

CHAPTER IV REVENUE SECTOR

4.1 Trend of revenue receipts

4.1.1 The tax and non-tax revenue raised by the Government of Sikkim during the year 2014-15, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-4.1.1**:

Table 4.1.1
Trend of revenue receipts

		(₹ in crore)				
Sl. No.		2010-11	2011-12	2012-13	2013-14	2014-15
Revenue raised by the State Government						
I	• Tax revenue	279.54	293.92	435.48	524.92	527.54
	• Non-tax revenue	1,137.76	1,044.57	806.96	794.49	698.08
	TOTAL	1,417.30	1,338.49	1,242.44	1,319.41	1,225.62
	Percentage of increase over previous year	(-) 10.30	(-) 5.56	(-) 7.18	(+) 6.20	(-) 7.11
Receipts from the Government of India						
II	• State's share of net proceeds of divisible Union taxes	524.99	611.65	698.48	762.62	809.33
	• Grants-in-aid	1,105.02	1,722.50	1,852.40	2,244.41	2,427.00
	TOTAL	1,630.01	2,334.15	2,550.88	3,007.03	3,236.33
III	Total receipts of State Government (I + II)	3,047.31	3,672.64	3,793.32	4,326.44	4,461.95
IV	Percentage of I to III	47	36	33	31	27

Note: Tax and Non-tax revenue during 2009-10 was ₹ 1,580.09 crore.

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹ 1,225.62 crore) was 27 per cent of the total revenue receipts. The balance 73 per cent of the receipts during 2014-15 was from Government of India. Non-tax revenue and total receipts of the State shown in the table above include gross receipts under State Lotteries.

4.1.2 The details of the tax revenue raised during the period from 2010-11 to 2014-15 are given in **Table-4.1.2**:

Table 4.1.2
Details of Tax Revenue raised

		(₹ in crore)											
Sl. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+) or decrease (-) in 2014-15 over 2013-14	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1	Sales Tax/VAT	118.50	142.74	160.11	124.19	187.14	227.08	225.00	286.33	259.45	282.10	15	(-) 1
2	Taxes on Income and expenditure other than Corporation Tax	1.92	4.94	2.01	4.86	5.62	6.73	7.01	8.68	8.01	7.93	14	(-) 9
3	State Excise	55.50	70.64	67.44	96.26	95.00	111.12	109.00	120.64	120.93	131.36	11	9

4	Stamps and Registration Fees	3.13	5.70	3.26	8.27	7.47	5.35	7.91	6.46	7.70	6.77	-3	5
5	Taxes on Vehicles	9.00	10.67	10.00	16.56	15.00	16.38	16.80	18.52	18.82	19.42	12	5
6	Other Taxes and Duties on Commodities and Services	19.39	37.52	22.47	39.17	37.63	63.16	53.40	80.90	75.60	73.81	42	(-) 9
7	Land Revenue	3.82	7.33	3.82	4.61	5.48	5.66	6.56	3.39	6.89	6.15	5	81
TOTAL		211.26	279.54	269.11	293.92	353.34	435.48	425.68	524.92	497.40	527.54	17	1

The respective departments reported the following reasons for variations:

Increase:

State Excise: The increase was due to revision of excise duty.

Land revenue: The increase was mainly due to more collection from tax and other receipts.

Decrease:

Sales Tax/ VAT: The decrease was due to shortfall in TDS.

In respect of other heads of revenue, no reason was furnished by concerned departments despite being requested (May 2015 and September 2015).

4.1.3 The details of the non-tax revenue raised during the period 2010-11 to 2014-15 are given in **Table-4.1.3**:

Table 4.1.3
Details of Non-Tax Revenue raised

Sl. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+) or decrease (-) in 2014-15 over 2013-14		
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Power	190.00	87.86	150.00	79.70	100.05	82.90	110.10	98.93	121.10	113.56	10	15	
2	Interest receipts	25.57	28.14	13.91	29.39	21.15	46.00	28.85	67.02	31.05	66.44	8	(-) 1	
3	Police	24.42	9.57	39.29	12.89	44.88	49.23	50.29	41.14	55.32	17.60	10	(-) 57	
4	Road Transport	21.20	24.76	23.75	30.89	29.05	29.01	36.04	34.10	43.00	27.63	19	(-) 19	
5	Forestry and Wild Life	11.00	12.25	11.00	12.53	13.48	12.28	15.35	14.27	15.35	11.45	0	(-) 20	
6	Other Administrative Services	3.19	4.72	2.84	6.68	3.03	9.64	4.29	11.06	10.25	13.59	139	23	
7	Public Works	3.80	3.48	3.80	5.38	4.56	4.70	4.46	4.68	5.68	3.66	27	(-) 22	
8	Plantations	2.70	2.90	2.80	2.59	3.20	3.98	3.50	3.62	5.00	2.31	43	(-) 36	
9	Water Supply and Sanitation	2.82	2.61	3.49	2.90	3.40	2.74	3.87	3.17	3.91	3.25	1	3	
10	Tourism	3.11	3.00	5.00	1.84	5.00	2.13	5.60	2.65	2.80	2.64	(-)50	0	
11	Medical and Public Health	0.56	0.72	0.56	1.27	1.27	1.50	1.27	2.19	2.50	1.97	97	(-) 10	
12	Other Rural Development Programmes	2.79	1.17	2.32	1.25	2.32	1.46	1.50	2.13	1.50	1.65	0	(-) 23	
13	Stationery and Printing	1.51	1.52	1.51	1.92	1.51	2.08	1.81	2.05	1.90	1.75	5	(-) 15	
14	Crop Husbandry	0.42	0.51	0.42	0.46	0.07	0.71	0.53	1.45	0.91	0.56	72	(-) 61	
15	Education, Sports, Art and Culture	1.21	1.73	1.40	1.35	1.40	1.37	1.69	1.38	1.34	1.22	(-)21	(-) 12	
16	State Lotteries ¹	Gross	973.85	938.15	1,010.78	844.15	780.99	546.39	776.03	474.37	787.23	418.64	1	(-) 12
		Net	(60.00)	(42.54)	(70.00)	(43.62)	(50.00)	(41.43)	(40.00)	(41.47)	(36.00)	(44.33)	(-)10	7
17	Others	6.41	14.67	8.67	9.38	10.14	10.84	9.35	30.28	10.08	10.16	8	(-) 66	
TOTAL		1,274.56	1,137.76	1,281.54	1,044.57	1,025.5	806.96	1,054.53	794.49	1098.92	698.08	4	(-) 12	

Source: Finance Accounts and Estimates of Receipts.

The respective Departments reported the following reasons for variation:

¹ Figures in brackets represent net receipts.

Increase:

Other Administrative Services: The increase was due to reimbursement of Government of India's share of Election related expenditure for Lok Sabha and Vidhan Sabha Elections in April 2014.

Decrease:

Police: The decrease was due to delay in sanction of reimbursement for expenditure on Police Check-posts and Indian Reserve Battalion by Government of India and lesser number of renewal of gun licenses.

Education, Sports, Art and Culture: The decrease was due to waiver of fees upto College level and hiring of Mannan Bhawan (Hall for organising meetings, etc.) on lesser occasions.

Crop Husbandry: The decrease was due to reduction in lease rent of Bio-fertiliser unit at Mazitar and decrease in sale of Cymbidium orchid.

Other Rural Development Programme: The decrease was due to non-sanctioning of fresh work during 2014-15 resulting into lesser than anticipated sale of tender forms.

Public Works: The decrease was due to less use of Government machinery by the contractors, less sale proceeds from sale of tender documents, non-settlement of pending payment to the contractors and less sanction of new projects.

Medical and Public Health: The decrease was due to less collection of user charges, collection of less fees due to lesser number of tenders, less collection of fees and fines under Tobacco Act and reduction of Lab test charges.

State Lotteries: The decrease was due to closure of lottery market in big States.

Forestry and Wildlife: The decrease was due to free distribution of forest produce like timber, sand and stone as per Government policy and less realisation of revenue from royalties due to stalling in development of Hydel Power Projects.

Tourism: The shortfall in Actuals as compared to BE was due to non-payment of lease rent and low selling of tender forms.

In respect of other heads of revenue, no reason was furnished by concerned departments despite being requested (May 2015 and September 2015).

4.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 in respect of some Heads of Revenue as reported by the departments amounted to ₹ 5.65 crore of which ₹ 2.74 crore was outstanding for more than five years, as detailed in the **Table-4.2:**

Table 4.2
Arrears of Revenue

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2015	Amount outstanding for more than five years	Replies of Department
1	Public Works	2.13	1.03	No reply received from the Department.
2	Tourism	0.98	0.98	Department has issued reminder Legal Notice to pay the rent.
3	Animal Husbandry	0.57	0.57	No reply received from the Department.
4	Water Supply and Sanitation	1.97	0.16	Some of the old lines are damaged partially and unrepairable. Such cases with disturbed water supply remained without up-to-date payment.
	TOTAL	5.65	2.74	

Source: Information received from departments.

It would be seen from the proceeding table that recovery of ₹ 2.74 crore was pending for more than five years and no sincere efforts were being made to recover them. The total arrears of revenue pending with the departmental authorities were ₹ 5.65 crore.

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 Division (Finance, Revenue and Expenditure Department) in respect of Sales Tax (including VAT) was as given in the following table:

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	3214	458	3,672	18	3,654	0.49

As can be seen from the table, the performance regarding disposal of cases of CTD was unsatisfactory. The Department may thus take steps to increase the percentage of disposal of cases of assessment.

4.4 Evasion of tax detected by the Department

No Department reported any case of evasion of tax.

4.5 Pendency of Refund Cases

As per information received in respect of Commercial tax/VAT, there was refund of ₹ 5.78 lakh out of claim received during 2014-15 of the same amount.

4.6 Response of the departments/Government towards Audit

The Accountant General (Audit), Sikkim conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of the 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 the copies to the next higher authorities for prompt corrective actions. 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 one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

IRs issued upto December 2014 disclosed that 267 paragraphs involving ₹ 561.78 crore relating to 95 IRs remained outstanding at the end of June 2015. The details alongwith the corresponding figures for the preceding two years are mentioned in the following table:

Table 4.6.1
Details of pending Inspection Reports

	June 2013	June 2014	June 2015
Number of outstanding IRs	131	97	95
Number of outstanding audit observations	328	292	267
Amount involved (₹ in crore)	710.16	598.29	561.78

4.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the **Table-4.6.2**:

Table 4.6.2
Department-wise details of IRs

Sl. No.	Name of Department	Nature of Receipts	No. of Outstanding IRs	No. of Outstanding Audit Observations	Money value involved (₹ in crore)
1	Finance, Revenue and Expenditure (Commercial Taxes Division)	VAT/Taxes on Sales, Trade, etc.	11	38	41.18
2	Finance, Revenue and Expenditure (Income Tax Division)	Income Tax	14	60	32.95
3	Excise (Abkari)	State Excise	10	28	29.63
4	Land Revenue and Disaster Management	Land Revenue	22	27	0.87
5	Transport	Taxes on Motor Vehicles	6	14	3.68
6	Mines, Minerals and Geology	Non-ferrous Mining and Metallurgical Industries	3	3	3.35
7	Forest, Environment and Wildlife Management	Forestry and Wildlife	5	12	0.15
8	Finance, Revenue and Expenditure (Directorate of Sikkim State Lotteries)	Lottery	2	5	24.10
9	Energy and Power	Power	11	48	415.60
10	Urban Development and Housing	Urban Development	11	32	10.27
TOTAL			95	267	561.78

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs for 6 IRs (issued during 2014-15) upto June 2015. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that heads of offices and heads of the Departments did not initiate adequate action to rectify the defects, omissions and irregularities pointed out by the Accountant General through IRs.

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

4.6.2 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 2014-15 and the paragraphs settled are mentioned in **Table-4.6.3**.

