



**Report of the
Comptroller and Auditor General of India
on
Revenue Sector**

for the year ended 31 March 2016



Government of Rajasthan

Report No. 7 of the year 2016

Presented to the Legislature on 28.03.2017.

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2016**

**Government of Rajasthan
Report No. 7 of the year 2016**

TABLE OF CONTENTS

	Reference to	
	Paragraph	Page
Preface		v
Overview		vii-xii
CHAPTER-I : GENERAL		
Trend of revenue receipts	1.1	1
Analysis of arrears of revenue	1.2	5
Arrears in assessments	1.3	6
Evasion of tax detected by the Department	1.4	6
Pendency of refunds cases	1.5	7
Response of the Government/Departments towards audit	1.6	7
Analysis of the mechanism for dealing with the issues raised by Audit in Registration and Stamps Department	1.7	9
Audit planning	1.8	11
Results of audit	1.9	11
Coverage of this Report	1.10	11
CHAPTER-II : TAXES/VAT ON SALES, TRADE, etc.		
Tax administration	2.1	13
Internal audit conducted by the Department	2.2	13
Results of audit	2.3	14
Assessment and collection of tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999	2.4	15
Irregular allowance of partial exemption from tax	2.5	20
Short levy of tax due to application of incorrect rate of tax	2.6	21
Short levy of exemption fee	2.7	21
Non-recovery of deferred tax	2.8	23
Excess allowance of subsidy under Rajasthan Investment Promotion Scheme, 2003	2.9	23
Irregular allowance of exemption from tax under VAT	2.10	25
Non-levy of tax due to filing returns with nil turnovers	2.11	25
Non-imposition of penalty for non-filing of return	2.12	26
Non-imposition of penalty for wrong availment of input tax credit	2.13	26

	Reference to	
	Paragraph	Page
Non-imposition of penalty for misuse of declaration forms	2.14	27
Irregular exemption from tax on goods transferred outside the State	2.15	28
Irregular allowance of partial exemption from tax under CST	2.16	28
CHAPTER-III : TAXES ON VEHICLES, GOODS AND PASSENGERS		
Tax administration	3.1	31
Internal audit conducted by the Department	3.2	31
Results of audit	3.3	32
Control of Transport Department on Plying of Goods Vehicles	3.4	33
Non/short realisation of penalty on late deposit of special road tax and surcharge by fleet owner	3.5	40
Taxes on motor vehicles not realised	3.6	41
CHAPTER-IV : LAND REVENUE		
Tax administration	4.1	43
Internal audit conducted by the Department	4.2	43
Results of audit	4.3	44
Short recovery of cost of land and lease rent due to incorrect application of District Level Committee rates	4.4	45
Non-reversion of land to Government	4.5	46
Non-recovery of conversion charges from Rajasthan Housing Board	4.6	48
Non-recovery/short recovery of conversion charges	4.7	49
Non-recovery of rebate on conversion charges	4.8	49
CHAPTER-V : STAMP DUTY AND REGISTRATION FEE		
Tax administration	5.1	51
Internal audit conducted by the Department	5.2	51
Results of audit	5.3	52
Coordination between Public Offices and Sub-registrar Offices relating to Stamp Duty and Registration Fee	5.4	53
Non-recovery of Stamp Duty and Registration Fee on agreement to sell with transfer of possession	5.5	61

	Reference to	
	Paragraph	Page
Non-recovery of exempted Stamp Duty under Rajasthan Investment Promotion Scheme	5.6	62
Short levy of Stamp Duty and Registration Fee on lease deeds where rent is fixed and no premium is paid	5.7	63
Non/Short levy of Stamp Duty, surcharge and Registration Fee on development agreements/sale deeds	5.8	63
Non-levy of Stamp Duty and surcharge on change of land use	5.9	65
Short levy of Stamp Duty and Registration Fee due to undervaluation of immovable property	5.10	65
Short levy of Stamp Duty and Registration Fee due to undervaluation of properties registered as farm houses	5.11	66
Short levy of Stamp Duty and Registration Fee due to undervaluation of gift deed and extending benefit of concessional Stamp Duty	5.12	67
Short levy of Stamp Duty due to misclassification of mortgage deed as agreement of loan	5.13	68
CHAPTER-VI : STATE EXCISE		
Tax administration	6.1	69
Internal audit conducted by the Department	6.2	69
Results of audit	6.3	70
Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act'	6.4	71
Non levy of vend fee	6.5	88
Short realisation of composite fees from composite shops	6.6	88
CHAPTER-VII: NON-TAX RECEIPTS		
Tax administration	7.1	91
Internal audit conducted by the Department	7.2	91
Results of audit	7.3	92
Allocation of Mines in Rajasthan	7.4	93
Unauthorised excavation/despatch of mineral	7.5	109
Short recovery of royalty	7.6	110
Non-payment of royalty on associated minerals	7.7	111

	Reference to	
	Paragraph	Page
Incorrect computation of dead rent	7.8	112
Non-recovery/short recovery of Environment Management Fund	7.9	113
Incorrect revision of contract amount	7.10	115
Short raising of demand of cost of brick earth	7.11	116

PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2016 has been prepared for submission to the Governor of Rajasthan under Article 151 of the Constitution of India.

