

CHAPTER IV

REVENUE RECEIPTS

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4.1 Trend of Revenue Receipts

4.1.1 The tax and non-tax revenue raised by the Government of the Union Territory of Puducherry and the grants-in-aid received from the Government of India during the year 2014-15 and the corresponding figures for the preceding four years are mentioned in **Table 4.1.1**.

Table 4.1.1: Trend of revenue receipts

(₹ in crore)

Sl. No.	Category	2010-11	2011-12	2012-13	2013-14	2014-15
I	Revenue raised by the Government					
	(a) Tax revenue	1,074.47	1,329.43	1,917.22	1,904.51	1,992.74
	(b) Non-tax revenue	742.78	153.31	118.15	1,192.59	1,300.36
	Total (I)	1,817.25	1,482.74	2,035.37	3,097.10	3,293.10
II	Receipts from the Government of India – Grants-in-aid	1,382.78	1,288.68	1,110.77	1,210.51	1,464.80
III	Total receipts of the Government (I + II)	3,200.03	2,771.42	3,146.14	4,307.61	4,757.90
IV	Percentage of I to III	57	54	65	72	69

(Source: Finance Accounts of the respective years)

During the year 2014-15, the revenue raised (₹ 3,293.10 crore) by the Union Territory Government was 69 *per cent* of the total revenue receipts (₹ 4,757.90 crore), as against 72 *per cent* in the preceding year. The balance (₹ 1,464.80 crore) 31 *per cent* of the receipts during 2014-15 were obtained from the Government of India as grants-in-aid and contributions.

4.1.2 The details of tax revenue raised during the period from 2010-11 to 2014-15 are given in the following table.

Table 4.1.2 : Details of Tax Revenue raised

(₹ in crore)

Sl. No.	Heads of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14
		Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actuals	
1	Taxes on Sales, Trade, etc.	680.78	595.00	1,481.83	750.15	1,395.61	1,287.10	1,505.00	1,256.71	1,380.00	1,313.13	(+) 4.49
2	State Excise	475.00	378.55	778.00	447.27	688.49	503.98	620.00	511.72	560.00	544.67	(+) 6.44
3	Stamp Duty and Registration fees	102.00	51.93	113.96	77.43	121.29	72.67	98.00	82.79	96.00	74.96	(-) 9.46
4	Taxes on vehicles	58.00	48.27	89.86	53.55	87.66	52.64	66.00	51.95	63.00	58.46	(+) 12.53
5	Land Revenue	1.15	0.62	1.42	0.80	1.35	0.55	0.80	1.14	0.80	1.30	(+) 14.04
6	Others	0.22	0.10	0.93	0.23	0.29	0.28	0.20	0.20	0.20	0.22	(+) 10.00
Total		1,317.15	1,074.47	2,466.00	1,329.43	2,294.69	1,917.22	2,290.00	1,904.51	2,100.00	1,992.74	

(Source : Finance Accounts of the respective years)

The increase in receipts (12.53 *per cent*) under ‘Taxes on Vehicles’ in 2014-15 over 2013-14 was mainly due to more collection under Indian Motor Vehicles Act and State Motor Vehicles Taxation Acts.

4.1.3 The details of non-tax revenue raised during the period from 2010-11 to 2014-15 are given in the following table.

Table 4.1.3 : Details of Non-tax revenue raised

(₹ in crore)

Sl. No.	Heads of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+) / decrease (-) in 2014-15 over 2013-14
		Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actuals	
1	Power	889.61	662.71	---	58.73	----	29.58	1,200.00	1,055.15	1,220.00	1,159.92	(+) 9.93
2	Interest receipts, Dividends and Profits	53.44	42.15	71.91	38.72	39.87	35.64	36.29	68.44	81.62	93.28	(+) 36.29
3	Medical and Public Health	7.49	10.77	10.04	8.46	16.43	13.94	14.50	9.46	10.97	9.15	(-) 3.28
4	Education, Sports, Art and Culture	0.89	0.61	1.19	0.84	0.30	0.73	0.26	0.91	1.00	0.99	(+) 8.79
5	Crop Husbandry	0.36	0.41	0.48	0.48	0.52	0.51	0.46	0.38	0.41	0.43	(+) 13.16
6	Other receipts	34.47	26.13	46.38	46.08	63.88	37.75	58.49	58.25	46.00	36.59	(-) 37.18
	Total	986.26	742.78	130.00	153.31	121.00	118.15	1,310.00	1,192.59	1,360.00	1,300.36	

(Source : Finance Accounts of the respective years)

The increase in receipts (36.29 *per cent*) under ‘Interest Receipts, Dividends and Profits’ in 2014-15 over 2013-14 was mainly due to receipt of more interest on Consolidated Sinking Fund Investment/Cash balance investment.

The receipts from other Departments decreased from ₹ 58.25 crore in 2013-14 to ₹ 36.59 crore in 2014-15. The decrease was mainly due to less collection of receipts from motor garages, less cargo landing at Karaikal Port, less receipt under mineral concession, fees, rent and royalties and release of share to local bodies for previous years, etc.

4.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 under the principal heads of revenue amounted to ₹ 782.52 crore, of which ₹ 161.58 crore was outstanding for more than five years, as detailed in **Table 4.2.**

Table 4.2 : Arrears of revenue

(₹ in crore)

Sl. No.	Departments/ Directorates	Total arrears	Arrears outstanding for more than five years	Remarks
(1)	(2)	(3)	(4)	(5)
1	Commercial Taxes	474.27	94.51	Arrears related to collection of tax under PGST/CST and VAT Acts and major portion was covered under court cases.
2	Electricity	238.87	50.90	Arrears were due to non-payment of electricity charges.
3	Excise	47.89	8.98	Arrears were mainly due to non-payment of <i>kist</i> by the lessees of <i>arrack</i> and <i>toddy</i> shops.
4	Public Works	16.08	4.96	Arrears related to water charges due from consumers.
5	Government Automobile Workshop	1.92	0.14	Arrears were due from Government departments towards sale of petrol, oil and lubricants and work bills.
6	Port	0.58	0.57	Arrears were mainly due from Container Corporation of India Limited, Government of India Undertaking, towards land rent.
7	Stationery and Printing	0.43	0.07	Arrears related to non-recovery of printing charges from Government departments.
8	Town and Country Planning	0.02	0.02	Arrears related to final cost of plots due from the allottees of various housing schemes.
9	Tourism	0.14	0.04	Arrears were mainly due from guests / other Government Officials towards room rent.
10	Co-operation	0.09	0.01	Arrears related to audit fees.
11	Judicial	0.05	0.03	Arrears were due to accused undergoing imprisonment in some cases and pendency of appeals in courts.
12	Industries and Commerce	0.11	0.09	Arrears related to rent due from defunct industrial units.
13	Transport	0.55	0.36	Arrears were due to non-recovery of motor vehicles tax.
14	Agriculture	0.32	0.16	Arrears due from PASIC and local bodies towards rent, cost of seeds and other services.
15	Information and Publicity	0.13	0.12	Arrears of rent to be collected mainly from PRTC.