Table 4.6.3

Details of Departmental audit committee meetings

(₹ in crore)

Sl. No.	Department	Number of meetings held	Number of IRs settled	Number of paragraphs settled	Amount
1	Commercial Taxes Division	01	02	36	132.96

The overall progress of settlement of paragraphs needs to be improved in view of the huge pendency of the IRs and paragraphs.

4.6.3 Non-production of records to audit for scrutiny

The programme of local audit of Tax revenue/non-tax revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.

Audit observed non-production of records like assessment files, returns, refunds, registers and other relevant records relating to 48 cases as mentioned below:

Table 4.6.4

Non-production of records

Name of the Office/Department	Year of audit	Number of cases for which records were not produced	Tax amount
Commercial Taxes Division	2013-14	48	Not known

4.6.4 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 replies from the Departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Five draft paragraphs proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2015 were forwarded (May and July 2015) to the heads of the respective departments through demi-official letters. The heads of departments furnished replies in respect of all draft paragraphs.

4.6.5 Follow up on Audit Reports - summarised position

The Rules of Procedures of the Committee on Public Accounts of the Sikkim Legislative Assembly (internal working) 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 the audit paragraphs of the Reports were being delayed inordinately. Twenty-three paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Sikkim for the years ended 31 March 2010, 2011, 2012, 2013 and 2014 were placed before the State Legislative Assembly between March 2011 to March 2015. Action taken explanatory notes in respect of 14 paragraphs from four departments (Finance, Revenue and Expenditure, Excise, Transport and Labour Departments) had not been received for Audit Reports for the years ending 31 March 2010, 2011, 2012 and 2014.

During the year 2013-14, the PAC discussed Audit Report for the year 2008-09 and its recommendations were incorporated in their 96th Report (2014) and ATNs have been received by the PAC in respect of one performance review and two paragraphs discussed. Audit Report for the year 2009-10 was under discussion.

4.7 Analysis of the mechanism for dealing with 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 in respect of Energy and Power Department is evaluated and included in this Report.

The succeeding paragraphs 4.7.1 to 4.7.2 discuss the performance of the Energy and Power Department in dealing with the cases detected in course of local audit conducted during the last ten years and also the cases included in the Audit Reports for last ten years.

4.7.1 Position of Inspection Reports

The summarised position of IRs issued during the last ten years, paragraphs included in these Reports and their status as on 30 June 2015 are given in the following table:

Table 4.7.1
Position of Inspection Reports

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2005-06	7	13	106.28	1	4	1.17	0	0	0	8	17	107.45
2006-07	8	17	107.45	1	8	37.14	0	2	2.06	9	23	142.53
2007-08	9	23	142.53	1	10	80.18	1	1	1.63	9	32	221.08
2008-09	9	32	221.08	0	0	0	1	5	32.98	8	27	188.10
2009-10	8	27	188.10	0	0	0	0	2	1.65	8	25	186.45
2010-11	8	25	186.45	0	0	0	0	0	0	8	25	186.45
2011-12	8	25	186.45	1	9	214.91	0	3	66.82	9	31	334.54
2012-13	9	31	334.54	0	0	0	0	0	0	9	31	334.54
2013-14	9	31	334.54	0	0	0	0	0	0	9	31	334.54
2014-15	9	31	334.54	1	6	91.27	0	2	12.30	10	35	413.51

The Government did not arrange any Audit Committee Meeting between the Department and AG's office to settle the old paragraphs during 2014-15.

4.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years accepted by the Department and the amounts recovered there against are mentioned in the following table:

Table 4.7.2

Year of Audit Report	No. of paragraphs included	Money value of the paragraphs (₹ in crore)	Number of paragraphs accepted	Money value of accepted paragraphs (₹ in crore)	Amount recovered during the year (₹ in crore)	Cumulative position of recovery of accepted cases (₹ in crore)
2007-08	3	9.29	2	8.84	0.08	0.08

It is evident from the preceding table that the progress of recovery even in accepted cases was very slow during the entire period of last ten years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. Further, the arrear cases including accepted audit observations were not available with the Energy and Power Department. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

4.8 Action taken on the recommendations accepted by the departments/ Government

The draft report on Performance Reviews conducted by the AG are forwarded to the concerned Department/Government for their information with a request to furnish their replies. These reviews are also discussed in the exit conferences and the Department's/Government's views are included while finalising the reviews for the Audit Reports.

The following reviews on the Commercial Taxes Division (Finance, Revenue and Expenditure Department) had featured in the last 10 year's Audit Report. The details of recommendations and their status is given in the following table:

Table 4.8

Year of AR	Name of the Review	No. of recommendations	Details of the recommendation	Status
2008-09	Performance Audit on transition from Sales tax to VAT	8	Implement computerisation of VAT system completely and effectively in all areas.	Computerisation of VAT implemented under MMPCT.
			Establish effective mechanism to review database at periodic interval and to prepare database of dubious/risky dealers.	Such mechanism has been established under the eSEVA ² .
			Establish effective mechanism to ensure submission of regular and timely returns by the dealers.	Returns have to be submitted on time, else the TIN of the dealer gets blocked by the system. Hence effective mechanism established.
			Establish effective mechanism for scrutiny of every returns submitted by the dealers, assessment of dealers and VAT audit of selected dealers.	Scrutiny of returns is mandatory and is being done before acceptance.
			Fix responsibility at various levels in the Department for strict compliance of codal provisions to avoid tax evasion by any dealer.	All the penal provisions are implemented before and after assessment.
			Ensure fixing the quantum of minimum penalty for each kind of offences and to continue VAT Fraud Task Force	Minimum penalty is provided in the SVAT Act/Rules.
			Strengthen internal control mechanism including internal audit.	Internal Audit section established with the Joint Commissioner/Audit as Head of the Section.
			Review and rectify various loopholes/deficiencies of SVAT Act and Rules.	SVAT Act/Rules have been amended to rectify various loopholes.
2010-11	Performance Audit on Utilisation of Declaration Forms in Inter State Trade and Commerce	8	Maintain data bank of dealer involved in Inter State Trade and Commerce.	Such provision exists in the eSEVA.
			Print Declaration form assessing its requirements taking into account pace of issue of declaration forms.	All the declaration forms are issued online.
			Maintain proper records of declaration forms printed, issued and closing stock.	Such records are maintained in the system since the Forms are issued online.
			Ensure issue of declaration forms to the dealers only after receipt of details of utilisation of declaration forms issued earlier.	Issue of declaration forms are done after verification and acceptance of the request.
			Issue declaration forms chronologically and not randomly to have a track of declaration forms.	Declaration forms are being issued online and records are available in the system.
			Install a system of verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax.	Such system has been established and is under effective use.
			Install a system for picking up a sample of declaration forms and taking them up for further verification with the concerned States and also a system of uploading the details of utilisation of declaration forms in the TINXSYS website.	
			Ensure submission of CST returns by every dealer and assess all dealers involved in Inter State trade and commerce.	CST returns are to be filed online. Assessment of the dealers are on the basis of the assignment by the Commissioner.

NB: Status as in the table is based on departmental replies.

² Commercial Taxes Division's tax administration system for online payment, e-return filing, waybill endorsement, etc.

4.9 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 the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* include critical issues in Government revenues and tax administration, i.e. budget speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during five years, etc.

During the year 2014-15, there were 19 auditable units, of which seven units were planned and audited which is 37 *per cent* of the total auditable units.

4.10 Results of audit

Test check of the records of seven units under Revenue departments (Urban Development and Housing; State Excise; Forest, Environment and Wildlife Management; Mines, Minerals and Geology; Directorate of Sikkim State Lotteries and Energy and Power) conducted during the year 2014-15 revealed irregularities involving revenue aggregating ₹ 61.48 crore in 31 cases. During the course of the year, the departments concerned accepted 20 cases which were pointed out in audit during 2014-15.

4.11 Coverage of this Report

This chapter contains six paragraphs (selected from the audit detections made during the local audit referred to above and one detected during previous year) involving financial effect of ₹ 16.82 crore and the findings of audit based on the theme 'Collection of Revenue from outsourced activities in Motor Vehicle Tax' involving financial implication of ₹ 4.13 crore. The departments have accepted audit observations involving ₹ 11.85 crore out of which ₹ 4.34 crore has been recovered. These are discussed in succeeding paragraphs.

TRANSPORT DEPARTMENT (MOTOR VEHICLES DIVISION)

4.12 Collection of Revenue from outsourced activities in Motor Vehicles Tax

Highlights

Selection and participation of two companies owned by the same person defeated very purpose of fairness and competitiveness in the tendering process for implementation of High Security Registration Plate.

(Paragraph 4.12.4.1)

Failure on the part of the Department to assess the reasonability of rates resulted into higher cost of HSRP affixation in the State as compared to other States and also led to extra financial burden of ₹ 2.65 crore to the vehicles owners of the State.

(Paragraph 4.12.4.2)

Failure to deposit the Government revenue directly into revenue head resulted into delay in deposit of revenue ranging from four days to 736 days. There was loss of revenue of ₹ 0.59 lakh due to non-provision of security deposit/performance guarantee in the agreement.

(Paragraphs 4.12.4.4 and 4.12.5.3)

In absence of competitive bidding for outsourcing of two Auto Emission Testing Centres at Gangtok and Jorethang and also due to non-linkage of share of Government revenue with the number of registered vehicles in the State resulted into loss of revenue to the tune of ₹ 1.11 crore.

(Paragraphs 4.12.5.4)

Only 7 to 9 per cent of the total number of registered vehicles in the State were issued PUC certificates by the designated agency during the entire period covered under audit resulting in environment pollution and health hazard to the general public.

(Paragraph 4.12.5.8)

Due to incorporation of defective clause in the contract agreement as well as in SMV Rules requiring the owners to undertake pollution control check every six months right from the date of registration even for new vehicles as against the provision of CMV Rules requiring pollution check only after expiry of 12 months from date of initial registration resulted into extra financial burden of ₹ 18.35 lakh on vehicle owners.

(Paragraph 4.12.5.9)

Sale for forms for availing various services under Motor Vehicles against the instruction of the Ministry of Surface Transport, GOI for issue of forms free of cost resulted into extra financial burden to the vehicle owners.

(Paragraph 4.12.6)

4.12.1 Introduction

The Transport Department, Government of Sikkim has two Divisions - (i) commercial Division named as Sikkim Nationalised Transport (SNT) which caters to the transportation needs of all Government departments and other agencies besides the public; and (ii) Motor Vehicles Division which is primarily responsible to enforce and implement the laws relating to Central Motor Vehicles (CMV) Act 1988, Central Motor Vehicle (CMV) Rules 1989, Sikkim Motor Vehicles (SMV) Rules 1991 and the Sikkim Motor Vehicles Taxation (SMVT) Act 1982.

The State Transport Authority (STA) constituted under Secretary, Transport Department as Chairman is empowered to exercise and discharge the powers and functions specified under the Motor Vehicles Act 1988.

Vehicles at a glance:

Total number of registered vehicles worked out by Audit from the Annual Reports³ of the Department are given below:

Table 4.12.1

Year	31.03.2010	31.03.2011	31.03.2012	31.03.2013	31.03.2014	31.03.2015
Total vehicles registered by end of the year	43,052	47,612	51,881	60,848	64,574	68,162

Sources: Annual Reports of the Department.

However, as per information subsequently provided by the Department, total number of registered vehicles as on 31 March 2015 totalled only 46,205.

The Department stated that the reason for difference in the number of vehicles was due to the fact that prior to the computerisation of registration of vehicles, registration of vehicles and compilation works were done manually and accurate numbers could not be arrived. However, after commencement of computerisation of registration process, the actual figure could be established as under:

Table 4.12.2

Year	31.03.2011	31.03.2012	31.03.2013	31.03.2014	31.03.2015
Total vehicles registered by end of the year	23,135	27,695	31,964	40,931	46,205

It is seen from the above that there is significant difference in the number of vehicles furnished by the Department with those given in their Annual Reports. This indicates that the Department needs to reconcile both figures and update these in their computer system so as to show reliable and complete number of vehicles in the next Annual Report.