This Report contains significant findings of audit of Receipt and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 and Regulations on Audit and Accounts, 2007 issued thereunder by the Comptroller and Auditor General of India.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2015-16 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2015-16 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

OVERVIEW

This Report contains 42 paragraphs including one Performance Audit involving ₹ 272.49 crore. Some of the significant audit findings are mentioned below:

I. General

The total revenue receipts of the Government of Rajasthan during 2015-16 were ₹ 1,00,285.12 crore as against ₹ 91,326.91 crore for the year 2014-15. The revenue raised by the Government amounted to ₹ 53,640.79 crore comprising tax revenue of ₹ 42,712.92 crore and non-tax revenue of ₹ 10,927.87 crore. The receipts from the Government of India were ₹ 46,644.33 crore (State's share of divisible Union taxes of ₹ 27,915.93 crore and grants-in-aid of ₹ 18,728.40 crore).

(Paragraph 1.1)

Inspection Reports (IRs) issued up to December 2015 disclosed that 9,129 paragraphs involving ₹ 3,180.58 crore relating to 3,127 IRs remained outstanding at the end of June 2016.

(Paragraph 1.6)

II. Taxes/VAT on Sales, Trade, etc.

A paragraph on 'Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999' disclosed the following:

- Non-utilisation of information available with Department resulted in non-levy of entry tax of ₹ 7.87 crore including interest of ₹ 1.96 crore.

(Paragraph 2.4.4)

- Absence of mechanism for sharing information with other States resulted in non-levy of entry tax of ₹ 4.78 crore including interest of ₹ 1.36 crore.

(Paragraph 2.4.5)

Irregular allowance of partial exemption from tax of ₹ 83.65 crore to North-Western Zone, Jaipur of Indian Railways based on clarification issued by the Finance Department rather than notification required to be issued as per Section 8(3) of the Rajasthan VAT Act, 2003.

(Paragraph 2.5)

Application of incorrect rate of tax on sale of goods *i.e.* Leaf Spring and 'Branded Potato Chips' resulted in short levy of tax amounting to ₹ 1.11 crore besides interest of ₹ 40.39 lakh.

(Paragraph 2.6.1 and 2.6.2)

Excess allowance of subsidy under Rajasthan Investment Promotion Scheme, 2003 resulted in excess grant of subsidy of ₹ 2.95 crore to a dealer besides recoverable interest of ₹ 1.33 crore.

(Paragraph 2.9)

The Assessing Authorities failed to impose penalty of ₹ 3.82 crore on five dealers for misuse of declaration forms.

(Paragraph 2.14.1 and 2.14.2)

III. Taxes on Vehicles, Goods and Passengers

A paragraph on 'Control of Transport Department on Plying of Goods Vehicles' disclosed the following:

- Out of 3,36,675 goods vehicles having National Permit, 22,439 vehicles were found without renewal of authorisation. The amount of composite and authorisation fees involved in these cases amount to ₹ 38.32 crore.

(Paragraph 3.4.4.1)

- In respect of 1,579 goods vehicles, taxes for the period from April 2012 to March 2015 were not paid by the owners of these vehicles. However, the taxation officers did not initiate any action to realise the tax due. This resulted in non-realisation of tax and surcharge amounting to ₹ 3.63 crore.

(Paragraph 3.4.5.1)

- In respect of 765 special category goods vehicles, taxes were not paid by the owners of these vehicles. However, the taxation officers did not initiate any action to realise the tax due. This resulted in non-realisation of tax and surcharge amounting to ₹ 2.85 crore.

(Paragraph 3.4.5.2)

- Analysis of the data available in VAHAN revealed that the Certificate of Fitness in respect of 1,74,264 goods vehicle registered within 15 years under transport category had not been renewed during the period 2012-13 to 2014-15. Apart from not monitoring the realisation of revenue of ₹ 1.74 crore, the plying of vehicles without valid FCs was not ensured, thus compromising the safety norms.

(Paragraph 3.4.6)

- There was no mechanism for monitoring the challans issued by the Enforcement Wing of the Department. No register for the purpose was maintained in these offices.

(Paragraph 3.4.7)

Penalty of ₹ 2.31 crore was not/short realised on late deposit of special road tax and surcharge by fleet owner.

(Paragraph 3.5)

Motor vehicle tax and special road tax of ₹ 8.04 crore in respect of 2,204 vehicles for the period between April 2011 and March 2014 were either not paid or paid short.

(Paragraph 3.6)

IV. Land Revenue

A land situated on Govindgarh-Malikpur main road and adjacent to National Highway number 11 was allotted to Rajasthan Co-operative Dairy Federation Limited for establishment of Metro Dairy. The Department recovered the cost of land and lease rent at the rate of ₹ 9.14 lakh per *bigha* prescribed by District Level Committee for un-irrigated agricultural land situated away from National Highway/State Highway/main road instead of ₹ 14.11 lakh per *bigha* for agricultural land situated on National Highway/State Highway/main road. This resulted in short levy of cost of land of ₹ 3.92 crore.