(1)	(2)	(3)	(4)	(5)
16	Hindu Religious Institutions and Wakf Board	0.58	0.24	Arrears were due to shortfall in collection of dues from temples.
17	Accounts and Treasuries	0.47	0.36	Arrears were due to non-remittance of audit fee by religious institutions at stipulated time.
18	Fisheries and Fishermen Welfare	0.02	0.02	Arrears of lease amount on diffused fish farm at Coringa river, Yanam.
	Total	782.52	161.58	

Other Departments did not furnish (December 2015) the details of arrears of revenue, if any.

4.3 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 number of cases pending for finalisation at the end of the year, as furnished by the Commercial Taxes Department (CTD), in respect of Value Added Tax, are shown below in **Table 4.3**.

Table 4.3 : Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2014-15	Total assessments due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
VAT						
Scrutiny Assessments	8,453	12,750	21,203	2,660	18,543	12.55

As the percentage of disposal is very low, the Department may take adequate steps for speedy finalisation of cases which were selected for detailed scrutiny.

4.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the CTD, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table 4.4**.

Table 4.4 : Evasion of Tax

(₹ in crore)

Head of revenue	Cases pending as on 31 March 2014	Cases detected during 2014-15	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc., raised		Number of cases pending for finalisation on 31 March 2015
				Number of cases	Amount of demand	
Sales Tax/VAT	220	108	328	15	0.14	313

It would be seen from the above table that the number of cases pending at the end of the year had increased compared to the number of cases pending at the beginning of the year. The Department may institute appropriate measures for finalisation of pending cases, so as to ensure early realisation of revenue.

4.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15, as reported by the CTD, is given in **Table 4.5**.

Table 4.5 : Details of pendency of refund cases

Sl.No.	Particulars	Number of cases	Amount (in ₹)
1	Claims outstanding at the beginning of the year	Nil	Nil
2	Claims received during the year	1	30,000
3	Refunds made during the year	1	30,000
4	Balance outstanding at the end of year	Nil	Nil

4.6 Response of the Departments/Government towards audit

Accountant General (Economic and Revenue Sector Audit), Tamil Nadu arranges periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as per the prescribed rules and procedures. These

inspections are followed up with Inspection Reports (IRs). Important irregularities are included in the IRs, issued to the Heads of offices inspected with copies to the next higher authorities, for taking corrective action. The Heads of offices/Government are required to comply with the observations contained in the IRs, rectify the defects and omissions promptly and report compliance to the office of the Accountant General within one month from the dates of issue of the IRs. Serious irregularities are also brought to the notice of the Heads of Departments by the office of the Accountant General.

Inspection Reports, issued upto 31 December 2014, disclosed that 696 paragraphs involving ₹ 245.36 crore relating to 192 IRs remained outstanding at the end of June 2015, alongwith the corresponding figures for the preceding two years, as mentioned below in **Table 4.6**.

Table 4.6 : Details of pending IRs

	June 2013	June 2014	June 2015
Number of outstanding IRs	173	180	192
Number of outstanding audit observations	576	678	696
Amount involved (₹ in crore)	209.63	290.26	245.36

(Source: As per data maintained in the office of the AG (E&RSA), Tamil Nadu)

4.6.1 Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in **Table 4.6.1**.

Table 4.6.1 : Department-wise details of IRs

(₹ in crore)

Sl. No.	Tax Heads	Outstanding		Amount
		Inspection Reports	Audit Observations	
1	Sales Tax	57	314	101.30
2	Stamp Duty and Registration fees	64	160	2.53
3	Taxes on vehicles	37	148	4.27
4	State Excise	34	74	137.26
	Total	192	696	245.36

(Source: As per data maintained in the office of the AG (E&RSA), Tamil Nadu)

4.6.2 Non-production of records to audit for scrutiny

The programme of local audit of commercial tax offices is prepared sufficiently in advance and intimated to the Department one month before the commencement of local audit to enable them to keep relevant records ready for audit scrutiny.

During 2014-15, 87 sales tax assessment records relating to three offices were not made available for audit.

The delay in production of records for audit would render audit scrutiny ineffective, as rectification of under-assessments, if any, might become time barred by the time these records are produced to audit.

The matter regarding non-production of records in each office and arrears in assessment is brought to the notice of the Department through the IRs of the respective offices.

4.6.3 Response of the Departments to draft Audit Paragraphs

Six draft paragraphs including one Performance Audit proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended March 2015 were forwarded to the Secretaries of the respective Departments during September 2015 through demi-official letters. The Secretaries of the Departments did not send replies to five draft paragraphs (December 2015). These paragraphs have been included in the Report without the response of the Secretaries of the Departments concerned.

4.6.4 Follow-up on Audit Reports

The internal working system of the Public Accounts Committee (PAC), 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. Seventeen paragraphs (including five Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Union Territory of Puducherry for the years ended 31 March 2009, 2010, 2011, 2012, 2013 and 2014 were placed before the Legislative Assembly of UT between April 2010 and May 2015. The action taken explanatory notes from the concerned Departments in respect of 12 paragraphs were received late with average delay of more than 18 months, while in respect of five paragraphs included in the Audit Reports for the year ended 31 March 2013 and 2014, explanatory notes were not received.

The PAC discussed two selected paragraphs pertaining to the Audit Report for the year ending 31 March 2009 and its recommendations were incorporated in 35th Report of XIII Assembly. Further, action taken notes in respect of eight recommendations of PAC pertaining to paragraphs included in the Audit Report for the year ending 31 March 2009 were awaited from the Excise Department.

4.7 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the IRs / Audit Reports by the Departments / Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

The succeeding paragraphs 4.7.1 to 4.7.3 discuss the performance of the Registration Department under revenue head '0030' and cases detected in the course of local audit during the last 10 years and also the cases included in the Audit Reports for the years 2004-05 to 2013-14.

4.7.1 Position of Inspection Reports

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2015 are tabulated in **Table 4.7.1**.