4.12.2 Outsourced Activities in Motor Vehicles Tax

Three activities under Motor Vehicles Tax had been outsourced by the State Government to different firms/agencies during the period March 2001 to October 2014 and revenue collected thereof was deposited under revenue head: 0041 - Taxes on Vehicle, as detailed below:

Table 4.12.3

Sl. No.	Activities/revenue collection works	Name of firm engaged	Date from which the firm was engaged
1	High Security Registration Plate (HSRP)	M/s Tonnjes Eastern Security Tech. Private Ltd. New Delhi	02 February 2008
2	Vehicle Emission Testing	M/s SiMTEI, Deorali, M/s Navigator and Ms. C.L. Bhutia	15 October 2001, April 2011 and October 2014 respectively
3	Sale of Forms prescribed under MV Act and Rules	Mr. M.L. Sharma	26 March 1990

³ The number of figures as on 31 March 2010 and 31 March 2011 shown in the Annual Reports were 43,052 and 47,612 respectively. New registration shown in subsequent years in Annual Reports were taken since total figures were not mentioned in said Reports. New registration figures for 2011-12, 2012-13 and 2013-14 were taken as 4,269, 8,967 and 3,726 respectively. The Department furnished in their reply new registration figures as 3,588 for 2014-15.

Major sources of revenue receipts for Motor Vehicles Tax were registration fee, token tax, transfer of ownership, recommendation fee, issue of national permit, issue of driving license, countersignature charges, route permits, fines for offences, etc. The year-wise collection of revenue under Motor Vehicles Tax *vis-à-vis* revenue collection from outsourced activities during the period covered under audit are:

Table 4.12.4

(₹ in lakh)

Particulars	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Revenue on MV Tax	1066.44	1656.27	1638.22	1852.17	1941.39	8154.49
Revenue from Outsourcing						
HSRP Affixation	5.75	8.42	10.96	4.44	4.10	33.68
Auto Emission Test	2.30	2.30	2.53	2.53	2.53	12.19
Sales of forms	1.35	2.25	3.27	3.12	1.82	11.81
Total of outsourcing	9.40	12.97	16.76	10.09	8.45	57.68
Percentage of revenue from outsourcing w.r.t. to total revenue	0.88	0.78	1.02	0.54	0.44	0.71

Percentage of revenue collected through outsourced activities was insignificant ranging from 0.44 *per cent* to 1.02 *per cent* compared to total revenue collection under Motor Vehicle Tax during the entire period from 2010-11 to 2014-15.

This was due to the fact that royalty for HSRP affixation, revenues to be deposited from auto emission test and sale of forms were fixed at a very low rate.

4.12.3 Audit framework

Audit on “Collection of revenue from outsourced activities in Motor Vehicles Tax” was taken up with an Entry Conference with the Secretary, Transport Department on 22 July 2015 to assess transparency and competitiveness in selection process of outsourced agencies, adequacy of agreements with outsourced agencies to safeguard revenue interests of the State and adherence to terms and conditions of the agreement by outsourced agencies for effective and timely collection of revenue. Audit was conducted through test check of records in Transport Department (Motor Vehicles Division) at Gangtok and four Regional Transport Offices (RTO) located at Districts level during July-August 2015 covering the period April 2010 to March 2015. The audit findings were discussed in the Exit Conference held on 12 October 2015 and the replies received have been suitably incorporated. The audit findings were benchmarked against criteria stipulated in the bid documents, agreements, CMV Act 1988, CMV Rules 1989, SMV Act 1988, SMV Rules 1991, SMVT Act 1982 and State Financial Rules 1979.

Audit findings

4.12.4 Implementation of High Security Registration Plate

The High Security Registration Plate (HSRP) Scheme was implemented in compliance to the Notification issued by the Ministry of Shipping, Road Transport and Highways (MORTH) and Rule 50 of the Central Motor Vehicle Rules 1989 and the directions issued by the Hon’ble Supreme Court. The State Government issued a notification for making

HSRP effective from 1 July 2008 in Sikkim. However, actual implementation started from 2 February 2009.

The contract for implementation of HSRP was entrusted to a Delhi based firm M/s Tonnjes Eastern Security Technologies (EST) Pvt. Ltd. on 'Build, Own and Operate' (BOO) basis through an agreement signed between the Government and the firm on 2 April 2008 for five years. After completion of this agreement period, the Department continued to give periodical extensions to the same firm. According to current extension, the period of extension was up to 31 March 2016.

While auditing the available records relating to implementation of HSRP scheme, following observations came to light.

4.12.4.1 Irregularities in tendering process

The State Government published Notice Inviting Tender (NIT) in April 2007 for selection of firm in order to implement the scheme and the following five bidders responded in June 2007.

Table 4.12.5

Sl. No.	Name of Company
1	M/s Tonnjes Eastern Security Tech Pvt. Ltd., New Delhi
2	M/s Hind Industries Ltd., New Delhi
3	M/s Shimnit Utsch India Pvt. Ltd. Mumbai
4	M/s Promuk Hoffman International Ltd., Secunderabad
5	M/s Real Mazon India Ltd., New Delhi

As per records, only two bidders, viz. (i) Tonnjes EST Pvt. Ltd, New Delhi, and (ii) M/s Shimnit Utsch India Pvt. Ltd, conformed to bid requirements in pre-qualification bids. However, the statement of Association of Registration Plates Manufacturers of India indicated that three below mentioned companies have the same owner Shri Nitin Shah.

- i. M/s Shimnit Utsch India Limited
- ii. M/s Tonnjes Eastern Security Limited
- iii. M/s Real Mazon India Pvt. Limited

Selection and participation of two companies owned by the same person (Shri Nitin Shah) defeated the very purpose of fairness and competitiveness in entire tendering process.

The Department contended (October 2015) that no deviation was done as the firm was awarded contract only after qualifying in all the rounds of evaluation. The Department further added that Law did not prohibit anyone to own more than one company. However, the fact remained that out of five firms who participated in the bid, three companies were owned by one and the same person of which two firms incidentally qualified to the final round. This vitiated the practice of fair competition.

4.12.4.2 Excess charging of HSRP affixation and loss of potential Government revenue

While finalising tendering process, the Department was required to assess reasonability of rates offered by the bidders. Audit collected information regarding rate of HSRP affixation in different States including North Eastern States as shown below:

Table 4.12.6

Sl. No.	Name of State	Rate of affixing HSRP for four wheelers (figures in ₹ excluding tax)	Rate of affixing HSRP for two wheelers (figures in ₹ excluding tax)	Name of firm awarded contract for affixing HSRP
1	Himachal Pradesh	315	105	M/s Link Utsav Ventures Pvt. Ltd., New Delhi
2	Goa	1,200	650	M/s Shimnit Utsch India Pvt. Ltd., Mumbai
3	New Delhi	280	180	M/s Rosemerta Technologies
4	Haryana	364	140	M/s Utsav Safety System Pvt. Ltd.
5	Mizoram	945	669	M/s Shimnit Utsch India Ltd., Mumbai
6	Manipur	735	597	M/s Shimnit Utsch India Pvt. Ltd., Mumbai
7	Nagaland	1,298	599	M/s ShimnitUtsch India Pvt. Ltd., Mumbai
8	Arunachal Pradesh	1,568	660	M/s Shimnit Utsch India Pvt. Ltd., Mumbai
9	Sikkim	1,816	735	M/s Tonnjes EST Pvt Limited
10	Sikkim	645	326	Rate quoted by M/s Rosemerta during 2014 bid.

It was seen from above that cost of HSRP affixation was exorbitantly high compared to other States. Even comparison among the North Eastern States showed that Sikkim was having highest rate for HSRP cost. Rates of HSRP varied from ₹ 280 to ₹ 1816 in case of four-wheelers and ₹ 105 to ₹ 735 in case of two-wheelers, the highest being in case of Sikkim. The rates quoted by M/s Rosemerta Technologies Ltd. (₹ 645 for four-wheelers and ₹ 326 for two-wheelers) on subsequent tendering process during July 2014 was reasonable as compared to various States mentioned above. This shows that while finalising tendering process, the Department did not assess reasonability of rates offered by the bidders. Even by taking the rate of Goa, one of the highest rates amongst other eight States as above, the rate in Sikkim was higher by ₹ 616 and ₹ 85 for four-wheelers and two wheelers respectively. This exorbitant high rates in cost of HSRP added unwarranted burden on vehicle owners by ₹ 2.65 crore⁴ during the period 2009-2015 and consequential gain to M/s Tonnjes EST Pvt. Ltd.

The Department in its reply stated (October 2015) that the firm had not been charging excess HSRP affixation charges as it had been awarded the work after financial bid. Due to low vehicle population, hilly terrain, remote locality, unreliable road connectivity, cost of transportation, manpower, machinery, materials were expected to be higher compared to other States. The reply is not acceptable as the HSRP affixation rates for four-wheelers and two-wheelers in other hilly and far flung states like Himachal Pradesh (₹ 315: ₹ 105), Manipur (₹ 735: ₹ 597) and Mizoram (₹ 945: ₹ 669) were much lower than that of Sikkim. Thus, low vehicle population could not be justified for exorbitant rates of HSRP affixation.

4.12.4.3 Unprofitable rate of royalty

The main purpose of publishing NIT was to maximise fairness and competitiveness without compromising quality of the work. This implied that it should be ensured that Government revenue should be safeguarded along with provision of service to general public at minimum cost.

⁴ Four-wheelers - $42,575 \times ₹ 616 = ₹ 2,62,26,200$; Two-wheelers - $3,630 \times ₹ 85 = ₹ 3,08,550$.

Audit observed that while tendering for implementation of HSRP during 2008, the Department attached the condition in the Bid documents itself vide clause 4.3.1, “the successful bidder shall pay on monthly basis to the State Government, a sum equivalent to 5 per cent of the amount (excluding local taxes) collected on sales of HSRP from the vehicles owners as Royalty”. It implies that whatever be the cost of HSRP plate affixation, the bidder would pay only 5 per cent of it as Royalty. Thus, instead of quoting the rate of royalty to be paid by the bidders on competitive basis along with the rate of HSRP, fixing the rate of 5 per cent towards Government revenue defeated the idea of safeguarding the revenue interests of the State. Thus due to rigidity on rate of royalty, the Department earned a royalty of ₹ 36.78 lakh⁵ (5 per cent) only during the period 2009-15 which fared minimal compared with the total transaction of the firm amounting to ₹ 8.34 crore during the same period.

The Department stated (October 2015) that tendering was done in fair and competitive manner and the royalty was calculated and released as per the conditions laid down under the bid documents. The Department, however, did not address the issue of fixing the rate of royalty instead of bidding by the firms which failed to safeguard the revenue interest of the Government.

4.12.4.4 Delay in submission of royalty and loss of interest

As per Clause 16 of the agreement, the M/s Tonnjes EST Pvt. Ltd. shall pay on monthly basis to the State Government a sum equivalent to 5 per cent of the amount (excluding local taxes) collected on sales of HSRP as royalty. The royalty shall be paid directly in the revenue head of Transport Department on or before 10th of the following month. Any delay in the payment of royalty by the firm will attract an overdue interest for every month of delay or part thereof. Such overdue interest will be compounded on a monthly basis and the applicable interest will be the Prime Lending Rate (PLR) of State Bank of India prevailing at the time plus 2 per cent.