(Paragraph 4.4.2)

A land measuring 75 hectares was allotted to the Rajasthan Small Industries Corporation Limited (RAJSICO) for 99 years on lease basis for establishment of Inland Container Depot with the condition that the depot should be established within a period of two years from the date of issue of lease deed. RAJSICO had neither established the depot within the prescribed period nor was any permission to extend the period granted. However, the concerned authorities did not take any action to revert the land to the Government. This resulted in non-reversion of land of ₹ 33.41 crore.

(Paragraph 4.5.2)

In 115 cases, agricultural land was used for non-agricultural purposes without obtaining permission for change of land use. In 79 cases, the Department did not take any action for recovery of premium and four times the conversion charges which resulted in non-recovery of ₹ 1.66 crore and in 36 cases, the conversion charges were short recovered to the extent of ₹ 90.56 lakh.

(Paragraph 4.7)

V. Stamp Duty and Registration Fee

A paragraph on 'Coordination between Public Offices and Sub-registrar Offices relating to Stamp Duty and Registration Fee' revealed the following shortcomings.

- In 56 cases immovable properties valued at ₹ 1121.69 crore were contributed as share contribution by the partners in the partnership firms. However, it was noticed that SD of ₹ 0.28 lakh only was paid on these partnership deeds instead of five *per cent* on market value of such properties. This resulted in short levy of SD of ₹ 67.30 crore including surcharge.

(Paragraph 5.4.5.1)

- Rajasthan Industrial Investment Corporation (RIICO) had allotted/sold three plots to entrepreneurs. The allotment cost of these plots was ₹ 25.55 crore on which SD of ₹ 1.53 crore was chargeable. However, lease deeds were not executed/ registered though possession of the land was given to the purchasers. Persons-in-charge of RIICO offices had neither taken any action for execution of lease deeds nor intimated the Collector (Stamps) about the transactions.

(Paragraph 5.4.6.1)

- It was noticed that 15 concession agreements were executed on Built Operate and Transfer basis during the years 2002 to 2015 between National Highway Authority of India (NHAI) and various contractors/ concessionaires/consultants for the National Highway projects situated in Rajasthan. NHAI had neither sent the copies of concession agreements to the concerned DIGs (Stamps) to ensure levy of SD on concession agreements nor had impounded the documents. This resulted in short levy of SD of ₹ 36.48 crore including surcharge.

(Paragraph 5.4.7)

Due to breach of conditions mentioned in the Rajasthan Investment Promotion Scheme, 2010 or lack of eligibility, the beneficiaries were liable to refund the SD and surcharge of ₹ 1.46 crore.

(Paragraph 5.6)

It was noticed that 64 documents were registered as sale deeds pertaining to agricultural/ commercial/industrial/residential land. The concerned sub-registrars had assessed the market value of properties on lower side for various reasons. This resulted in short levy of SD and RF of ₹ 6.08 crore due to undervaluation of immovable properties.

(Paragraph 5.10)

VI. State Excise

A Performance Audit on ‘**Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act**’ disclosed the following:

- Licence fee of ₹ 2.15 crore for wholesale vend of Country Liquor (CL) was not levied on distilleries and bottling plants which were manufacturing and vending CL and Indian Made Foreign Liquor (IMFL) in wholesale from the place of manufacture.

(Paragraph 6.4.7.2)

- Due to delay in fixing the norms for quantity of spirit to be produced per quintal of grain, the Department had to forego revenue of ₹ 180.80 crore.

(Paragraph 6.4.7.3)

- The distilleries and bottling plants produced spirit, IMFL and CL more than the quantity prescribed in the consent to operate. No permission to regularise the excess daily production was taken by the units from the Rajasthan State Pollution Control Board or the Department. The Department failed to monitor the production of alcohol over and above the daily/annual prescribed capacity.

(Paragraph 6.4.7.4)

- The delay in issue of approval by the Department for destruction or sale of closing stock of spirit/liquor of a closed unit resulted in blockade of ₹ 2.98 crore due to the State exchequer.

(Paragraph 6.4.7.10)

- The Department did not prescribe (July 2016) the norms for beer production despite the recommendation made (June 2014) by the committee constituted by Excise Commissioner.

(Paragraph 6.4.8.1)

- The Department had not examined the variation in the percentage of wastage taken by the breweries and that prescribed in the rules which had direct impact on the production figures and hence on the revenue collection.

(Paragraph 6.4.8.2)

VII. Non-Tax Receipts

A paragraph on 'Allocation of Mines in Rajasthan' disclosed the following:

- Mining leases numbering 1,610 were granted out of 71,688 applications processed during 2012-15. The remaining applications were either rejected (55,238), became ineligible (13,977) or were withdrawn (863). 1,749 applications out of 13,977 applications declared ineligible were pending for more than five years as against 12 months prescribed in the rules.

(Paragraph 7.4.8)

- In 315 out of 382 cases, the applications were not finalised in accordance with their date of receipt *i.e.* first come first serve. Out of these, in 114 cases, the priority was broken at draftsman level.

(Paragraph 7.4.10)

- In 277 out of 382 cases, the applicants did not respond to the notices within the stipulated time of 30 days. The delay in responding to notices ranged between 1 and 1,967 days. In spite of this, the leases were granted without specifying any reasons.