Table 4.7.1: Position of Inspection Reports

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2005-06	58	166	1.17	2	13	0.01	3	22	0.01	57	157	1.17
2006-07	57	157	1.17	8	18	0.11	7	28	0.10	58	147	1.18
2007-08	58	147	1.18	5	13	0.39	3	12	0.17	60	148	1.40
2008-09	60	148	1.40	6	15	0.43	9	13	0.10	57	150	1.73
2009-10	57	150	1.73	7	16	0.21	2	8	0.02	62	158	1.92
2010-11	62	158	1.92	8	38	1.14	3	9	0.03	67	187	3.03
2011-12	67	187	3.03	1	5	0.04	9	36	0.36	59	156	2.71
2012-13	59	156	2.71	5	15	0.09	0	7	0.29	64	164	2.51
2013-14	64	164	2.51	7	14	0.06	4	13	0.03	67	165	2.54
2014-15	67	165	2.54	5	28	1.92	2	5	0.01	70	188	4.45

(Source: As per data maintained in the office of the AG (E&RSA), Tamil Nadu)

As against 58 IRs involving 166 paragraphs which were pending at the beginning of 2005-06, the number at the end of 2014-15 had increased to 70 IRs involving 188 paragraphs.

4.7.2 Recovery of accepted cases

During the last 10 years, six draft paragraphs, including one Performance Audit involving ₹ 8.46 crore, were included in the Revenue Receipts Chapter of the Report of the Comptroller and Auditor General of India, Government of the Union Territory of Puducherry. The Department accepted five audit observations involving ₹ one crore and recovered ₹ 3.36 lakh as of March 2015.

It is evident from the above that the progress of recovery even in accepted cases was very slow throughout, during the last ten years. The recovery of accepted cases was to be pursued, as arrears recoverable from the concerned parties.

4.7.3 Action taken on the recommendations accepted by the Department/Government

The draft Performance Audits are forwarded to the concerned Department/Government for their information with a request to furnish their replies. These Performance Audits are also discussed in Exit Conference. The Department's/Government's views are considered while finalising the Performance Audits for the Audit Reports.

A Performance Audit on "Stamp Duty and Registration Fee" was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2011. Three recommendations, *viz.*, maintaining a consolidated data of revenue earned and foregone for effective control, introducing internal audit system/internal audit wing and ensuring registration of compulsorily registerable documents, were made. The Government accepted the audit recommendations and stated that the points under the recommendations would be followed in future.

4.8 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations, nature/volume of transactions, etc. The Annual Audit Plan is prepared on the basis of risk analysis which, *inter-alia*, includes statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years, etc.

During the year 2014-15, the audit universe comprised 33 auditable units. Eleven units were planned and audited during the year 2014-15, *i.e.*, 33.33 *per cent* of the total auditable units.

4.9 Results of audit

Test check of the records of sales tax, state excise, stamp duty and registration fees and taxes on vehicles conducted during the year 2014-15 revealed under-assessment/short levy/loss of revenue amounting to

₹ 57.17 crore in 85 audit observations. During the course of the year, the Departments accepted and recovered ₹ 3.42 lakh in nine audit observations, of which ₹ 2.34 lakh pertaining to two cases were pointed out during the year and the rest in earlier years.

4.10 Coverage of this Chapter

This Chapter contains a Performance Audit on 'Functioning of the Excise Department' and five paragraphs on 'Sales Tax and Stamp Duty and Registration Fee', involving money value of ₹ 32.09 crore. The Departments/Government accepted audit observations, involving ₹ 2.98 crore, of which ₹ 62.77 lakh had been recovered by the Departments.

EXCISE DEPARTMENT

4.11 Performance Audit on 'Functioning of the Excise Department'

Highlights

Non-consideration of the element of additional excise duty for determination of the amount of security deposit led to short collection of ₹ 23.36 crore.

(Paragraph 4.11.9.2)

Non-verification of the correctness of 'declared price' furnished by the licensees led to short levy of additional excise duty of ₹ 3.49 crore.

(Paragraph 4.11.10.2)

Omission to collect excise duty and additional excise duty at revised rates led to short realisation of revenue of ₹ 76.43 lakh.

(Paragraph 4.11.10.4)

4.11.1 Introduction

The Seventh Schedule to the Constitution of India empowers the State Government to levy excise duty (ED) on alcoholic liquors for human consumption, on opium, Indian hemp and other narcotic drugs

manufactured or produced in the State. State excise is the second largest tax revenue of the Union Territory of Puducherry (UT) and it contributed 27 *per cent* to the total tax revenue of the UT in 2013-14. The excise revenue consists of duties of excise levied and collected on the quantity of any excisable article produced or manufactured in or issued from a distillery, brewery and warehouse or imported into the UT. The revenue also consists of fees, which are collected by the Department, *viz.*, licence fee, import fee, administrative service fee, label fee and the monthly rental to run *arrack*¹ shops, which is being collected as *kist*². The levy and collection of excise revenue is governed by the Puducherry Excise Act, 1970 (PE Act) and the Puducherry Excise Rules, 1970 (PE Rules). The PE Act provides for a uniform law relating to regulation of production, manufacture, possession, import, export, transport, purchase and sale of liquor and intoxicating drugs and the levy of duties of excise thereon in the UT.

4.11.2 Organisational Set up

The Excise Department functions under the control of the Excise Commissioner, who is also Secretary (Excise). The Excise Commissioner is assisted by the Deputy Commissioner (Excise), Puducherry at Headquarters and the Deputy Collectors of outlying regions of Karaikal, Mahe and Yanam, who are notified as Deputy Commissioners (Excise) in respect of their regions. They are assisted by Tahsildars and Deputy Tahsildars in collection of excise revenue. Besides, each distillery has an Excise Supervisory Officer.

4.11.3 Audit Objectives

Audit aimed to assess whether:

- terms and conditions for the grant / renewal of licences were adhered to;
- provisions and system for regulating levy and collection of excise duty / additional excise duty / import fee / export fee and other levies were adequate and complied with;
- provision and system of leasing out the *arrack* shops and the terms and conditions prescribed in this regard were adequate and transparent; and
- adequate internal control mechanism was in existence.

4.11.4 Audit Criteria

The audit criteria are derived from the following:

- The Puducherry Excise Act, 1970

¹ Country liquor (Distilled alcoholic drink made from the fermented sugarcane)

² Monthly rent paid by the arrack shops

- The Puducherry Excise Rules, 1970
- Notifications/Orders issued by the Government.

4.11.5 Scope of Performance Audit

For the Performance Audit, records pertaining to the period from 2009-10 to 2013-14 were examined in the Offices of the Deputy Commissioners of Excise, Puducherry, Mahe, Karaikal and Yanam alongwith all its distilleries³ and one brewery⁴, between August 2014 and January 2015.

An Entry Conference was held in November 2014 during which the Department was apprised of the objectives, scope and methodology of audit. The audit observations were reported to the Government in March / April 2015. The draft Performance Audit report was discussed with the Secretary, Excise Department in the Exit Conference held in November 2015. The views expressed during the Exit Conference and replies furnished by the Department have been considered and incorporated in the relevant paragraphs of the report.

4.11.6 Acknowledgment

The Indian Audit and Accounts Department acknowledges the co-operation of the Excise Department in providing the necessary information and records to Audit.