Audit of records of the Department and corresponding deposit details at State Bank of Sikkim, Gangtok Branch revealed the following:

- (a) Instead of depositing royalty directly into the revenue head, the firm forwarded royalty in form of cheques in name of Secretary, Motor Vehicles Department.
- (b) Out of 73 cases of deposit, there were delays in all cases ranging between 4 days to 736 days from the stipulated date, i.e. 10th of the next month attracting a penal interest of ₹ 0.89 lakh for delays as detailed below:

Table 4.12.7

Delays in deposit	No of cases	Penalty (in ₹)
Upto 50 days	52	27,786
50 to 100 days	12	19,479
101 to 500 days	8	29,131
Above 500 days	1	12,851
		89,247

⁵ Total cost on affixation of HSRP w.e.f. 2009-10 to 2014-15: ₹ 8,34,18,640. (Net amount: ₹ 7,35,60,359+Taxes: ₹ 98,58,281). Royalty @ 5 per cent realised on net amount = ₹ 36,78,018).

Penal interest was not realised from the firm till the date of audit (August 2015).

In reply, the Department stated (October 2015) that there was no delay in submission of royalty by the firm and loss of interest thereof due to the fact that the head office of the firm was located at New Delhi and there was no RTGS facility to deposit the Government revenue. The head office of the firm forwarded the royalty in the form of cheque in favour of Secretary, Transport Department through time taking postal services. The cheques were subsequently required to be deposited into Government Account through challans by the Department.

The contention of the Department is not acceptable as the head office of the firm could easily transfer royalty money electronically, without any time lag, to its branch office in Sikkim. Further, as per clause 16(a) of the agreement, the monthly royalty could be paid by the branch office of the firm directly in the revenue head of the Department within 10th day of every next month. Moreover, it was not the responsibility of the Department to deposit the royalty money into the Government Account.

4.12.4.5 Liquidated damage not recovered

As per the agreement entered with the firm on 2 April 2008, the contract was for a period of five years from the date of commencement of the scheme which would be 90 (ninety) days from the date of signing of the contract agreement. As per clause 27 of the agreement, for timely fixation of HSRP on the newly registered vehicles in the State, the contractor was required to install necessary infrastructure at all location of Registering Authorities in the State within 90 days from the date of signing of the agreement. Further, the agreement also stipulated that if necessary infrastructure⁶ were not installed or made operational at any of the locations of registering authorities in the State on stipulated time as referred above, it would be considered as delay in commencement of contract and would result in recovery of liquidated damage at the rate of ₹ 0.25 lakh for each day of delay subject to maximum of ₹ 25 lakh without prejudice to other remedies under the contract.

Audit scrutiny revealed the following:

- The firm started the work with effect from March 2009 at Gangtok, East District after delay of eight months.
- The firm established office and necessary infrastructure at one of the four locations of Registering Authorities at East District (Gangtok) only. In the remaining RTO Offices, the firm only deployed a person for collecting cost and fixation of HSRP supplied from Gangtok Centre.

This showed violation of agreement as the Department not only failed to ensure compliance with terms and conditions but also failed to initiate action for recovery of liquidated damage of ₹ 25 lakh for delayed implementation of the scheme.

⁶ *Equipment: 1) Embossing Machine; 2) Hot Stamping Machine; 3) Third Registration plate printer. Personnel: 1) Embossing Station In-charge; 2) Embossing Technician; 3) Information Technology; 4) Network In-charge; 5) Fitment Engineer.*

The Department stated (October 2015) that necessary infrastructure were installed in other districts too and there was no delay in implementation of scheme. However, the fact remained that necessary infrastructure were not installed in the remaining three RTO Offices (except RTO East Office at Gangtok) as of November 2015 which attracted recovery of liquidated damage as per the provision.

4.12.4.6 Delayed tendering and undue extension

Existing agreement for implementation of HSRP expired on 1 February 2014. The Department, however, extended the contract of M/s Tonnjes EST Pvt. Ltd. (subsequently renamed as M/s Test Security License Plates Pvt. Ltd.) till 31 August 2014 on the same terms and conditions as per earlier contract and at the same price. The Department floated fresh tender for the implementation of HSRP on 20 June 2014 after delay of four months vide e-tendering against which only one bid was received from a Delhi based firm M/s Rosemerita Technologies Ltd. (RTL), New Delhi. Due to single bidder, Tender Selection Committee decided for retendering. Retendering was done on 25 July 2014 through e-tendering as well as publishing of NIT in Economic Times, New Delhi and Kolkata editions and local newspaper - Sikkim Herald. Again the same firm M/s Rosemerita Technologies Ltd. was the only bidder. The Tender Selection Committee decided to go ahead and opened (12 August 2014) the bid documents. The firm quoted the following rates:

Table 4.12.8

Sl.No.	Vehicle category	Rate quoted per pair	Remarks
1	Four-wheeler	₹ 644.62	Local cess (1 per cent) extra on base price
2	Two-wheeler	₹ 326.24	Local cess (1 per cent) extra on base price

The Department meanwhile received (August 2014) alleged information that M/s Rosemerita Technologies Ltd. was member of a consortium which violated certain conditions of contract while implementing affixation of HSRP in Delhi and was issued show cause notice by the Delhi Government for supplying HSRP plate from a factory which did not possess Conformity of Production (COP) certificate. The Department kept the tendering process in abeyance and did not seek any clarification from M/s Rosemerita Technologies Ltd. In April 2015, the Department unilaterally sent letter of non-acceptance of the contract to M/s Rosemerita Technologies Ltd. The contract was further extended with effect from September 2014 to 31 March 2016 at reduced rates (as compared to the earlier rates at which M/s Tonnjes EST Pvt. Ltd. was operating) as given in the following table:

Table 4.12.9

Sl. No.	Vehicle category	Rate	Remarks
1	Four-wheeler	₹ 1,458	Local taxes extra
2	Two-wheeler	₹ 599	Local taxes extra

Thus, it was obvious from above that the Department failed to initiate timely action for retendering. The tendering process was kept in abeyance for inordinately long period of

nine months⁷ based on alleged information without documentary proof for which clarification from the bidder was not sought. On the other hand, HSRP services continued from the existing firm on *ad-hoc* basis by extending the contract in a piecemeal manner. Further, it was observed that the existing firm M/s Tonnjes EST Pvt. Ltd. did not participate in fresh tender but continued to get extension. Thus, due to delayed tendering and keeping the tender process in abeyance without seeking clarification from bidder, the Department was forced to extend the contract to the existing firm without the bidding process and deprived the vehicle owners from getting services on competitive rates.

The Department replied (October 2015) that delay occurred due to enforcement of model code of conduct for Assembly Election in Sikkim. Further, due to receipt of report of enquiry committee set up by Delhi Government for alleged involvement of the bidder firm which was also under litigation in Supreme Court, the Department, after seeking legal advice from Learned Advocate General, kept the tendering process in abeyance and later issued non-acceptance letter of the contract to the firm. The Department further stated that under the above conditions, it had to grant the extension to the existing firm for continuation of the services. The reply of the Department is, however, not acceptable as the old contract came to end on 2 February 2014 and the Department could have commenced the tendering process much ahead of expiry of the old contract and completed the tendering process before the enforcement of the model code of conduct (5 March 2014). During the intervening period, the Department did not initiate the tendering process. Further, the Department failed to obtain the clarification from the bidder and issued non-acceptance letter unilaterally.

4.12.5 Smoke Emission Testing

Under Rule 115(7) of the CMV Rules 1989, every vehicle shall carry a valid Pollution Under Control (PUC) certificate after expiry of one year from the date of first registration. The PUC is valid for a period of six months for vehicles which are already on road. The Transport Department outsourced different agencies to run and operate the “Auto Emission Testing Centres” (AETCs) for an initial period ranging from three to five years by signing agreements with concerned agencies. Details are as under:

Table 4.12.10

Year	Places	Firms	Period of agreement
2001	Gangtok and Jorethang	M/s SiMTEI	Ranging from three years to five years
2011	Mobile Vehicular Testing Unit	M/s Navigator	Three years w.e.f. April 2011
2014	Rangpo, Geyzing, Mangan, Namchi	M/s SiMTEI	Five years w.e.f. October 2014
2014	Ranipool	Ms. Cheoki Lhamu Bhutia	Five years w.e.f. October 2014

Audit of records relating to outsourcing revealed the following:

4.12.5.1 Award of work without competitive bidding

It was observed that license was granted (October 2001) to a private firm - M/s Sikkim Motor Training and Engineering Institute (SiMTEI), Gangtok to run the AETCs at

⁷ NIT published initially - 20.06.2014; NIT republished - 27.07.2014; Opening of bid - 12.08.2014; letter of non-acceptance sent - April 2015.

Gangtok and Jorethang without competitive bidding. For the services rendered, the firm collected fees at prescribed rate of ₹ 80 per certificate from two/three wheelers and ₹ 100 per certificate from four wheelers.

The deed of agreement was signed with the Government on 28 September 2001 to be effective from 15 October 2001 for the initial period of five years and subsequently renewed (three occasions in between October 2006 to October 2012) to run the AETCs at Gangtok and Jorethang, valid till October 2017. Initially annual revenue inflow from outsourcing was fixed at ₹ 0.90 lakh which was subsequently revised thrice to ₹ 1.80 lakh, ₹ 2.30 lakh and ₹ 2.53 lakh.

In reply, the Department stated (October 2015) that during the year 2000-01, the implementation of AETC was at very initial stage in the State. In order to run the AETCs required technical expertise and during that period, no other firms were readily available. Since the Department had to implement the same immediately, it had no option but to grant permission to M/s SiMTEI to run the AETCs at Gangtok and Jorethang. Moreover, the proprietor of the firm, an unemployed educated local youth of Sikkim, was given opportunity under the employment generation policy in line with the Government.

The reply of the Department was not tenable considering the fact that during the entire period of 14 years from 2000-01 to 2014-15, the Department had never opted for floating the tenders to safeguard revenue interest of the Government. Instead, it continued to renew the agreement with the firm ranging from three to five years as per request of the firm while there were number of parties including M/s Sikkim Motors, Tadong interested in opening the AETCs in the State during this intervening period.

4.12.5.2 Agreement not safeguarding Government interest

Audit scrutiny of agreement signed with the firm and subsequent renewal of contract agreements noticed that though the annual revenue to be paid by the firm was increased thrice from ₹ 0.90 lakh to ₹ 2.53 lakh over the period of 11 years (2001-02 to 2011-12), the Department failed to link the annual revenue with increase in number of vehicles over the years, i.e. 43,052 in 2009-10 to 68,162 in 2014-15 while fixing the annual revenue to be paid by the firm. Failure to establish the linkage between annual revenue inflow to increasing vehicles compromised revenue interests of the State. Besides, conditions like performance security/security deposit, penalty/interest clause in case of delay or failure on the part of the firm for non-payment/delay in payment of Government revenue, etc. were lacking in the agreement. Similar lacunae in agreement were also noticed with the other outsourcing agencies (M/s Navigator and Ms. C.L. Bhutia) for running the Mobile Vehicular Testing Unit and AETC. Further, long contract period and renewal of agreement ranging from three to five years also debarred the Department from chances of enhancement of Government revenue each year.

4.12.5.3 Loss of Government revenue

With a view to facilitating easy access to the vehicle owners for auto emission test, the Department awarded (April 2011) work of operating Mobile Vehicular Test Unit (MVTU) to M/s Navigator for a period of three years. The firm was to run MVTU on

rotation basis at interval of every 15 days in each location at capital, districts, sub-divisions and major vehicular junctions of the State and issue a PUC certificate after test. For the services rendered, the firm collected the fees from the vehicle owner @ ₹ 100 per certificate for all types of light, medium and heavy motor vehicle and ₹ 80 from all types of two wheelers.

As per clause 21 of agreement, the firm shall deposit Government revenue on quarterly basis @ 33 per cent of ₹ 80 for each two wheelers tested and @ 27 per cent of ₹ 100 for each Light Motor Vehicle (LMV)/Medium Motor Vehicle (MMV)/Heavy Motor Vehicle (HMV) tested. The firm operated MVTU till 20 July 2013, however, neither the firm deposited revenue valuing ₹ 0.59 lakh⁸ nor was the Department in a position to recover the same due to absence of any security deposit/performance guarantee. The Department terminated the contract with the firm with effect from 21 July 2013 due to breach of clause of agreement. Legal notice to the firm to deposit the revenue had been issued, however, the revenue had not been deposited by the firm (September 2015).