(Paragraph 7.4.11.1)

- Applicants were granted leases without fulfilling the requirement of furnishing of mandatory documents. In 32 cases, the signatures on application forms and affidavits did not match with the documents furnished. In 29 cases, two persons (one person in 14 cases and another person in 15 cases) other than the applicants participated in the joint demarcation of the applied area without any 'power of attorney'. Further, out of 38 notices issued for furnishing the documents by Mining Engineer (ME) Rajsamand-II, 31 notices were received by persons other than applicants and replies to 34 notices were given by persons other than the applicant.

(Paragraph 7.4.12)

- The State Government restricted (25 September 1999) grant of mining leases of minor minerals in tribal areas to non-tribal persons. The ban was withdrawn for the period from 5 February 2008 to 3 July 2009. 16 applicants applied between 22 April 2009 and 1 May 2009 for mining lease. The Government directed (March 2011) that no new mining leases for minor minerals would be sanctioned in tribal areas and cases wherein

Letter of Intent (LoI) had already been issued prior to 3 July 2009 may be processed with the prior approval of Government. The ME, Banswara, however, processed these 16 cases and issued LoIs in March 2012.

(Paragraph 7.4.13)

- In 53 cases, sanctions were issued between 17 September 2013 and 18 October 2013 for additional strip to licence holders in contravention of the Ministry of Environment and Forest notification dated 9 September 2013.

(Paragraph 7.4.19)

Undue benefit to lease holders due to incorrect computation of the mineral excavated from leased areas resulted in non-raising/non-recovery of cost of unauthorised excavated mineral of ₹ 10.93 crore.

(Paragraph 7.5.1)

Non-raising/non-recovery of ₹ 1.14 crore of cost of unauthorised excavated mineral from the gap strip.

(Paragraph 7.5.2)

Non-finalisation of assessment resulted in short recovery of royalty of ₹ 8.67 crore as a Company paid royalty on despatch of mineral rock phosphate after deduction of moisture content which was not in accordance with rules.

(Paragraph 7.6)

Non-payment of royalty of ₹ 1.38 crore on associated minerals due to non-disclosure of production by the lessee.

(Paragraph 7.7)

CHAPTER-I

GENERAL

CHAPTER-I : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Rajasthan during the year 2015-16, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding four years are mentioned in the table **1.1.1**.

Table 1.1.1

(₹ in crore)

Sl. no.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
1	Revenue raised by the State Government					
	• Tax revenue	25,377.05	30,502.65	33,477.70	38,672.87	42,712.92 ¹
	• Non-tax revenue	9,175.10	12,133.59	13,575.25	13,229.50	10,927.87 ²
	Total	34,552.15	42,636.24	47,052.95	51,902.37	53,640.79
2	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	14,977.05	17,102.85	18,673.07	19,817.04	27,915.93 ³
	• Grants-in-aid	7,481.56	7,173.92	8,744.35	19,607.50	18,728.40 ⁴
	Total	22,458.61	24,276.77	27,417.42	39,424.54	46,644.33
3	Total revenue receipts of the State Government (1 and 2)	57,010.76	66,913.01	74,470.37	91,326.91	1,00,285.12
4	Percentage of 1 to 3	61	64	63	57	53

The above table indicates that there was overall increase in collection of revenue during the last five years. The revenue raised by the State Government (₹ 53,640.79 crore) was 53 *per cent* of the total revenue receipts during the year 2015-16. The balance 47 *per cent* of receipts during 2015-16 was from the Government of India by way of share of net proceeds of divisible Union taxes and duties and grants-in-aid.

¹ For details, please see table No. 1.1.2 of this chapter.

² For details, please see table No. 1.1.3 of this chapter.

³ For details, please see Statement No. 14 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Rajasthan for the year 2015-16. Figures under the head 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service tax and 0045 - other taxes and duties on commodities and services - share of net proceeds assigned to State booked in the Finance Accounts.

⁴ For details, please see Statement No. 14 of Finance Accounts of the Government of Rajasthan for the year 2015-16 (C) Head - 1601.

1.1.2 The details of the budget estimates (BE) and the actual receipts in respect of the tax revenue raised during the period from 2011-12 to 2015-16 are given in the table 1.1.2.

Table 1.1.2

(₹ in crore)