4.11.7 Trend of revenue receipts

The actual receipts from State excise during the years 2009-10 to 2013-14, alongwith the total tax receipts during the same period, is exhibited in the following table.

³ Deekay Exports Ltd., Khoday Distilleries, Premier Distilleries Ltd., Puducherry Distilleries Ltd., Ravikumar Distilleries, United Spirits Ltd. and Vinbros and Company

⁴ SAB Miller (Previously SKOL Breweries)

Table 4.11.7

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess(+)/ Shortfall(-)	Percentage of variation (Col.4 to 2)	Total tax receipts of the UT	Percentage of actual receipts vis-à-vis total tax receipts (Col.3 to 6)
1	2	3	4	5	6	7
2009-10	300.00	329.06	(+) 29.06	(+) 9.69	867.74	37.92
2010-11	475.00	378.55	(-) 96.45	(-) 20.31	1,074.47	35.23
2011-12	778.00	447.27	(-) 330.73	(-) 42.51	1,329.43	33.64
2012-13	688.49	503.98	(-) 184.51	(-) 26.80	1,917.22	26.29
2013-14	620.00	511.72	(-) 108.28	(-) 17.46	1,904.51	26.87

(Source: Finance Accounts of the UT)

While the actual receipts had steadily increased from 2009-10 to 2013-14, the percentage of revenue from State excise to the total tax receipts of the UT had decreased from 38 *per cent* during 2009-10 to 27 *per cent* during 2013-14. The variations between the budget estimates and the actual receipts during the period from 2009-10 to 2013-14 ranged between 10 and 43 *per cent*, indicating that budget estimates were not formulated in a realistic manner, keeping in view the actual revenue realised in the preceding years. The incorrect methodology adopted for fixing the targets based on the budget estimate of the previous year was pointed out in the Audit Report of the Comptroller and Auditor General of India for the year ended 31 March 2009 on Government of the UT of Puducherry. Though the Government accepted the audit observation, the same methodology was followed for fixing the target during the review period. Further, Audit observed that the rates of duty raised in January 2012 were reduced by the Government in August 2013 and this also contributed to the decrease in actual receipts.

Audit Findings

4.11.8 Licensing

The Department issues licences for distillation of alcoholic drinks. The licence is valid for a period of one year. It is renewed every year on collection of annual licence fee based on the production capacity of distillery. The application for renewal of licence should be made at least one month before the expiry of the licence already granted.

4.11.8.1 Short collection of licence fee

Rule 28 of the PE Rules provides that the fee for grant of licence or for renewal of licence in respect of distilleries having production capacity of

upto five lakh cases⁵ per year shall be ₹ 1.25 lakh per year and for every additional capacity of one lakh cases or part thereof in excess of five lakh cases in a year, the fee shall be ₹ 0.75 lakh.

Audit scrutiny of the records relating to renewal of licence in the office of the Deputy Commissioner of Excise, Puducherry revealed that a distillery while submitting application for renewal of licence, had mentioned therein that the production had been increased from 50,000 litres to 75,000 litres per day. The Deputy Commissioner of Excise, Puducherry, while renewing the licence of the distillery for the years 2011-12 to 2014-15, however, calculated the amount of licence fee by adopting the production capacity of 50,000 litres per day instead of the enhanced production capacity of 75,000 litres per day. This resulted in short collection of licence fee of ₹ 26.25 lakh, as mentioned in **Appendix 4.1**.

On being pointed out (September 2014), the Department stated (November 2015) that demand notice had been issued to the distillery and collection particulars would be furnished in due course. The amount, however, was not collected as of January 2016.

4.11.8.2 *Renewal of licences without collecting excise arrears*

The circular issued by the Department provides that the application for renewal of licence, *inter alia*, be accompanied by “no due certificate” obtained from the Commercial Taxes Department and a copy of trade licence issued by the local authority, though levy of sales tax on alcoholic liquors was withdrawn with effect from July 2007.

Audit scrutiny of the records relating to renewal of licences in the Office of the Deputy Commissioner of Excise, Puducherry revealed that three distilleries were in arrears of excise revenue of ₹ 32.39 lakh relating to non-payment of establishment charges since 2009-10. The licences of these distilleries for the year 2014-15 were, however, renewed as the circular only provided that the application for renewal be accompanied by “no-due certificate” obtained from the Commercial Taxes Department.

On being pointed out (January 2015), the Department stated (November 2015) that out of ₹ 32.39 lakh, ₹ 19.19 lakh was collected and the remaining amount would be collected as expeditiously as possible. The Department further stated that the suggestion of Audit for verifying and collecting excise arrears before renewal of licence would be strictly adhered to from the licensing year 2015-16. Further, report regarding collection of the balance amount of arrears was awaited (January 2016).

⁵ Case contains liquor bottles. A case could contain (i) 9 bottles of 1,000 ml each, (ii) 12 bottles of 750 ml each, (iii) 24 bottles of 375 ml each, or (iv) 48 bottles of 180 ml each

4.11.9 Storage

Any person holding distillery or manufactory licence, brewery licence can store Indian or foreign liquor / spirit in bond after obtaining warehouse licence. Warehouse licence is granted by the Excise Commissioner on payment of security deposit fixed by the Department.

4.11.9.1 Non-collection of security deposit on the maximum quantity of goods stored in the bonded warehouse

According to Rule 273 of PE Rules, any person holding a wholesale liquor licence / distillery or manufactory licence / brewery licence and desiring to store in bond, Indian or foreign liquor / spirit shall make an application for a licence in that behalf to the Excise Commissioner, stating the maximum quantity of each kind of Indian or foreign liquor or spirit required to be stored in bond at any one time. The applicant was also to express his willingness to deposit the amount of security fixed by the Excise Commissioner as a guarantee for the observance of the Act, Rules and Orders made thereunder.

During test check of records in the office of the Deputy Commissioner of Excise, Puducherry, Audit noticed that in respect of four distilleries, the Department determined the amount of security by adopting the maximum quantity required to be stored in bond and the maximum rate of ED prevailing at the time of application for the years 2012-13 to 2014-15. However, in respect of two distilleries and one brewery, the amount of security demanded from the licensees did not conform to the amount of ED applicable in respect of the maximum quantity, which was required to be stored in bond. This resulted in short collection of security deposit of ₹ 1.60 crore.

After Audit pointed this out (October 2014), the Department accepted the audit observation and stated (November 2015) that the distilleries and the brewery were directed to remit the differential amount of security deposit. Further report was awaited (January 2016).

4.11.9.2 Non-inclusion of the element of Additional Excise Duty while calculating the amount of security deposit

The term ‘Excise Duty’ defined in Section 2(8) of the PE Act was amended in February 2012 to include ‘Additional Excise Duty’ (AED) with retrospective effect from April 2007. As the collection of security deposit acts as a guarantee for due observance of the Act, Rules and orders made thereunder, all the components of ED should be considered for determining the amount of security deposit.