While accepting the audit observation, the Department stated (October 2015) that the contract agreement had been terminated and legal notice sent to the firm to deposit the Government revenue immediately. Since the firm had not responded, the Department proposes to forward the matter to the Arbitrator and outcome of the same would be intimated to the Audit. As of November 2015, no further development had taken place.

4.12.5.4 Low fixation of revenue

The firm, i.e. M/s SiMTEI had been collecting ₹ 80 for two wheelers and ₹ 100 for four wheelers for conducting emission test and issue PUC certificates thereof from all vehicle owners. In lieu of contract granted to the firm, the Department set the yearly revenue to be deposited into Government account by the firm for two AETCs at Gangtok and Jorethang @ ₹ 2.30 lakh per year which was enhanced to ₹ 2.53 lakh per year from October 2012. Basis for setting up of this target of annual revenue to be deposited by the firm was not available with the Department.

Considering the number of registered vehicles in the State (47,612 in 2010-11 and 68,162 in 2014-15) and validity of PUC certificate, yearly revenue target fixed by the Department was far below than the earnings of the firm as analysed below:

Table 4.12.11

Year	Number of registered vehicles under P, G, T and E series in the State	Total earning taking the rate of ₹ 80 per test per vehicle (required to undergo 2 tests per year) (in ₹)
2010-11	25,071	₹ 40,11,360
2011-12	28,120	₹ 44,99,200
2012-13	34,079	₹ 54,52,640
2013-14	37,073	₹ 59,31,680
2014-15	39,396	₹ 63,03,360
TOTAL		₹ 2,61,98,240

⁸ PUC certificates issued by the firm, i.e. 2,169 nos. \times ₹ 100 = ₹ 2,16,900 \times 27% = ₹ 58,563.

From the table above, yearly earning ranged from ₹ 40.11 lakh to ₹ 63.03 lakh aggregating ₹ 2.62 crore taking the total registered vehicles under P (Private), G (Government), T (Local taxi) and E (Tractor and Trailors) series as these vehicles mostly ply within the State and hence, there were remote chances that these series of vehicles undergo emission test outside the State. Thus, considering the formulae adopted for fixation of offset price⁹ by the Department while awarding contract for running the AETCs for other places, viz. Rangpo, Namchi, Gyalshing and Mangan to the same firm (M/s SiMTEI) in October 2014, total potential Government revenue worked out to ₹ 1.23 crore¹⁰. Thus, failure of the Department to link assessment of revenue with number of vehicles led to potential loss of revenue amounting to ₹ 1.11 crore (₹ 1.23 crore - ₹ 12.19 lakh¹¹) during the period from 2010-11 to 2014-15.

The Department stated (October 2015) that all vehicles registered in Sikkim need not carry out smoke test in the State only. The vehicle owners have option to undergo smoke test as per their convenience and MVD could not mandate vehicle owners to carry out smoke testing only in Sikkim. Hence, comparison with the increase of vehicles to revenue of smoke testing was not relevant. As such, there was no loss of revenue as the AETCs were established to facilitate vehicle owners/drivers for auto emission test.

Reply of the Department is not tenable as earning of the firm on account of issue of PUC certificates have been calculated taking only the total number of registered vehicles under P, G, T and E series which have the possibility to ply within the State only.

4.12.5.5 Delay in selection of outsourced agencies and operationalisation of AETCs led to loss of revenue

Audit observed that while the contract for running AETCs at Deorali and Jorethang was in operation (till October 2017) with M/s SiMTEI, Department invited ‘Expression of Interest’ (EOI) from interested parties for running of AETCs at six places, i.e. Ranipool, Rangpo, Gyalshing, Mangan, Namchi and Soreng. In response to EOI only two agencies submitted their willingness to operate the centres in the following five places as detailed below:

Table 4.12.12

Sl.No.	Individual/Firm	Places
1	Ms. Lendup Cheoki Bhutia	Ranipool
2	M/s SiMTEI	Rangpo, Gyalshing, Mangan, Namchi

On receipt of EOI from the parties, the Technical Committee worked out the offset price for five years on the basis of estimated vehicles in the concerned places with yearly addition of vehicles at 10 per cent as under:

⁹ Minimum revenue fixed by Department to be deposited by successful bidder after conclusion of agreement.

¹⁰ Net earnings = ₹ 2,61,98,240 (total earnings) - ₹ 15,34,512 (recurring and non-recurring expenditure for five years) Offset price = ₹ 2,46,63,728x50 per cent of total earning = ₹ 1,23,31,864.

¹¹ Total revenue paid by the firm for 2010-11 to 2014-15 (2010-11 and 2011-12 @ ₹ 2.30 lakh per year and 2012-13 to 2014-15 @ ₹ 2.53 lakh per year).

Table 4.12.13

Sl. No.	Place	Present estimated number of vehicle	Offset price for 5 years
1	Rangpo	3,000	₹ 10.65 lakh
2	Ranipool	2,000	₹ 4.55 lakh
3	Gyalshing	2,000	₹ 4.55 lakh
4	Namchi	2,500	₹ 7.60 lakh
5	Mangan	1,500	₹ 1.50 lakh
		11,000	₹ 28.85 lakh

Despite Singtam being one of the important place with large vehicular traffic, i.e. entry point for vehicles for all other districts (South, West and North) and availability of interested parties, the Department had not included Singtam while inviting EOI. Reason for non-inclusion of Singtam was not available in records.

The offset price worked out by the Committee was approved by the Government. While both parties agreed the terms and conditions for operation of AETCs in March 2014, M/s SiMTEI requested one month time to start AETCs. The matter remained pending due to announcement of model code of conduct for Assembly and Parliamentary Election in April-May 2014. Finally, deed of agreement with the agencies was signed on 2 August 2014 which was effective from 1 October 2014 for five years, i.e. till 30 September 2019. Though AETCs were to be operationalised on 01 October 2014 as per clause 5 of the agreement, none of AETCs were operationalised till 31 March 2015. It was seen that the Department had not safeguarded the Government revenue by incorporating the interest and penalty clause in the agreement in case of delay in commencement of operation, etc. by the outsourced firms. Thus, there was a loss of Government revenue of ₹ 2.13 lakh¹² due to delay in commencement of AETCs by the agencies beyond the agreement date.

Further, it was observed that M/s SiMTEI expressed its unwillingness to operationalise the AETC at Namchi as the volume of vehicles in Namchi was below the projected number. This was clear violation of terms of the agreement by the firm but no action was taken by the Department against the firm. This resulted into loss of revenue amounting to ₹ 7.60 lakh to the Government. In such event, earnest money deposit of the bidder should have been forfeited. However, in absence of suitable clause for forfeiture of earnest money deposit, in case of default, the Department was not in a position to forfeit the same resulting in loss of revenue.

In reply, the Department stated (October 2015) that delay in operation of AETCs was due to requirement of specific machines which would be installed only after conclusion of agreement to avoid any eventual loss to the firm in the event of cancellation of agreement. Reply of the Department was not acceptable as the offer of acceptance for the work along with terms and conditions issued in March 2014 and agreed by both the firms in March 2014 itself were not abided till March 2015.

4.12.5.6 Short deposit and delay in deposit of Government revenue

As per agreement signed, M/s SiMTEI was required to submit Government revenue @ ₹ 2.30 lakh per year w.e.f October 2009 to October 2012 and ₹ 2.53 lakh with effect from

¹² Offset price for four AETCs (Rangpo, Ranipool, Gyalshing and Mangan) for five years = ₹21.25 lakh. Thus, revenue to be paid for 6 months' delay = ₹35,417 x 6 = ₹2,12,502.

October 2012 to October 2017 in quarterly instalments. Scrutiny of Challans in support of payments of yearly revenue during the period from 2010-11 to 2014-15 revealed that there was short deposit of ₹ 0.50 lakh by M/s SiMTEI. Further, the firm was required to deposit the revenue in quarterly instalments as per the terms and conditions of the agreement, the firm deposited the revenue in number of instalments ranging from 13 to 26 instalments in a year. Thus not only there was short deposit of Government revenue but payment in instalments also caused delay in deposit of revenue. The Department had not taken any action against the firm in violating the clause of agreement.

The Department while accepting the observation stated (October 2015) that the firm had been directed to deposit the fixed revenue towards operation of AETCs on quarterly instalments as per agreement.

4.12.5.7 Records not maintained as per Agreement

As per clause 10 and 20 of the agreement, the outsourcing agencies were required to maintain certain records and furnish reports to the Department containing date of testing, registration number of vehicle and smoke density level after check. Further, as per clause 20 of the agreement, the firm was required to maintain a “Register of Vehicle Tested” in the proforma given below:

Registration No. of vehicle	Class of vehicle	Date and time reported for testing	Testing Report	Serial Number of Certificate	Fees realised	Other particulars, if any

However, no such records were maintained and furnished by the firm during the period covered under audit. The Department also failed to ensure compliance to the above provisions.

The Department stated (October 2015) that the firm was adhering to all the terms and conditions of the agreement. Registers were being maintained by the firm which would be produced to Audit. The contention of the Department is not acceptable as the Department failed to produce the monthly reports furnished by the firm (November 2015).

4.12.5.8 Vehicles plying without PUC certificates

As per information furnished by the firm, the year-wise total number of vehicles required to undergo auto emission test and the number of PUC certificates issued by M/s SiMTEI during the period covered under audit from two AETCs (Gangtok and Jorethang) showed huge discrepancy as compared to total registered vehicles available in the State as under:

Table 4.12.14

Year	As on 31.03.2011	As on 31.03.2012	As on 31.03.2013	As on 31.03.2014	As on 31.03.2015
No. of total registered vehicles	47,612	51,881	60,848	64,574	68,162
PUC to be issued as above (twice in a year)	95,224	1,03,762	1,21,696	1,29,148	1,36,324
PUC certificate issued by firm	9,008	9,084	8,619	9,692	9,846
Vehicles running without PUC (percentage in brackets)	43,108 (91)	47,339 (91)	56,539 (93)	59,728 (92)	63,239 (93)
Percentage of vehicles whose emission was tested	9	9	7	8	7

It is clear from the above table that if figures of PUC certificates issued by the firm during the period is taken into account, percentage of vehicles possessing PUC certificate ranged from 7 per cent to 9 per cent only during the period 2011 to 2015, thereby leading to the conclusion that 90 per cent or more number of registered vehicles were plying in the State without PUC certificates against the prescribed provision of CMV Act/Rules and SMVR, 1971 causing environment pollution and health hazard to the general public.

Even on subtracting vehicles registered in various other series J (Jeep), B (Buses), D (Goods Vehicles) and Z (Luxury Tourist Taxi) which may undergo emission test and obtain PUC certificates from outside the State as they run inter-State for transportation services of goods and passengers, the number of PUC certificates issued by the firm (9008 to 9846) during the period 2011-15 was far less than the total registered vehicles (25,071 to 39,396) during the same period in the series P (Private Four-wheelers); G (Government vehicles); T (Local taxi) and E (Tractors and trailers) which ply within the State only and chances of availing auto emission services outside the State by these vehicles was remote.

Further, the firm did not maintain records of vehicles detected for emission of excessive smoke and reported for re-test. Thus, in absence of such records, number of vehicles running without re-test for issue of fresh PUC certificate and polluting the environment was not available with the firm. The firm failed to produce relevant records requisitioned through Transport Department (Motor Vehicles Division) to enable Audit to verify the factual position submitted by the firm.

4.12.5.9 Auto Emission Test and issue of PUC certificate against the provision of Act/Rules

Rule 115(7) of the CMV Rules, 1989 requires that every motor vehicle on expiry of one year from the date of initial registration should obtain a PUC certificate which shall be valid for six months.