Sl. no.	Heads of revenue	BE Actual	2011-12	2012-13	2013-14	2014-15	2015-16	Percentage of increase (+) / decrease (-) in 2015-16 over 2014-15
1	Taxes on sales, trade, etc.	BE	13,088.08	15,402.08	19,528.00	24,120.00	27,635.00	
		Actual	14,665.63	17,214.34	19,834.72	22,644.89	24,878.67	(+) 9.86
	Central sales tax	BE	401.92	1,147.92	1,522.00	1,505.00	1,615.00	
		Actual	1,100.80	1,360.31	1,380.79	1,525.02	1,466.10	(-) 3.86
2	State excise	BE	2,623.00	3,250.00	4,500.00	5,330.00	6,350.00	
		Actual	3,287.05	3,987.83	4,981.59	5,585.77	6,712.94	(+) 20.18
3	Stamp duty and registration Fee							
	Stamps-judicial	BE	43.15	60.14	105.40	156.66	105.00	
		Actual	79.40	144.27	104.59	54.27	97.45	(+) 79.57
	Stamps-non-judicial	BE	1,577.08	2,264.97	3,268.57	2,823.35	2,785.00	
		Actual	2,153.68	2,693.13	2,577.76	2,705.10	2,574.88	(-) 4.81
	Registration fee	BE	279.77	474.89	526.03	520.00	560.00	
		Actual	418.29	497.47	442.98	429.52	561.67	(+) 30.77
	4	Taxes on motor vehicles	BE	1,650.00	1,900.00	2,500.00	2,800.00	3,300.00
Actual			1,927.05	2,283.13	2,498.90	2,829.86	3,199.44	(+) 13.06
5	Taxes and duties on electricity	BE	846.64	1,505.25	1,512.61	1,697.18	2,000.00	
		Actual	1,094.48	1,570.06	948.93	1,534.51	1,921.29	(+) 25.21
6	Land revenue	BE	196.06	196.06	185.51	324.69	320.00	
		Actual	209.01	304.55	337.98	288.58	272.47	(-) 5.58
7	Taxes on goods and passengers	BE	265.00	280.00	300.00	360.00	800.00	
		Actual	220.13	248.57	287.92	956.52	847.72	(-) 11.37
8	Other taxes and duties on commodities and services	BE	78.74	50.99	55.00	99.99	171.79	
		Actual	43.44	48.47	68.46	113.68	170.96	(+) 50.38
9	Other taxes ⁵ , etc.	BE	300.00	300.00	50.00	50.17	50.20	
		Actual	178.09	150.52	13.08	5.15	9.32	(+) 80.97
	Total	BE	21,349.44	26,832.30	34,053.12	39,787.04	45,691.99	
		Actual	25,377.05	30,502.65	33,477.70	38,672.87	42,712.92	(+) 10.45
	Percentage of increase of actual over previous year		22.25	20.19	9.75	15.52	10.45	

⁵ Other taxes include Taxes on income and expenditure (Taxes on professions, trades, callings and employments) and Taxes on land.

There has been continuous increase in the collection of tax revenue during the last five years. However, the percentage of growth of revenue declined during the year 2015-16 in comparison to the growth during 2014-15.

There was increase (80.97 *per cent*) in 'Other taxes' due to more receipt under income and expenditure, tax on professions, calling and employment, land tax, *etc.*; increase (79.57 *per cent*) in 'Stamps-judicial' and increase (30.77 *per cent*) in 'Registration fee' due to more receipt under Registration fees; increase (50.38 *per cent*) in 'Other taxes and duties on commodities and services' due to more receipt under entertainment tax; increase (25.21 *per cent*) in 'Taxes and duties on electricity' due to more receipt under taxes on consumption and sale of electricity; increase (20.18 *per cent*) in 'State excise' due to more receipt from sale of country spirits and malt liquor and receipts from services and service fee; increase (13.06 *per cent*) in 'Taxes on motor vehicles' due to more receipt under State motor vehicles taxation Acts and decrease (11.37 *per cent*) in 'Taxes on goods and passengers' due to less receipt under 'Tax on entry of goods into Local Areas'.

1.1.3 The details of the budget estimates (BE) and the actual receipts in respect of the non-tax revenue raised during the period from 2011-12 to 2015-16 are given in the table **1.1.3**.

Table 1.1.3

(₹ in crore)

Heads of revenue	BE Actual	2011-12	2012-13	2013-14	2014-15	2015-16	Percentage of increase (+)/ decrease (-) in 2015-16 over 2014-15
Non-ferrous mining and metallurgical industries	BE	2,060.00	2,500.00	3,210.00	3,566.00	4,250.00	
	Actual	2,366.32	2,838.59	3,088.66	3,635.46	3,782.13	(+) 4
Interest receipts	BE	1,229.22	1,428.79	1,933.88	1,959.83	1,860.58	
	Actual	1,714.53	2,067.00	2,142.49	2,065.39	1,982.39	(-) 4
Miscellaneous general services	BE	195.40	324.29	576.17	920.88	885.72	
	Actual	353.09	686.10	846.36	963.85	700.90	(-) 27
Police	BE	150.00	165.00	170.48	220.10	213.00	
	Actual	143.54	192.07	167.27	240.03	162.02	(-) 33
Other administrative services	BE	60.99	78.88	89.94	107.19	162.44	
	Actual	110.99	85.50	147.38	133.21	161.98	(+) 22
Major and medium irrigation	BE	69.21	122.21	90.62	90.90	112.50	
	Actual	91.83	87.21	80.62	67.08	68.72	(+) 2
Forestry and wild life	BE	61.60	56.05	66.67	80.20	111.65	
	Actual	74.95	91.24	77.52	89.31	133.75	(+) 50
Public works	BE	75.75	75.75	65.00	74.76	79.51	
	Actual	55.85	57.63	69.16	71.74	97.89	(+) 36
Medical and public health	BE	48.17	61.88	61.00	105.07	108.99	
	Actual	59.38	96.04	65.61	116.43	119.21	(+) 2
Co-operation	BE	21.12	23.65	20.42	16.52	14.52	
	Actual	22.38	22.02	18.80	16.88	14.64	(-) 13
Other non-tax receipts ⁶	BE	2,466.69	4,114.64	6,370.23	6,327.04	4,072.75	
	Actual	4,182.24	5,910.19	6,871.38	5,830.12	3,704.24	(-) 36
Total	BE	6,438.15	8,951.14	12,654.41	13,468.49	11,871.66	
	Actual	9,175.10	12,133.59	13,575.25	13,229.50	10,927.87	(-) 17.40
Percentage of increase of actual over previous year		45.77	32.24	11.88	(-)2.55	(-)17.40	