During test check of records in the office of the Deputy Commissioner of Excise, Puducherry, Audit observed that the element of AED was not

considered by the Department while determining the amount of security deposit, which was required to be paid by six distilleries and one brewery in respect of excisable goods intended to be stored in bonded warehouse. This resulted in short collection of security deposit of ₹ 23.36 crore.

During the Exit Conference, the Government stated that the Excise Commissioner could relax the condition of security deposit with the approval of Government and collection of further amount as security including the component of AED would require the distilleries to deposit huge amount as security and this would cripple their business activity and defeat the efforts of the Department to mobilise revenue to the Government. The Government, however, added that suitable amendment to the PE Rules would be made for fixation of security deposit for issue of bonded warehouse licence.

The reply requires reconsideration as the term 'Excise Duty' includes 'Additional Excise Duty' and the amount of security deposit should be determined taking into consideration the element of AED as well. Further report regarding proposed amendment to the PE Rules was awaited (January 2016).

4.11.9.3 Non-observance of Rule provisions relating to collection of security deposit

Rule 274 of the PE Rules provides that the Excise Commissioner may grant a licence permitting the applicant to store in bond, Indian or foreign liquor/spirit at the place specified in the application, subject to the condition that the applicant deposits such amount of security, as may be fixed by the Excise Commissioner. The licence in Form BW-1, authorising storage in bond of Indian or foreign liquor/spirit prescribes that the licensee shall pay the amount of deposit into the Government Treasury or Bank.

During test check of records relating to security deposit in the office of the Deputy Commissioner of Excise, Puducherry, Audit observed that though the Rules provide for deposit of the amount of security into the Government Treasury or Bank by the licensees, the Department accepted bank guarantees and fixed deposit receipts for the amount of security of ₹ 5.33 crore.

During the Exit Conference, the Government agreed with the audit observation that the conditions for issue of licence require payment of security deposit in cash. It further stated that action would be initiated to amend the provision to expressly stipulate payment of security deposit in the form of bank guarantee as it would not be practicable to collect huge amount of security deposit in cash. Further report was awaited (January 2016).

4.11.10 Clearance

All the finished goods are stored in the bonded warehouse of the manufacturer. The FL1 licensees (the wholesalers) after getting the transport permit from the Department lift the required quantity of IMFL from the bonded warehouse of the manufacturers. At the time of issuing IMFL, the manufacturer pays ED and AED on the quantity issued at prescribed slab rates. The slab rates are fixed based on the ‘declared price’ of the product.

4.11.10.1 Loss of revenue due to introduction of Additional Excise Duty in lieu of sales tax in respect of high value imported brands

The Government of Puducherry abolished sales tax on IMFL and beer with effect from April 2007 and to compensate the resultant loss of revenue, introduced the levy of AED. It was envisaged that there would be no advantage to the importers on introduction of AED in lieu of sales tax. Upto 1 January 2012, the maximum rate of AED was ₹ 149 per case in respect of declared price of ₹ 2,000 and above. During the period 2 January 2012 and 20 August 2013, the maximum rate was ₹ 334 per case in respect of declared price of ₹ 6,000 and above. With effect from 21 August 2013, the maximum rate was ₹ 181 per case in respect of declared price of ₹ 2,000 and above. Before introduction of levy of AED, sales tax was being paid at the rate of 35 per cent on the selling price of IMFL.

Audit scrutiny of the records relating to collection of AED revealed that in respect of 101 high value imported brands of IMFL, the amount collected towards AED during the years 2012-13 and 2013-14 was less than the amount that the Government would have realised by levy of sales tax. Such short realisation of revenue worked out to ₹ 1.67 crore. The amount realised by the Government through AED had actually decreased during the period from 2012-13 to 2014-15. As against AED of ₹ 2,615 realised per case of imported liquor during 2012-13, the amount realised during 2014-15 was ₹ 1,600. This was due to fixation of the rate of AED at the maximum slab at specific rate per case, irrespective of the value of imported liquor. It is, therefore, recommended that in respect of maximum slab, AED be fixed at specific rate or at a prescribed percentage of the ‘declared price’ of the imported liquor as is being followed in the State of Karnataka, on the lines of which, the levy of AED was proposed in the UT of Puducherry.

During the Exit Conference, the Government stated that the sales volume increased after introduction of AED, due to higher volume of consumption of high valued brands and there was no loss of revenue to Government.

The reply of the Government requires reconsideration because the fixation of the rate of AED at the maximum slab at specific rate per case, irrespective of the value of imported liquor had only benefited the importers, though the proposal for abolishing sales tax and introduction of AED specifically envisaged that there would be no advantage to the importers on introduction of AED in lieu of sales tax.

4.11.10.2 *Non-verification of correctness of ‘declared price’ furnished by the licensees*

Levy of ED and AED is based on the declared price of liquor. The Government notified in January 2012 that the term ‘declared price’ means ex-factory price declared by the manufacturer or wholesale licensee including his profit margin but excluding ED, AED or countervailing duty or additional countervailing duty. In the case of imported liquor, the Notification prescribed that the term ‘declared price’ shall also include the import fee, Central Sales Tax, handling charges and profit margin of wholesale licensee. Accordingly, the Department prescribed (January 2012) the format for submission of declared price indicating the profit margin separately in respect of local manufacturer as well as importers and also issued instructions for revising the declared price suitably every year after absorbing the increase in the cost of components involved in the manufacture of liquor.

Scrutiny of records (January 2015) relating to furnishing of cost statements in the office of the Deputy Commissioner (Excise), Puducherry revealed the following:

- Out of six distilleries, two distilleries furnished ‘declared price’ without break-up and without indicating the profit margin separately, while one distillery stated that furnishing of ‘declared price’ with break-up would be to the competitor’s advantage.
- Out of 456 brands of imported liquor, in respect of 8 imported brands, the cost statements were submitted by the licensees without inclusion of wholesale profit margin, while in respect of 257 brands cost statements were not made available.

As a result, the inclusion of wholesale profit margin in the declared price and consequent levy of ED and AED at correct slab rates could not be ensured.

Audit observed that in all the cases, the Department accepted the price declared by the licensees and did not call for component-wise break-up details, to ensure that the element of wholesale profit margin was included therein.

During test check of records in four offices, Audit noticed from the cost statements furnished by the licensees that the wholesale profit margin was

not included in the ‘declared price’ of eight imported brands of liquor. The omission to include the wholesale profit margin in the ‘declared price’ resulted in short collection of AED of ₹ 3.49 crore in respect of 7.69 lakh bulk litres imported during the years 2012-13 and 2013-14.