However, audit scrutiny revealed that while notifying the SMV Rules, 1991 the Department prescribed the validity of PUC certificates for a period of one year for vehicle registered for first time vide Rule 170(3) of Rules, 1991 *ibid* against the requirement of obtaining PUC certificates on expiry of one year from the date of initial registration as per CMVR 1989. Similarly, while entering into agreement with the firm the Department incorporated validity of PUC certificates vide clause 13(b) of the agreement that the certificates issued by the firm shall be valid for a period of six months from the date of test. For the new vehicle registered from the registering authority, the validity of the certificate initially shall be for a period of one year or 12 months from the date of registration.

The firm was issuing PUC certificates valid for six months only for the vehicles already on the road as well as for new vehicles. Thus, incorporation of faulty clause in the SMV Rules and agreement resulted not only in unauthorised action by the Department as per the provision of CMV Rules, but also resulted in extra financial burden on the new

vehicle owners amounting to ₹ 18.35 lakh¹³. This also led to undue benefit to the firm to that extent during the period from April 2010 to March 2015.

While accepting the Audit observation, the Department stated (October 2015) that inadvertent mistake in agreement would be rectified. The Department, however, contended that there was no extra financial burden to vehicle owners. Reply of the Department is not acceptable as the agreement compelled the new vehicles to obtain PUC certificate right from the date of its registration with the validity period of six months only instead of expiry of one year from the initial registration.

4.12.5.10 Absence of periodical checking of AETCs

As per clause 18 of the agreement, AETCs established by the firm should be inspected occasionally by the Department or his authorised representative. The firm shall be required to produce all registers, papers, etc. on demand and allow examination of the activities of centre as well as the efficiency of the equipment for proper and reliable result of auto emission test and certificate thereof by the firm. However, no such periodical checking was conducted by the Department during the period under audit.

The Department stated (October 2015) that the Enforcement wing of MVD was conducting/inspecting the AETCs, however, due to insufficient technical manpower, the Department was unable to inspect AETCs in frequent intervals. Reply of the Department was not acceptable as no records with regard to inspection of AETCs conducted by the Department during the period covered under audit was available with the Department.

4.12.5.11 Lease rent of Government premises not revised

Government premises at Jorethang and Deorali were leased out to M/s SiMTEI for running auto emission test centres at lease rent of ₹ 193 and ₹ 530 per month respectively based on assessment given by the Building and Housing Department in April 2002. Whereas Shri M.L. Sharma was provided space for sale of forms at SNT complex, Gangtok, no records could be provided to Audit with regard to rate of rent and commencement of occupancy.

Scrutiny of records revealed that lease rent of Jorethang and Deorali were not revised since 2002 despite revision of rates by the Government from time to time with regard to hiring of private buildings by the Government and latest rate was revised in December 2011 @ ₹ 1,100/sft from ₹ 300/sft. In case of Jorethang, the amount of lease rent short realised was ₹ 0.39 lakh.

While accepting the audit observation, the Department stated (October 2015) that it would pursue the matter of revision of rent of leased Government premises at Gangtok and Jorethang with the Building and Housing Department and outcome of the same would be intimated to Audit.

¹³ Total new registration with effect from April 2010 to March 2015 = 25,110-2,169 (PUCs issued by M/s Navigator) = 22,941. Taking lower rate of ₹80 for all the vehicles, the fee for PUC certificates to be paid for 22,941 vehicles = 22,941 x 80 = ₹18,35,280.

4.12.6 Sale of Forms

Forms of application for various services have been prescribed in the CMV Act, 1988, CMV Rules, 1989 and SMVR, 1991. These forms are required for applying services, viz. registration of vehicles, application for driving license, change of ownership of vehicle, obtaining the permit, hypothecation of vehicle, etc. The Department outsourced (March 1990) printing and sale of forms to Shri M.L. Sharma. The initial cost of form was fixed at ₹ 1 per form, out of which ₹ 0.25 was to be deposited by the agent into Government account: 0041 Taxes on Motor Vehicle as royalty. The rate has been revised from time to time with the increase in the printing cost of forms. Till date of audit, rate of various forms had been prescribed at ₹ 8 per form out of which ₹ 3 was required to be deposited into Government account as royalty.

Audit scrutiny of records revealed the following shortcomings:

- The Ministry of Surface Transport, Government of India vide letter dated 11 May 1999 directed the State Government/Department to provide forms to the public free of cost. Despite instruction from the Ministry, the Department continued to sell various forms to the public through its agent on payment basis resulting in extra financial burden of ₹ 39.57 lakh¹⁴ to the vehicle owners during the period 2008-09 to 2014-15.

The Department stated (October 2015) that although the letter was received from the Ministry, however, there was no specific instruction in the MV Act/Rules for providing forms to public free of cost. The Department had awarded the work to agent (Shri M.L. Sharma) due to lack of budgetary provision and further, the general public had the option either to download the forms from the website or to purchase the forms. Reply of the Department is not acceptable as the Department had not taken any action in the last 25 years for providing the services to the general public at minimum cost with competitive bidding. Further, the Registering authorities accepted the forms sold by agent countersigned by designated officer/official of the Department and did not accept the downloaded or photocopied forms.

- The agent had not obtained the approval for printing of forms from the Department and did not furnish quarterly report also indicating sale and stock position to the Department as specified in the work order which led to non-compliance of terms and conditions of work order.

The Department stated (October 2015) that all forms were printed with its prior concurrence and annual reconciliation was being done. The agent was adhering to all the terms and conditions of the work order. The reply is not acceptable as the Department failed to produce the relevant records during audit despite written requisition and could not furnish any documentary evidence also to substantiate the reply.

¹⁴ Total form sold = 4,94,619 numbers @ ₹ 8 per form.

4.12.7 Conclusion

The State Government had outsourced three activities, viz. implementation of HSRP, Smoke emission testing and Sale of various forms for availing services under MV Act and Rules. Though the Department successfully implemented the HSRP scheme in the State, however, implementation process lacked efficiency and effectiveness. The data on vehicles' population was not reliable as there was marked difference in the report furnished by the Department based on its computerised system with that shown in its own Annual Reports. The Department failed to assess the reasonability of rates while awarding the contract to the successful bidder for affixing HSRP resulting in higher cost of HSRP affixation in the State as compared to other States. The Department did not float NIT well in time to protect the revenue interest of the State and could not avail competitive rates for subsequent term and instead kept on renewing the contract to the existing firm for a period exceeding a year.

Two Auto Emission Testing Centres were being operated in the State by one firm at an annual royalty of ₹ 0.90 lakh which was increased to ₹ 2.53 lakh as of March 2015. The contract with the existing firm continued to be renewed periodically despite submission of offers from other interested firms for operating the centres. This indicated absence of transparency and competitive bidding in selection process resulting in failure to safeguard the revenue interest of the State. Revenue sharing model was defective as it did not ensure linkage between the increasing number of vehicles and revenue to be deposited to the Government by the firm. Due to incorporation of defective clause in the contract agreement as well as in SMV Rules requiring the owners to undertake pollution control check every six months right from the date of registration even for new vehicles as against the provision of CMV Rules requiring pollution check only after expiry of 12 months from date of initial registration resulted into extra financial burden on vehicle owners. Only 7 to 9 per cent of registered vehicles in the State had obtained Pollution Under Control (PUC) certificates which indicated weakness of enforcement mechanism creating the possibility of increasing vehicular pollution in the State.

The services relating to sale of forms for availing various services under Motor Vehicles was outsourced to one agent since 1990-91 against the instruction of the Ministry of Surface Transport, GOI for issue of forms free of cost resulting in extra financial burden to the vehicle owners.

4.12.8 Recommendations

The Transport Department may consider implementing the following recommendations:

- Suitable action may be taken to provide HSRP to public at competitive rates as prevailing in other States. Timely action to ensure response to tender should be taken.
- Suitable action may be taken to link royalty from operation of AETC to number of registered vehicles.

- Action may be taken to provide various forms free of cost for availing different services.
- Adherence to the provisions of CMV Act/Rules and SMV Rules for issuance of PUC certificates should be ensured.
- Steps like tendering for selection of outsourced agents through competitive bidding, adherence to the terms and conditions of the agreements may be taken to safeguard Government and public interest.

FINANCE, REVENUE AND EXPENDITURE DEPARTMENT (COMMERCIAL TAXES DIVISION)

4.13 Deficiencies in the Input Tax Credit system

Value Added Tax (VAT) is a multi-point tax payable by manufacturer, processor, wholesaler and retailer on the value added at each point of sale with provision for credit of tax paid during purchase and also at each point of purchase of such goods at rates mentioned in Notification and Circulars issued under Sikkim Value Added Tax Act 2005 (SVAT Act) and Sikkim Value Added Tax Rules 2005 (SVAT Rules 2005). The tax payable by a dealer under the Act on sale is called Output tax while the tax paid by the dealer on purchases is called Input Tax. To avoid cascading effect of multiple taxations, a dealer is liable to pay the net tax through the process of setting off Input Tax Credit (ITC) from the Output tax. The net tax payable by the dealer shall thus be the difference between the output tax and the input tax.

The SVAT Act and SVAT Rules provide that ITC can be claimed only on sale of goods purchased from another registered dealer of the State and the dealer claiming ITC should not be a Compounded Tax payer¹⁵.

The online taxation system, including ITC within its ambit, named Sikkim electronic Vanijiyakar Administration (SeVA) was introduced in Sikkim in 2012-13. Accordingly, the entire process of taxation, right from registration of dealers to payment of taxes, has gone online since April 2012 under SeVA. In this online system, there are various modules for each of the components of VAT system such as registration, generation of way bills, filling of returns, ITC sales and purchases, etc. In Sikkim, unlike in other states, ITC claim of the retailer is initiated by the selling dealer (wholesaler) by uploading his sales details to registered dealer (retailer) and the buying dealer or retailer has got scope to either approve or reject it. When the buying dealer approves the claim, he gets ITC claim, which gets auto-filled in his return without the scope for any change in the figure of ITC claim. The sales uploaded by a particular wholesaler for ITC claims when approved by various retailers would remain in the system as 'ITC Sales' of that wholesaler and ITC sales as approved by a particular retailer (buying dealer) would remain in the system as 'ITC Purchases' of that buying dealer.

¹⁵ The dealer whose annual tax turnover exceeds ₹3 lakh but does not exceed ₹15 lakh.

During the period from April 2012 to March 2014, an aggregated amount of ₹ 16.36 crore was claimed as ITC as detailed below:

Table 4.13.1

Year	Amount of ITC claimed	Number of dealers who claimed ITC
2012-13	₹ 4.85 crore	407
2013-14	₹ 11.51 crore	582
TOTAL	₹ 16.36 crore	989

In Sikkim, under the system as adopted by the Commercial Taxes Division (CTD) the system provides for an inherent control to prevent irregular ITC claims and role of the assessing authorities is limited to scrutiny of the returns and cross-verification of data related to returns data with ITC sales and purchases. However, scrutiny of relevant records and online data revealed the following inconsistencies in complying with the mandates of the pertinent Act and Rules:

4.13.1 ITC system not in compliance to provision

As per Section 21(1) of SVAT Act 2005, ITC shall be claimed by a registered dealer only on sale of goods that are locally purchased from another registered dealer. In the system as adopted by the CTD, once the wholesaler uploads sale and the retailer approves it, the retailer gets ITC regardless of whether those goods are sold or not.

Moreover, the system was also not designed to upload and check details of ITC sales to ensure the actual sales as required under Section 21(6) of SVAT Act 2005 which states that 'No dealer shall claim input tax credit in respect of inputs purchased, unless he is in possession of an original copy of tax invoice, signed and issued by the selling registered dealer containing the prescribed particulars of sale'.

The provisions of the Act were not taken care of in the system adopted by the CTD.