There was increase (50 per cent) in revenue under the head 'Forestry and wild life' due to more receipt from sale of timber and other forest produce, etc.; increase (36 per cent) in revenue under the head 'Public works' due to more

⁶ Other non-tax receipts constitute income from petroleum, public service commission, jails, housing, village and small industries, fisheries, dividends and profit, contribution and recoveries towards pension and other retirement benefits, etc.

recovery of percentage charges in comparison to previous year; increase (22 *per cent*) in revenue under the head 'Other administrative services' due to more receipt under Other receipts; decrease (36 *per cent*) in 'Other non-tax receipts' specially in petroleum due to decrease in international price of crude and variation in exchange rate of Dollar; decrease (33 *per cent*) in 'Police receipt' due to less police personnel supplied to other Governments; decrease (27 *per cent*) in 'Miscellaneous general services' due to less receipt of guarantee fees in comparison to previous year and decrease (13 *per cent*) in 'Co-operation' due to less receipt of grant from National Cooperative Development Co-operation, New Delhi.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 relating to some principal heads of revenue amounted to ₹ 4,815.91 crore, out of which ₹ 1,911.36 crore was outstanding for more than five years as given in the table 1.2.

Table 1.2

(₹ in crore)

Sl. no.	Heads of revenue	Total amount outstanding as on 31 March 2015	Total amount outstanding as on 31 March 2016 and percentage of increase in comparison to previous year		Amount outstanding for more than five years as on 31 March 2016
1	Commercial taxes	3,731.29	4,077.56	9.28	1,592.87
2	Transport	63.13	53.00	(-)16.05	23.71
3	Registration and Stamps	248.62	277.56	11.64	55.21
4	State excise	198.73	198.62	(-)0.06	195.21
5	Mines, Geology and Petroleum	189.52	209.17	10.37	44.36
Total		4,431.29	4,815.91	8.68	1,911.36

Source: Furnished by the concerned Departments.

As would be seen above, the amount of arrears as on 31 March 2016 had increased in Commercial Taxes, Registration and Stamps and Mines, Geology and Petroleum Department by 9.28 *per cent*, 11.64 *per cent* and 10.37 *per cent* respectively as compared to the previous year.

It would be also seen from the above table that recovery of ₹ 1,911.36 crore was pending for more than five years. The stages at which arrears were pending for collection, though called for, were not intimated by the Departments except Registration and Stamps Department (July 2016). The Registration and Stamps Department intimated that an amount of ₹ 32.90 crore could not be recovered as it was covered by various stay orders issued by appellate authorities and courts.

It is recommended that the Government may take appropriate action for early recovery of the arrears.

1.3 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 respective Departments in respect of Commercial Taxes, Registration and Stamps and Mines, Geology and Petroleum are given in the table 1.3.

Table 1.3

Name of the Department	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Commercial Taxes	1,05,815	3,84,498	4,90,313	3,17,807	1,72,506	64.82
Registration and Stamps	6,071	5,272	11,343	6,525	4,818	57.52
Mines, Geology and Petroleum	9,774	17,428	27,202	18,280	8,922	67.20

Source: Furnished by the concerned Departments.

As would be seen, the percentage of disposal of cases was the lowest in Registration and Stamps Department. The Department may take necessary action for disposal of the cases.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected, cases finalised and the demands for additional tax raised, as reported by the Commercial Taxes Department are given in the table 1.4.

Table 1.4

Head of revenue	Cases pending as on 31 March 2015	Cases detected during 2015-16	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2016
				Number of cases	Amount of demand (₹ in crore)	
Commercial taxes	359	5,181	5,540	5,272	1,983.61	268

Source: Furnished by the Commercial Taxes Department.

It would be seen from the above table that 95.16 per cent of the total cases were settled during the year 2015-16. However, the amount recovered on account of settlement in these cases was not intimated by the Department (September 2016).

1.5 Pendency of refunds cases

The number of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2015-16 as reported by the Departments is given in the table 1.5.

Table 1.5

(₹ in crore)

Sl. no.	Particulars	Sales tax/VAT		Registration and stamps	
		Number of cases	Amount	Number of cases	Amount
1.	Claims outstanding at the beginning of the year	279	221.04	1,096	5.35
2.	Claims received during the year	4,028	458.68	2,118	31.47
3.	Refunds made during the year	3,900	478.56	2,071	29.00
4.	Balance outstanding at the end of year	407	201.16	1,143	7.82

It would be seen from the above that there has been increase in the outstanding refund cases in Commercial Taxes Department and Registration and Stamps Department. Necessary action may be taken by the concerned Department(s) for speedy disposal of the refund cases. This would not only benefit the claimants but would also save the Government from payment of interest on the delayed payment of refunds.