Audit further noticed that the Department did not have any mechanism to ensure the correctness of the price declared in respect of each brand for the purpose of levy of ED and AED, but accepted the cost statements furnished by the licensees. In view of the difficulties faced by the Department in obtaining break-up details of the price declared by the licensees, it is recommended that ‘declared price’ be linked to the maximum retail price (MRP) of the product, after allowing certain abatements, as is being followed for the purpose of levy of central excise duty on MRP based articles. This would facilitate the Department in having effective control on levy and collection of duties without leakage of revenue.

During the Exit Conference, the Government stated that while formulating the rate of AED, the profit margin of the wholesale dealer was also taken into account and thus, AED was already being paid by the wholesale dealers on the profit margin. The reply is not acceptable as levy of AED was introduced in the year 2007 and if AED was already being paid by the dealers inclusive of the profit margin, then the notification of ‘declared price’ as specifically being inclusive of wholesale profit margin would not have been issued.

The Government, however, agreed that the suggestion of Audit to implement the levy of duty based on MRP of the product would be examined and suitable decision would be taken or in the alternative, the definition of the term ‘declared price’ would be re-examined and suitable amendment would be considered.

4.11.10.3 *Incorrect reduction of slab rates of Excise Duty and Additional Excise Duty in respect of alcoholic beverages other than wine*

According to Section 21 of the PE Act, Government may levy duty on any excisable articles manufactured or produced in the UT or elsewhere in India and imported to the UT, under any licence or permit granted under this Act at such rates as may be specified in the Notification. The rates of ED and AED in respect of wine, cider, *perrys*⁶ and alcoholic beverages not exceeding 24 *per cent* v/v (volume/volume) alcohol were reduced by a Notification⁷ issued in August 2013.

Audit scrutiny of the files relevant to the reduction in rates of ED and AED in the office of the Deputy Commissioner (Excise), Puducherry, however,

⁶ *Perrys* is an alcoholic beverage, made from fermented pears, similar to the way cider is made from apples

⁷ Notification No 4764/DCE/S1/2013 dated 21 August 2013

revealed that a separate duty structure for wine was approved by Government (August 2013) on the ground that wine is a drink with lower alcoholic content obtained from fermented juice of ripe grapes or other fruits and less levy was desirable in order to encourage consumers to use more of a lower alcoholic product than consuming higher alcoholic products, considering the health of citizens. However, the Notification issued in this regard also mentioned alcoholic beverages not exceeding 24 *per cent* v/v alcohol, which was not included in the proposal sent to the Government. Audit noticed that based on the Notification, duty was levied at reduced rates in respect of 24 alcoholic beverages other than wine during the period from August 2013 to March 2014. This resulted in short realisation of revenue of ₹ 37.39 lakh.

During the Exit Conference, the Government stated that in August 2015, it granted approval for upward revision of rates of duty for a separate category of wine and lower alcoholic beverages not exceeding 24 *per cent* v/v alcohol, which may be construed as *post-facto* approval of the Government for the categorisation of wine and lower alcoholic beverages not exceeding 24 *per cent* v/v alcohol.

The reply is not acceptable as the original proposal for reduction in rates of ED and AED was forwarded in respect of wine alone and thus, extension of reduction in rates of duty to alcoholic beverages other than wine was not in order.

4.11.10.4 *Short collection of Excise Duty and Additional Excise Duty*

According to Section 21(1) of the PE Act, the Government may levy Excise Duty on any excisable article manufactured or produced in the UT under any licence or permit granted under this Act at such rates as may be specified in the Notification. According to Section 21(2) of the PE Act, the Government may levy countervailing duty on any excisable article manufactured or produced elsewhere in India and imported into the UT under a licence or permit granted under this Act. Government of Puducherry revised⁸ the ED and AED payable on Indian Made Foreign Liquor (IMFL) and beer with effect from 2 January 2012.

Audit noticed (October 2014) from the records relating to permit issued for transport of intoxicants in six offices of the Excise Supervisory Officer coming under the jurisdiction of Deputy Commissioner of Excise, Puducherry, that IMFL was despatched through transport passes subsequent to the date of revision of ED and AED under permits issued prior to such revision. Similarly, Audit noticed from the import permit register and connected records of the Deputy Commissioner of Excise, Mahe, that import of IMFL was made subsequent to the date of revision of

⁸ Notification No. 4764/DCE/SI/2011(1) dated 2 January 2012, issued by the Department of Revenue and Disaster Management, Government of Puducherry

ED and AED under permits issued prior to such revision. ED and AED of ₹ 238.45 lakh was collected at pre-revised rates as against ₹ 314.88 lakh. This resulted in short collection of ED and AED of ₹ 76.43 lakh.

After Audit pointed this out (October and November 2014), the Department stated (July 2015) that one distillery had remitted ₹ 36.16 lakh in January 2015 and in respect of Mahe, demand notices were issued. Further report was awaited (January 2016).

4.11.11 System of leasing of Arrack Shops

The right of retail vending of *arrack* is auctioned every year by the Government through internet. The lease period is from 1 July to 30 June of the subsequent year. The bid amount is based on the annual *kist* amount of a particular shop. The person whose bid is accepted shall furnish security deposit equal to five months bid amount within 15 days from the date of communication of order and shall also mortgage by deposit of title deeds for value not less than the annual *kist* to be paid by him, the property offered as security towards lease amount due to Government.

4.11.11.1 Absence of penal provision for non-lifting of minimum guaranteed quantity of arrack

As per Rule 178A (1) of the PE Rules, no licensee shall purchase *arrack* from the Government Distillery less than the minimum guaranteed quantity specified by the Excise Commissioner in the notification issued under Rule 144.

Observation was made in Para 4.9.8 of the Audit Report of the Comptroller and Auditor General of India for the year ended 31 March 2009 on Government of the UT of Puducherry regarding absence of provisions for levy of penalty for non-lifting the minimum guaranteed quantity of *arrack*. The Government accepted (October 2009) the audit observation and stated that a provision for levy of penalty for non-lifting of minimum guaranteed quantity of *arrack* would be incorporated in the PE Rules. However, necessary provisions have not been incorporated in the PE Rules even after six years.

During scrutiny of records relating to lifting of *arrack* for retail sale during the period from 2009-10 to 2013-14, Audit noticed that as against the total contracted quantity of 22.43 crore bulk litres of *arrack*, only 11.45 crore bulk litres were lifted, leaving a balance of 10.98 crore bulk litres. However, in the absence of enabling provisions in the Rules, no action was taken by the Department.

After Audit pointed this out (October 2014), the Department stated (November 2015) that proposal for amendment of PE Rules and for levy of penalty for non-lifting of prescribed minimum guaranteed quantity was submitted to the Government. Further report was awaited (January 2016).