In reply, the Division stated (October 2015) that a dealer becomes eligible to claim ITC by his act of purchase of goods and the period in which he can avail the claim is the tax period in which the goods were purchased. The Division further contended that it was not necessary for the buying dealer to sell the goods for being eligible to claim the credit of input tax. The reply is not tenable as Section 21(1) of the SVAT clearly stipulates that an input tax credit as provided in this section shall be claimed by a registered dealer after complying with the conditions and restrictions prescribed for sale of goods in the circumstances specified under the sub-sections (a), (b), (c), (d) and (e) of Section 21(1). Hence, actual sale of goods as per the Act is one of the criteria for claiming credit of input tax.

4.13.2 ITC Sales or Purchases module not linked with Returns module

ITC Sales: The ITC sales uploaded by the wholesaler were not linked with declaration of 'Sale to registered dealer' filed by that dealer in the returns, due to which there were risks of (i) giving ITC claim to the retailer but not showing it as 'sale to registered dealer' in the return; and (ii) non-uploading of ITC sales by the wholesalers which can result in double taxation or over burdening the consumer. Audit cross verified the ITC Sales and quarterly returns of eight wholesalers as detailed in **Appendix 4.13.1** and found that in all the cases,

there were differences in the figures between ITC claims and ‘sales to registered dealer’ declared in the returns. The difference was as high as ₹ 24.80 crore in case of Indian Oil Corporation, which meant that the retailers could not claim credit of Input Tax. Although tax was paid by the retailer while purchasing the goods, adjustment of the input tax paid was not made when the same goods were sold to the consumer resulting into possibility of double taxation with the consequence of ultimately getting it shifted to the consumers. Again, in case of four wholesalers¹⁶, ITC claims were more than the sales declared in returns indicating that ITC credit was allowed but the tax was not actually realised from the retailers, as the same was not reflected in their quarterly returns.

In reply the CTD stated (October 2015) that ITC module was not directly linked with the return module to provide scope for availing ITC for retrospective period. It was further stated that there was process of scrutiny where tax authority could check the values of sales to registered dealers in the quarterly return against the value of ITC sales entered for relevant months. Moreover, all the dealers had also been asked to explain the reason of the difference in the figure of ITC sales and ‘sale to registered dealer’. The reply is not acceptable as there were differences in figures in all the eight cases checked by audit and CTD could not readily explain the differences for which dealers were asked to clarify the differences.

ITC Purchases: The ‘ITC purchase’ of a retailer is the ‘ITC sales’ uploaded by the wholesalers and approved by the retailer. Moreover, ITC cannot be claimed for non-taxable goods and goods purchased from non-registered dealer even if it is purchased within the State. Considering these facts, gross amount of ITC purchase should never be more than the total amount of local purchases shown in the returns and in absence of purchase of non-taxable goods or purchase of goods from non-registered dealer, ITC purchase must be equal to local purchase shown in the quarterly returns. However, it was observed that the ITC purchase module and module related to local purchase mentioned in the returns were not linked in the system. It was observed in the cases of 11 dealers checked by audit, while ITC purchases were either more or less than the local purchases in case of 10 dealers, whereas ITC purchase in case of the remaining one dealer was equal to local purchase as detailed in **Appendix 4.13.2**. Since the ITC module was not linked with the return module, the differences were not detected by the system.

Agreeing to the observation, CTD stated (October 2015) that the differences pointed in audit was due to various reasons such as wrong filing of returns, wrong entries of data, etc. and accordingly, returns were revised and dealers were asked for clarification for such differences. The CTD further stated that the local purchases may not always be equal to ITC purchases due to non-taxable goods purchased from registered dealers and local purchases from non-registered dealers. This justification is not tenable in the instant cases pointed out by audit as the differences were mainly due to wrong filing of returns, wrong entries of data or ignorance of the dealers and the same could not be detected either by the system or by the authority scrutinising the returns.

¹⁶ 1) M/s Goodwill Enterprises, 2) Ess Ess Traders, 3) Himalayan Hardware and 4) Samvritdhi.

The CTD either should explore the possibility of linking ITC Sales and Purchase module with the Returns module or strengthen its scrutiny procedure to prevent recurrences of differences as pointed out by audit.

4.13.3 Non-adjustment of 'negative' tax payable

Section 20 (3) (b) of SVAT 2005 provides that if an amount of net tax payable is negative, an amount of credit remaining after the adjustment so made shall be carried forward to the next quarter. During 2012-13 when online system was initiated, though purchases were made from wholesalers, ITC could not be claimed by the retailers as the same was not uploaded by the selling dealer. In most of the cases, the ITC sales of 1st and 2nd quarter of 2012-13 were altogether uploaded in the 3rd or 4th quarter of 2012-13. Audit test checked returns of 30 dealers out of which in case of 14 returns, the Input Taxes were more than the Output Taxes and the 'tax payable' were shown as negative. These adverse balances were not adjusted in the next quarter, due to which the retailers could not avail of the benefit of ITC. This resulted in double taxation to the extent of unadjusted amount.

Agreeing to the observation, CTD stated (October 2015) that ITC could have been availed of by the buying dealers only after approving the ITC sales data uploaded by the selling dealer. The buying dealer could assess his output tax and accordingly could approve the month-wise ITC sales data in such a manner that there would be no surplus credit. The reply is not relevant to the observation that there were cases where the tax payable were less than the ITC claimed and the present online system had not taken care of the provision of Section 20 (3) (b) of SVAT 2005 relating to carrying forward of negative tax payable in the next quarter. The CTD also clarified that the case of negative tax payable was only during the first year and there was no such case thereafter. However, fact remained that presently there may not be any case of negative tax payable, but the system should be in place to take care of such cases.

4.13.4 Absence of criterion and procedure for Tax Audit

Under section 39(2) of the SVAT Act 2005 read with sub clause (1) Rule 47 of SVAT 2005, the Commissioner may select not less than 20 *per cent* of the registered dealers for audit of input tax credit and tax payable by each of them for any period or year on or before the 31 March, such selection being made by draw of lots either mechanically or with the use of computers. The audit of the dealer shall be conducted by the auditor in well laid down procedure.

However, it was observed that neither any criterion/procedure for tax audit had been formulated in the State as of August 2015, nor was any audit party constituted for conducting audit to ensure the veracity of ITC claimed by the dealers on the basis of actual turnovers. This omission had made the system vulnerable to the risk of suppression of assessable turnover and evasion of tax by the errant dealers, besides the risk of breaking the VAT chain in the context of cross verification before allowing ITC claims.

Agreeing to the observation CTD stated (October 2015) that at the instance of audit, the Tax Audit team had been constituted.

4.14 Loss of revenue owing to suppression of sales turnover by the hoteliers

Inadequate action on the part of the Assessing Authorities to scrutinise the e-returns submitted by the hoteliers in respect of sales of cooked food and non-alcoholic beverages for the period 2012-13 and 2013-14 led to loss of revenue of ₹ 2.59 crore.

According to Rule 12 of the Sikkim Value Added Tax Act 2005, hoteliers dealing with sale of cooked food and non-alcoholic beverages were required to pay SVAT on total sale turnover at the rate of 12.5 per cent on the sale of goods specified in the Schedule V of the Act.

Scrutiny of records of the Commissioner, Commercial Taxes Division revealed (May 2015) that during 2012-14, in five cases (out of 10 cases test checked), the hoteliers deposited SVAT of ₹ 3.02 crore¹⁷ on reduced turnover of ₹ 24.13 crore as against the actual turnover of ₹ 44.84 crore towards the sale of cooked food and non-alcoholic beverages as detailed below:

Table 4.14.1

Name of hotel	Year	Gross turnover	Actual turnover on sale of cooked food and non-alcoholic beverages	Turnover at which SVAT realised @ 12.5 %	Difference	Loss of revenue
Mayfair	2012-13	217737340	158788001	71997744	86790257	10848782
	2013-14	246900472	109140593	81525040	27615553	3451944
Royal Plaza	2012-13	63210459	38265688	24823915	13441773	1680222
	2013-14	59178900	19571265	19571265	0	0
Norkhill	2012-13	31144000	31144000	10893800	20250200	2531275
	2013-14	31983700	31983700	12667278	19316422	2414553
Mount Pandim	2012-13	23495232	23495232	8025024	15470208	1933776
	2013-14	25430700	25430700	9942067	15488633	1936079
Sonam Delek	2012-13	4761092	4116745	857965	3258780	407348
	2013-14	7958255	6502255	999393	5502862	687857
TOTAL		711800150	448438179	241303491	207134688	25891836

Thus, inadequate action on the part of the Assessing Authorities to scrutinise the e-returns and suppression of turnover by these hoteliers led to loss of revenue of ₹ 2.59 crore.

The Division, in its reply, stated (June 2014) that the intention of the hoteliers was not to evade the tax but due to lack of knowledge during the initial stages of SVAT, the hoteliers clubbed the room services with the taxable items and wrongly filed the quarterly returns. In a subsequent reply, the Division forwarded (August 2015) the copies of revised returns submitted by the hoteliers, scrutiny of which revealed that these were revised by simply reducing the taxable turnover of 'Sale of cooked food and non-alcoholic beverages' and including the same under 'Receipts against supply of all kinds of services' which were exempt of SVAT.

The reply was not tenable as the 'cooked food and non-alcoholic beverages', 'alcoholic beverages' and 'supply of all kinds of services' had been clearly segregated in the e-returns filed by the hoteliers. Further, the revised returns were also not acceptable as the figures in respect of 'Receipts against supply of all kinds of services' mentioned therein

¹⁷ ₹ 24,13,03,491 x 12.5 per cent = ₹ 3,01,62,936.

varied widely with those mentioned in the Service Tax returns separately submitted by these hoteliers casting doubt on the reliability of the figures subsequently altered by the hoteliers and accepted by the Division.

ENERGY AND POWER DEPARTMENT

4.15 Loss of revenue

Failure of the Department to install Maximum Demand Indicator resulted in non-levy of Demand Charges of ₹ 0.42 crore from High Tension Supply consumers for the load exceeded over and above the Contract/Sanctioned demand.

The Sikkim State Electricity Regulatory Commission (SSERC) notifies the electricity tariff to be levied from the consumers for supply of electricity by the Energy and Power Department (the Department), Government of Sikkim. The SSERC revised the tariff schedule from time to time. As per the tariff schedules effective since April 2012, all types of supply with contract demand¹⁸ at single point having three phases supply voltage above 3.3 KV had been categorised as High Tension Supply (HTS). The tariff of HTS consumers consisted of two parts - fixed charges and variable charges on energy. While fixed (demand) charges were levied on the respective sanctioned/contracted load of the HTS consumers, the energy charges were levied for the units of energy consumed during a particular month.

The Tariff Schedule also provided for installation of Maximum Demand Indicator (MDI) at the consumer premises to record the maximum electricity demand on monthly basis. If in a month, the recorded maximum demand exceeded the contract demand, that portion of the demand in excess of the contract demand had to be billed at twice the prevailing demand charges. Audit scrutiny revealed that the Department had not installed /insisted for installation of MDI in respect of majority of HTS consumers due to which the actual load/demand was not being recorded. The Department also failed to observe the actual demand of the consumers with respect to the energy consumption and bill additional demand charges wherever the actual demand had exceeded the sanctioned/contracted demand.

Audit worked out the actual electricity demand of the HTS consumers given in the Annexure with respect to the recorded energy consumption using reverse calculation of the formula¹⁹, viz. $KVA \times 0.8$ (power factor) $\times 24$ (hours) $\times 30$ days $\times 0.6$ (load factor). It

¹⁸ Energy demand sanctioned by the Executive Engineer.

¹⁹ KVA (Kilo volt ampere) is the unit for measuring real power supplied to the consumer. However, on load side (consumption), due to induction and presence of reactive power owing to the conditions of equipment, the actual recorded power consumption measured in KW (kilo watts) would be lesser than

was observed in 14 cases that the HTS consumers had drawn load in excess of the contracted demand/sanctioned load. The excess demand/load was, however, not assessed as per the tariff schedule. The additional demand charges exceeding the contract/sanctioned demand worked out to ₹ 0.42 crore (**Appendix 4.15.1**) during the period from April 2012 to March 2014.