1.6 Response of the Government/Departments towards audit

The Accountant General (Economic & Revenue Sector Audit), Rajasthan, Jaipur conducts periodical inspection of the Government/Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed by Inspection Reports (IRs) which incorporate irregularities detected during the inspection and not settled on the spot. The IRs are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the Accountant General within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued up to December 2015 disclosed that 9,129 paragraphs involving ₹ 3,180.58 crore relating to 3,127 IRs remained outstanding at the end of June 2016. The figures as on June 2016 along with the corresponding figures for the preceding two years are given in the table 1.6.

Table 1.6

Particulars	June 2014	June 2015	June 2016
Number of IRs pending for settlement	2,896	2,932	3,127
Number of outstanding audit paragraphs	9,477	8,964	9,129
Amount of revenue involved (₹ in crore)	4,592.63	3,206.77	3,180.58

It would be seen from the above that the number of outstanding paragraphs and the amount of revenue involved therein have decreased considerably during the last three years.

1.6.1 The Department-wise details of the IRs and audit paragraphs outstanding as on 30 June 2016 and the amounts involved are mentioned in table 1.6.1.

Table 1.6.1

Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit paragraphs	Amount involved (₹ in crore)
1.	Commercial Taxes	Taxes/VAT on sales, trade, etc.	552	2,134	446.63
		Entertainment tax, luxury tax, etc.	20	23	7.10
2.	Transport	Taxes on motor vehicles	454	1,401	167.68
3.	Land Revenue	Land revenue	235	643	473.75
4.	Registration and Stamps	Stamp duty and registration fee	1,456	3,680	307.96
5.	State Excise	State excise	105	177	55.06
6.	Mines, Geology and Petroleum	Non-ferrous mining and metallurgical industries	305	1,071	1,722.40
Total			3,127	9,129	3,180.58

Though the decrease in number of outstanding paragraphs and the amount involved therein as compared to preceding years is appreciable, there is still a need to make more efforts for rectifying the defects and irregularities pointed out by Audit.

1.6.2 Departmental Audit Committee Meetings

The Government constituted audit committees to monitor and expedite the progress of the settlement of the paragraphs in the IRs. The details of the audit committee meetings held during the year 2015-16 and the paragraphs settled are mentioned in the table 1.6.2.

Table 1.6.2

Sl. no.	Name of the Department	Number of audit committee meetings held	Number of audit sub-committee meetings held	Number of paragraphs settled	Amount (₹ in crore)
1	Commercial Taxes	4	9	478	63.27
2	Transport	2	3	56	122.63
3	Land Revenue	0	9	61	134.89
4	Registration and Stamps	4	10	534	19.64
5	State Excise	4	3	16	37.95
6	Mines, Geology and Petroleum	4	1	64	32.65
Total		18	35	1,209	411.03

It would be seen from the above that in meetings held in respect of Commercial Taxes, Registration and Stamps, State Excise, Mines and Geology and Petroleum Departments, 1209 paragraphs involving ₹ 411.03 crore were settled.

1.6.3 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Accountant General to the Principal Secretaries/Secretaries of the concerned Departments, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Department/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

49 draft paragraphs clubbed in to 42 paragraphs including one Performance Audit were sent to the Principal Secretaries/Secretaries of the respective Department by name between April and September 2016. The Principal Secretaries/Secretaries of the Departments did not send replies to 11 draft paragraphs and the same have been included in this Report without the response of the Department.

1.6.4 Follow-up on the Audit Reports - summarised position

The Rules and Procedures of the Public Accounts Committee (PAC) of the Rajasthan State Assembly framed in 1997 prescribe 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 PAC. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 185 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Rajasthan for the years ended 31 March 2011, 2012, 2013, 2014 and 2015 were placed before the State Legislative Assembly between 26 April 2012 and 29 March 2016. The action taken explanatory notes from the concerned Departments on these paragraphs were received late with an average delay of 75 days in respect of each of these Audit Reports. The PAC discussed 73 selected paragraphs pertaining to the Audit Reports for the years from 2010-11 to 2012-13 and its recommendations on nine paragraphs were incorporated in their five Reports (2015-16 and 2016-17).

1.7 Analysis of the mechanism for dealing with the issues raised by Audit in Registration and Stamps Department

To analyse the system of addressal of the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs included in the Inspection Reports/ Audit Reports of the last 10 years for one Department was evaluated.

The succeeding paragraphs 1.7.1 to 1.7.2 discuss the performance of the Registration and Stamps Department on the cases detected in the course of local audit and also the cases included in the Audit Reports.

1.7.1 Position of inspection reports

The summarised position of the inspection reports pertaining to Registration and Stamps Department issued during 2006-07 to 2015-16, paragraphs included in these reports and their status as on 31 July 2016 is tabulated in the table 1.7.1.