4.11.11.2 Accumulation of kist arrears in respect of arrack shop lease

Rule 156 of the PE Rules provides that the lessee shall remit security deposit equal to five months bid amount besides one month advance *kist*. Rule 201 of the PE Rules provides that the lessee shall pay monthly *kist* in advance on or before the last working day of the preceding month. The security deposit paid in cash shall be adjusted towards the *kist* for the last five months. Rule 201(4) of the PE Rules provides that the arrears of monthly *kist* and loss accrued to the Government shall be recovered under the provisions of the Puducherry Revenue Recovery Act, 1970.

As per the details furnished by the Deputy Commissioner (Excise), Puducherry, ₹ 47.71 crore was pending for collection as on 31 March 2015 towards *kist* arrears from 466 defaulters. The age-wise pendency of arrears, as furnished by the Department, is given below:

Table 4.11.11.2

Period of Pendency	Number of cases	Amount of arrears (₹ in lakh)
Above 25 years	67	94.66
15 to 25 years	120	641.90
10 to 15 years	13	93.68
5 to 10 years	31	207.40
Less than 5 years	235	3,733.26
Total	466	4,770.90

Audit further observed from the records that though cases involving *kist* arrears were forwarded to the revenue authorities for recovery, the amount of *kist* arrears was not recovered by auctioning the mortgaged property even in a single case. Audit, therefore, recommended that besides collection of one month's advance *kist* amount, *kist* amount for the remaining 11 months may be collected from the lessee as security deposit, as against the existing practice of collection of five months' *kist* amount as security.

During the Exit Conference, the Government accepted the suggestion for collecting the entire *kist* amount as security deposit and stated (November 2015) that necessary amendment to the provisions of PE Rules would be made. Further report was awaited (January 2016).

4.11.12 Other Audit observations

4.11.12.1 *Non-collection of administrative service fee*

As per Rule 58 read with Rule 59, of the PE Rules, permit is granted on an application to any person desiring to possess and use Rectified Spirit (RS) (includes absolute alcohol as per Rule 57(b)) for any *bona fide* medicinal, industrial, scientific, educational or any other similar purpose. As per Rule 65, no permit holder shall use RS for industrial purposes except on the recommendation of the Director of Industry or such other officer as may be authorised by the Government. The licensee shall be liable to pay administrative service fee (ASF) of ₹ one per bulk litre of RS brought to licensed premises for industrial purposes.

Audit observed from the Register of Licence maintained in the office of the Deputy Commissioner (Excise), Puducherry that three firms holding permit for the possession and use of RS, brought 8.40 lakh bulk litres of Extra Neutral Alcohol (ENA) to the licensed premises during the period from 2009-10 to 2013-14 for industrial purposes. However, ASF of ₹ 8.40 lakh was not collected.

During the Exit Conference, the Government stated that the suggestion of Audit would be examined after collecting particulars of other States for adopting a similar stand. Further reply was awaited (January 2016).

4.11.12.2 *Non-fixation of fee for examination of samples*

Rule 104 of the PE Rules provides that the licensee shall pay such fees, as fixed by the Excise Commissioner for the examination of the sample of liquor sent for chemical examination.

During scrutiny of records relating to chemical examination of samples in the office of the Deputy Commissioner (Excise), Puducherry, Audit observed that the amount of sample fee had not been fixed and the licensees were paying fee of ₹ 50 per sample, which is applicable for analysis of food under the Pondicherry Prevention of Food Adulteration Rules, 1970. In the neighbouring State of Tamil Nadu, fee of ₹ 4,000 per sample was being collected for chemical examination.

During the Exit Conference, the Government stated that suitable amount of fee for chemical analysis of samples sent by the distilleries/brewery would be fixed and necessary orders in this regard would be issued. Further report was awaited (January 2016).

4.11.13 Internal control mechanism

4.11.13.1 Absence of an effective internal audit system

The internal audit wing was established in the Department in the year 2003, consisting of one revenue officer and one lower division clerk. However, the post of revenue officer was lying vacant since October 2012. Further, no manual has been prescribed for conduct of internal audit. Even though, it was informed that 12 objections without money value were raised by the Internal Audit Wing during the years 2009-10 to 2013-14, details regarding number of units audited, objections raised and follow-up action taken to rectify the defects/omissions were not available with the Department.

During Exit Conference, the Government accepted the audit observations and stated that the internal audit system would be effectively implemented hereafter. Further report was awaited (January 2016).

4.11.14 Conclusion

Performance Audit on Functioning of the Excise Department revealed several systemic deficiencies that affected the efficiency and effectiveness of levy and collection of revenue. There was an absence of system for verification of the correctness of declared price furnished by the licensees. Licences of distilleries were renewed without collecting the arrears due from them. There was non/short collection of the amount of security deposit in respect of grant of licences for storage of goods in bonded warehouses. Provisions for levy of penalty for non-lifting of minimum guaranteed quantity of *arrack* were not made in the PE Rules. Reduction of rates of duty was granted without the approval of the Government and the internal control mechanism was inadequate.

4.11.15 Recommendations

The Government/Department may consider

- Fixing of norms/guidelines to govern the determination of the amount of security deposit for grant of licence to store goods in bonded warehouse.
- Introduction of the concept of MRP based levy of ED and AED to rationalise the levy of duties.
- Inclusion of provisions in the PE Rules to provide for levy of penalty for non-lifting of minimum guaranteed quantity of *arrack* and for collection of security deposit equal to twelve months' *kist* amount to avoid huge *kist* arrears.

COMMERCIAL TAXES DEPARTMENT

CENTRAL SALES TAX

4.12 Application of incorrect rate of tax

As per Section 14 of the Puducherry Value Added Tax Act, 2007 (PVAT Act), tax shall be paid by a registered dealer on the taxable turnover in each tax period at the rate and at the point as specified in the Schedules.

Goods not specified elsewhere in any of the Schedules are taxable at the rate of 12.5 *per cent* at each point of sale as per Sl.No.1 of Part A of the Fourth Schedule to the PVAT Act. Air Circuit Breakers, not specified elsewhere in any of the Schedules, is therefore taxable at the rate of 12.5 *per cent* at the point of sale.

As per Section 8(2) of the Central Sales Tax Act, 1956 (CST Act), interstate sale of goods not covered by valid declarations in Form 'C' is assessable to tax at the local rate applicable to sale of such goods inside the State.

During test check of records in Industrial Assessment Circle, Puducherry, Audit noticed (March 2015) that the assessing authority (AA), while finalising the assessments of a dealer under the CST Act for the years 2007-08 and 2008-09, assessed (March 2014) the interstate sales of Air Circuit Breakers, not covered by declarations in Form 'C', amounting to ₹ 2.43 crore at the rate of 4 *per cent* instead of at the applicable rate of 12.5 *per cent*. The application of incorrect rate of tax resulted in short levy of tax of ₹ 20.69 lakh.

