic metre).

<sup>55</sup> ₹ 55 per ton X 1.8 (1.8 ton=1 cubic metre).

<sup>56</sup> No: 608/VII-1/146-kha/2010 Dehradun dated 22 March 2013.

#### **2.7.14 Internal Control**

An inbuilt internal control mechanism and strict adherence to rules and regulations provides reasonable assurance to the Department about effectiveness and efficiency in its operations.

Various deficiencies mentioned *supra* indicate that the internal control and monitoring in the Department was not strong enough to ensure full realization of royalty and penalties and checking unauthorized removal of minor minerals.

##### **2.7.14.1 Internal Audit**

Internal audit is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organization to ensure that the prescribed systems are functioning reasonably well. Audit observed that the Department did not have Internal Audit Wing.

The ACS while agreeing with the audit observation directed setting up of an internal audit wing for the Department under the stewardship of a secretary level officer and also directed that the internal audit shall be conducted every three months.

##### **2.7.14.2 Departmental manual**

Manual is an essential tool of quality management system as it provides guidance and instructions to complete tasks as per the policies and standards of the Department. Audit observed that Department had not prepared any manual. The possibility of the absence of a manual codifying the functions and procedures, having an adverse impact on the functioning of the Department and resulting into a number of system irregularities as discussed above.

During Exit Conference, the ACS stated that a robust MIS was the need of the hour rather than a Departmental manual and further stated that once online issue of Forms and RFID system was in place, the MIS would be strengthened. The reply is not tenable as the departmental manual provides guidance and instructions to complete tasks as per the policies and standards of the Department.

#### **Conclusion**

No records relating to details of quantity of minor minerals removed, and corresponding receipts realized were maintained by the Headquarters. The Department had no control mechanism available for monitoring receipt, issue and use of forms. Royalty and penalties were not levied or short levied in various instances. The Department lost significant amounts of revenue as a result of non-registration or delayed registration of lease deeds and unauthorised removal of minor minerals/illegal mining. Lack of co-ordination with the Department of Forest in ascertaining the correct amount of quantity removed and imposition of penalty cases of unauthorised removal of minerals from forest land resulted in revenue loss. The department had no internal audit wing. The departmental manual codifying the functions and procedures was also not prepared.

#### **Recommendations**

The Government/Department may consider:

- (i) issuing instructions for maintenance of stock registers, submission of periodical returns relating to receipt, issue and use of forms and periodic verification of stock; and
- (ii) strengthening internal control by preparing Departmental Manual and setting up of internal audit wing.

The above points were reported to the Government (September 2014); the reply is awaited (December 2014).