Thus, due to non-installation of MDI and failure of the Department to monitor the demand with respect to the actual energy consumption resulted in revenue loss of ₹ 0.42 crore.

While accepting the audit observation, the Department stated (September 2015) that the consumers were at liberty to pay the contract demand as per installed KVA capacity of the transformer or install MDI meter with approval from the Department. If in a month, the recorded maximum demand exceeded the contract demand, the demand in excess of contract demand would be billed at twice the prevailing demand charges. The Department further stated that necessary action was being initiated to install MDI in all HTS consumers.

EXCISE (ABKARI) DEPARTMENT

4.16 Non-realisation of Government dues

The Department failed to realise committed payment of ₹ 5.79 crore from the person entrusted with management, control and governance of Sikkim Distilleries Limited (SDL) during December 2009 to March 2015. The State exchequer also suffered a resultant loss of ₹ 1.20 crore towards interest that could have been earned from the investment of revenue not realised.

The Sikkim Distilleries Limited (SDL) is a Company registered under the provisions of the Registration of Companies Act, Sikkim, 1961 having its registered office at Rangpo, East Sikkim. The Company is operating primarily in the State of Sikkim and is in the business of brewing, distilling and manufacturing of whisky, rum, brandy, wine, country spirits, beer and other related alcoholic beverages.

The authorised share capital of the company was ₹ 10,00,00,000 divided into 1,99,90,000 ordinary shares of ₹ 5 each and 500 preference shares of ₹ 100 each against which the issued, subscribed and paid up share capital was ₹ 5,03,88,815 divided into 1,00,69,763 ordinary shares of ₹ 5 each and 400 preference shares of ₹ 100 each. Out of the above, the State Government held 48,24,817 ordinary shares of ₹ 5 each, one Shri Harish Aneja held 18,58,448 ordinary shares of ₹ 5 each and the small shareholders (737 in number) held

the real power drawn. The ratio of KW to KVA is called Power Factor (PF). Since all installations may not be used at the same time, a Load Factor (LF) is applied for working out the KVA demand. So, monthly consumption of energy = KVA x PF x LF x number of working hours in a day x 30 days.

15,59,265 ordinary shares of ₹ 5 each and 400 preference shares of ₹ 100 each in the entire paid up share capital of the Company. As per the agreement, balance 18,27,233 ordinary shares of ₹ 5 each were *sub-judice*.

Against the backdrop of the situation that the Company was not working commercially well (as mentioned in the agreement) and with a view to achieve synergies of operation and streamlining functioning of the Company, the Board of Directors decided (September 2009) to vest the entire management, control and governance of the Company to Shri Harish Aneja, the single largest shareholder of the company. Accordingly, an agreement for 20 years was entered (14 December 2009) amongst the State Government, the small shareholders of Sikkim Distilleries Limited (SDL), Shri Harish Aneja and the SDL for vesting the entire management, control and governance of the SDL to Shri Aneja.

In terms of Clause 3.1 (a) of the agreement, Shri Aneja agreed to pay 'Committed Payment' at the rate of ₹ 3 per share per year with respect to 48,24,817 and 15,59,265 ordinary shares held by the State Government and the small shareholders respectively. The year-wise break-up of committed payment required to be paid by Shri Aneja to the Government and the small shareholders accordingly worked out to ₹ 1.45 crore and ₹ 46.78 lakh respectively per year. The committed payment was to be remitted within 180 days after the end of each term of 365 days from the effective date of agreement. In case the Company declared dividend in any year during the operating term and remitted the same to the Government and small shareholders, then the obligation of Shri Aneja for making committed payment under the agreement would stand reduced by the amount already remitted by it to the Government and the small shareholders. The basis for arriving at the rate of committed payment of ₹ 3 per share payable by Shri Aneja was elucidated neither in the Departmental notes nor in the agreement.

Scrutiny of records revealed (October 2014) that there was a serious flaw in the agreement drawn between the parties. No penal clause was incorporated in the agreement envisaging any punitive measure to be adopted in the event of Shri Aneja failing to remit committed payment to the Government within due dates. Further, although letter was issued (May 2013) for payment of dues, the Department did not take any effective initiative to recover the amount. As a result, Shri Aneja did not pay any amount to the Government in terms of the agreement. Moreover, the Company also did not pay any dividend to the Government. As on 31 March 2015, the total committed payment due from Shri Aneja stood at ₹ 5.79 crore as detailed below:

Table 4.16.1

(₹ in lakh)

Sl. No.	Term		Amount of committed payment due	Number of days delayed beyond the grace period of 180 days till 31 March 2015	Loss of interest @ 9% ²⁰
1	14-12-2009	13-12-2010	144.74	1389	49.57
2	14-12-2010	13-12-2011	144.74	1024	36.55
3	14-12-2011	13-12-2012	144.74	658	23.48
4	14-12-2012	13-12-2013	144.74	293	10.46
	TOTAL		578.96		120.06

²⁰ Rate of interest on retail domestic deposits below ₹ one crore.

Thus due to non-remittance of yearly committed payments within the due dates, the Government was denied opportunity to utilise its revenue aggregating ₹ 5.79 crore. Further, the State exchequer also suffered a resultant loss of ₹ 1.20 crore towards interest that could have been earned from investment of unrealised Government revenue calculated at the rate of 9 per cent per annum from the aforementioned due dates.

The Department intimated (June 2015) that they had realised ₹ 4.34 crore as committed payment for the period 14 December 2009 to 13 December 2012, after being pointed out by Audit, and was is in the process of obtaining the remaining committed amount for the period 14 December 2012 to 13 December 2014.

However, the fact remained that due to delayed realisation, Government suffered unrecoverable interest loss of ₹ 1.20 crore till March 2015 and revenue of ₹ 1.45 crore also remained unrealised.

4.17 Loss of revenue

Error in language in the notification for imposing bottling fee resulted in a revenue loss of ₹ 4.32 crore during the years 2011-12 to 2013-14.

Rule 33 and 34 of Sikkim Excise (Distillery for Manufacture of Spirit and Foreign Liquor) Rules 2000, *inter alia*, envisage that licensee may undertake the job of manufacturing of brands of foreign liquor on behalf of manufacturers from outside the State and in such cases, bottling fee as prescribed by the State Government may be charged to the licensee on the volume of production.

On March 2011, the Department decided to charge such bottling fee and issued Notification (9 March 2011) prescribing a fee of ₹ 15 per case for Beer bottled in Sikkim.

It was, however, noticed (September 2013 and June 2015) that the Department could not impose the prescribed fee despite notification due to error in its language. Though the Department intended to charge bottling fee on Beer bottled in Sikkim on behalf of companies located outside Sikkim, it wrongly connoted the same as “Beer Bottled from outside Sikkim” in the notification. Due to this mistake, the Department was unable to realise bottling fee on the basis of the said notification. Consequentially, during the period 2011-14, an amount of ₹ 4.32 crore could not be realised from two breweries as under:

Table 4.17.1

Breweries	Year	Total production (Cases)	Bottling fee (Cases x ₹15)
M/s Denzong Albrew Ltd. Mulukey, Rhenock	2011-12	6,95,633	1,04,34,495
	2012-13	7,99,972	1,19,99,580
	2013-14	13,63,956	2,04,59,340
M/s Sikkim Breweries Ltd, Baghay Khola	2012-13	19,223	2,88,345
TOTAL			4,31,81,760

While accepting the audit observation, the Department stated (April 2015) that in pursuance of audit observation, the notification was amended in August 2014 and bottling

fee was being realised from the concerned breweries. The fact remained that due to the error in the notification, the Government had to suffer a revenue loss of ₹ 4.32 crore. Further, loss could have been substantially minimised, had the Department taken timely action to issue amended notification immediately after its being initially pointed out by Audit in September 2013.

FINANCE, REVENUE AND EXPENDITURE DEPARTMENT (DIRECTORATE OF SIKKIM STATE LOTTERIES)

4.18 Loss of revenue

Without issue of original license which should have been obtained against payment of ₹ five crore for five years, renewal of the same @ ₹ 50 lakhs per annum for five years resulted in revenue loss of ₹ 2.50 crore.

According to Sikkim Casino Games (Control and Tax) Rules 2007, any interested person/company/firms desiring to obtain license for operating casino games may apply for issue of the same (Rule 3). On receipt of such application, the State Government after making necessary enquiries in this regard, may grant the provisional license for five years or refuse to grant the license without assigning any reason or reasons (Rule 4). License may be issued for operating of casino and casino games in a hotel having infrastructural and other facilities of the standard of any five-star hotel with capability to establish and operate casino games (Rule17).

State Government amended (March 2011) the Sikkim Casino Games (Control and Tax) Rules 2007 by substituting Rule 4 with the stipulation that on receipt of such application, the State Government on its satisfaction that the applicant has a hotel having infrastructural and other facilities of the standard of any five star hotel with capability to establish and operate casino games, may grant a provisional license for six months against the payment of ₹ one lakh made one month prior to issue of such license to enable the licensee to set up the necessary infrastructure and other requirements and to commence operation of casino games at any time within the said period. If required, the provisional license may be extended for a further period of six months on payment of additional fee of ₹ one lakh. On full compliance of the stipulations prescribed in the said provisional license, the Government may grant a regular license under Rule 17 for operation of casino games for five years on payment of ₹ five crore.

Scrutiny of records of the Directorate of Sikkim State Lotteries (DSSL) revealed that M/s Teesta-Rangit Pvt. Ltd. (TRPL) had entered into an agreement with the State Government (6 November 2007) and was granted a provisional license (12 November 2008) for five years (12 November 2008 to 11 November 2013) under Rule 4 of Sikkim Casino Games (Control and Tax) Rules 2007 for installation and operation of casino games. One of the conditions laid down in the license was that the original license under Rule 17 will be

issued after fulfilment of norms of five-star hotel infrastructure facilities within five years.

DSSL requested TRPL (30 October 2013) to cease operation of casino games with effect from 12 November 2013 as the provisional license was expiring on 11 November 2013. TRPL filed a writ petition before the High Court of Sikkim to quash the order issued by the Directorate. By an interim order (11 November 2013), the High Court stayed the operation of Government's letter and permitted the petitioner to continue with the operation of casino games. The High Court of Sikkim passed an order (18 February 2014) to TRPL to move an application for renewal of the license as per Rule, if they so desired. In view of the Government's approval (18 August 2014) for renewal of license, the High Court disposed off the writ petition (29 August 2014).

The DSSL renewed (29 September 2014) the license under Rule 17 of Sikkim Casino Games (Control and Tax) Rules 2007 for one year by realising ₹ 50 lakh as renewal fee as approved by the Government. As per the Rule, a provisional license was to be issued for six months (renewable for six months on payment of ₹ 1 lakh) after which on fulfilment of certain stipulations, a regular license could be issued for five years on payment of ₹ five crore which could again be renewed annually @ ₹ 50 lakh per annum. In this case, the Government issued a provisional license and did not issue any regular license. However, without issuing the regular license, the Government without support of any Act/Rule renewed it @ ₹ 50 lakh per annum rendering not only extension of undue favour to the licensee but it also resulted in a revenue loss of ₹ 2.50²¹ crore during the five years period. Further, the Directorate had neither obtained any information from other agencies like Tourism Department nor ascertained itself about the fulfilment of stipulated condition of the hotel attaining infrastructural and other facilities of the standard of any five-star hotel for issue of the regular license under Rule 17.

In their reply, the DSSL stated that as no fee had been prescribed for renewal of provisional license after the term of five years, they renewed the same @ ₹ 50 lakhs for one year under Rule 17. Reply of the DSSL was not tenable, as the fact remained that without issuing the regular license, the Government renewed it @ ₹ 50 lakh per annum which did not have support of any Act/Rule.

²¹ Fee for issue of License for 5 years (₹ 5 crore) – Fee being realised for 5 years (@ ₹ 50 lakh) for the period (1 October 2014 to 30 September 2019)