After Audit pointed this out (March 2015), the AA revised the assessments in September 2015 and recovered ₹ 20.69 lakh.

REVENUE DEPARTMENT

STAMP DUTY AND REGISTRATION FEE

4.13 Non-realisation of Stamp Duty and Transfer Duty

The Government of Puducherry granted⁹ remission of 50 *per cent* of stamp duty and transfer duty to the women member(s) who acquire property through deed of sale, exchange or gift in their names subject to the

⁹ Notification No.8834/Rev-C3/2004 dated 17 December 2004 of the Revenue Department, Puducherry and G.O. Ms No 59/LAS/2004 dated 28 December 2004 of Local Administration, Secretariat, Puducherry

conditions that they shall not alienate such property in favour of any male member, either individually or jointly by any means including power of attorney for a period of five years from the date of registration. However, woman beneficiary may alienate such property within a period of five years after remittance of the remaining 50 *per cent* of stamp duty. The Chief Controlling Revenue Authority-cum-Inspector General of Registration instructed (December 2004) that the beneficiary who availed concession is barred from creating/executing any instrument except mortgage to Government/nationalised banks/registered co-operative societies, within five years from the date of registration.

During test check of documents in Sub-Registry, Villianur, Audit noticed (January 2015) that land valued at ₹ 1.33 crore originally purchased through three conveyance deeds in October 2009 and in respect of which concession of 50 *per cent* reduction in stamp duty and transfer duty was availed by a woman member, were gifted within a period of five years to an educational trust represented by its chairman, a male, through a gift deed executed and registered in February 2013. The Registering Officer (RO), while registering the gift deed, however, failed to recover the concession amount of ₹ 6.63 lakh already availed by the beneficiary, though the conditions of concession of remission were not fulfilled. This resulted in non-realisation of revenue of ₹ 6.63 lakh.

Audit pointed this out to the Department in February 2015 and to the Government in July 2015. Reply was awaited (January 2016).

4.14 Short collection of Stamp Duty and Registration Fee

As per Article 23 of Schedule I to the Indian Stamp Act, 1899 (IS Act) in the case of conveyance of immovable property, stamp duty shall be charged at the rate of 10 *per cent* including surcharge on the market value of the property conveyed. As per Article 18 in the case of certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or other Revenue Officer, the stamp duty is leviable at the same rate as applicable to conveyance. As per Table of Fees prepared under Section 78 of the Registration Act, 1908 the registration fee is leviable at the rate of ₹ 145 for first ₹ 10,000 and ₹ five for each ₹ 1,000 of the value of the property conveyed.

Test check of records (January/February 2015) in Sub-Registries, Thirunallar and Oulgaret revealed short collection of stamp duty and registration fees of ₹ 7.93 lakh as detailed below:

- During test check of records in Sub-Registry, Thirunallar, Audit observed (February 2015) that the Court of Additional District Judge of

Puducherry at Karaikal, on a suit filed for specific performance of the sale agreement entered into in October 2008 to convey land measuring 45 Ares (48,437.60 sq.ft.) for a consideration of ₹ 1.20 lakh, passed a decree in March 2010 directing to execute the sale deed in favour of the purchaser. Accordingly, the District Judge executed the sale deed on behalf of the defendants and the same was registered in April 2012. Stamp duty and registration fee, leviable on the guideline value of the property of ₹ 48.42 lakh was ₹ 5.09 lakh against which RO collected ₹ 0.22 lakh. The omission to collect the stamp duty and registration fee on the guideline value resulted in short collection of stamp duty and registration fee of ₹ 4.87 lakh.

- During test check of records in Sub-Registry, Oulgaret, Audit observed (January 2015) from a deed executed and registered as certificate of sale in December 2013 that the authorised officer of a bank sold by public auction, a house site measuring 3,600 square feet valued at ₹ 61.20 lakh, for a consideration of ₹ 55.30 lakh. Accordingly, stamp duty and surcharge of ₹ 6.12 lakh was required to be collected at the rate of 10 *per cent* on the value of the property conveyed as against ₹ 3.06 lakh collected by the Department. This resulted in short collection of stamp duty of ₹ 3.06 lakh.

After Audit pointed this out, the Department replied (July and August 2015) that notices were sent to the parties concerned to pay the differential stamp duty and registration fee. Collection particulars were awaited (January 2016).

Audit reported the matter to the Government in July 2015. Reply was awaited (January 2016).

4.15 Misclassification of instrument

As per Article 33 of Schedule I to the IS Act, in the case of gift deed, stamp duty shall be charged at the rate of 10 *per cent* including transfer duty surcharge on the market value of the property. As per Table of Fees prepared under Section 78 of the Registration Act, 1908 registration fee at the rate of 0.5 *per cent* is also leviable thereon.

During test check of documents in Sub-Registry, Thirunallar, Audit noticed (February 2015) that through a deed of declaration executed and registered in August 2012, land measuring 53.47 Ares (57,554.63 sq.ft.) with building in Nallazhundur village was gifted by creating an irrevocable endowment by a Society in favour of a College. As the document was a gift deed, stamp duty and registration fee of ₹ 6.71 lakh was required to be collected on the guideline value of the land of ₹ 63.93 lakh (excluding the

value of building, which was to be ascertained by the Department). As against this, RO collected stamp duty and registration fee of ₹ 170. This resulted in short collection of stamp duty and registration fee of ₹ 6.71 lakh.

Audit pointed this out to the Department in February 2015 and to the Government in July 2015. Reply was awaited (January 2016).

4.16 Excess allocation of Transfer Duty Surcharge

According to Section 158 and 159 of Puducherry Municipalities Act, 1973 and Section 149 of the Puducherry Village and Commune Panchayat Act, 1973, a transfer duty in the form of surcharge alongwith the duty imposed by the IS Act is collected on the instrument of sale, exchange, gift etc. The surcharge is leviable at the rate of five *per cent* of the market value of the property. The surcharge so collected is required to be allocated to the local bodies.

During test check of documents and statement of transfer duty surcharge in District Registry, Puducherry and Sub-Registry, Thirunallar (February 2015), Audit noticed that though a sum of ₹ 6.02 lakh was actually collected towards transfer duty surcharge, the Department allocated ₹ 12.92 lakh to local bodies in respect of three instruments of sale. This resulted in excess allocation of transfer duty surcharge of ₹ 6.90 lakh to local bodies out of the revenue due to the Government.

After Audit pointed this out in March 2015, the Department, in respect of District Registrar, Puducherry, replied (August 2015) that the excess allocation of transfer duty surcharge of ₹ 5.92 lakh was deducted during the month of July 2015 and the same was credited to the Government account. No reply was received in respect of the remaining case.

Audit reported the matter to the Government in July 2015. Reply was awaited (January 2016).