Table 1.7.1

(₹ in crore)

Position upto year	Opening balance			Addition during the year			Clearance during the year			Closing balance at the end of the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2006-07	525	1,279	54.54	185	636	36.49	31	122	9.29	679	1,793	81.74
2007-08	679	1,793	81.74	184	596	5.75	134	432	10.62	729	1,957	76.87
2008-09	729	1,957	76.87	193	573	10.27	147	549	19.78	775	1,981	67.36
2009-10	775	1,981	67.36	175	473	32.01	96	382	18.00	854	2,072	81.37
2010-11	854	2,072	81.37	174	605	21.52	105	326	4.56	923	2,351	98.33
2011-12	923	2,351	98.33	214	735	37.49	74	307	9.33	1,063	2,779	126.49
2012-13	1,063	2,779	126.49	182	739	99.90	53	253	26.94	1,192	3,265	199.45
2013-14	1,192	3,265	199.45	179	596	72.37	65	340	17.54	1,306	3,521	254.28
2014-15	1,306	3,521	254.28	246	800	108.27	172	705	48.69	1,380	3,616	313.86
2015-16 upto July 2016	1,380	3,616	313.86	214	626	45.68	133	551	48.03	1,461	3,691	311.51

The Government arranges sub-audit committee meetings between the Department and the Audit Office to settle the old paragraphs. Although the Department has been making progress in settlement of old IRs/paragraphs, further effective and concrete steps are required to achieve substantial results.

1.7.2 Position of paragraphs and recovery of accepted cases included in the Audit Reports

The details of paragraphs relating to Registration and Stamps Department included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in the table 1.7.2.

Table 1.7.2

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year 2015-16	Cumulative position of recovery of accepted cases as of 30 June 2016
2005-06	3	4.66	3	1.26	-	0.38
2006-07	3	103.24	3	100.86	-	3.18
2007-08	6	58.36	5	4.14	-	0.90
2008-09	4	11.60	4	11.60	-	2.76
2009-10	5	27.31	4	26.90	-	0.67
2010-11	1	29.78	1	26.74	0.47	7.65
2011-12	7	6.04	6	5.91	0.03	1.98
2012-13	8	81.03	8	58.34	0.84	1.70
2013-14	10	73.10	9	28.89	5.40	5.40
2014-15	10	51.65	10	51.65	2.74	2.74
Total	57	446.77	53	316.29	9.48	27.36

The Department could recover an amount of ₹ 27.36 crore only during the period of 10 years against 57 paragraphs valuing ₹ 446.77 crore, out of which 53 paragraphs of ₹ 316.29 crore were already accepted by it. The recovery was just 8.65 per cent of the accepted amount of paragraphs.

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

1.8 Audit Planning

The unit offices working 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, audit coverage and its impact during past five years, *etc.*

During the year 2015-16, 410 units were planned and all units had been audited. One performance audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act' besides audit on 'Allocation of Mines in Rajasthan' and 'Environment Audit on Mining Activities in Rajasthan' were also conducted. The findings of 'Environment Audit on Mining Activities in Rajasthan' are being reported separately in another Audit Report.

1.9 Results of audit

Position of local audit conducted during the year

Test check of the records of 391 units of Commercial Taxes, Transport, Land Revenue, Registration and Stamps, State Excise, Mining and other Departmental offices conducted during the year 2015-16 disclosed underassessments, short levy/loss of revenue, *etc.* aggregating to ₹ 908.63 crore in 31,419 cases. During the year, the concerned Departments accepted underassessments and other deficiencies in 17,293 cases involving Government revenue of ₹ 252.78 crore, of which 11,972 cases involving ₹ 128.03 crore were pointed out in audit during 2015-16 and the rest in the earlier years. The Departments recovered ₹ 142.34 crore in 7,337 cases during 2015-16.

1.10 Coverage of this Report

This Report contains 42 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including one Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Acts' of ₹ 272.49 crore.

The Departments/Government have accepted audit observations involving ₹ 216.14 crore, out of which ₹ 5.10 crore had been recovered. The replies in the remaining cases were either not received or found unsatisfactory. These are discussed in Chapters II to VII.

CHAPTER-II
**TAXES/VAT ON SALES,
TRADE, *etc.***

CHAPTER-II : TAXES/VAT ON SALES, TRADE, etc.

2.1 Tax administration

Sales Tax/Value Added Tax laws and rules framed thereunder are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (Department) and is assisted by 26 Additional Commissioners, 47 Deputy Commissioners (DC), 91 Assistant Commissioners (AC), 136 Commercial Taxes Officers (CTO), 402 Assistant Commercial Taxes Officers (ACTO) and a Financial Adviser (FA). They are assisted by Junior Commercial Taxes Officers and other allied staff for administering the relevant Tax laws and rules.

The Rajasthan Value Added Tax (RVAT) Act, Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, Rules framed thereunder and notifications issued from time to time govern the levy and collection of value added tax and entry tax.

2.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. The Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of units audited by the Internal Audit Wing during the last five years is as under:

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2011-12	93	384	477	411	66	14
2012-13	66	384	450	267	183	41
2013-14	183	414	597	287	310	52
2014-15	310	413	723	471	252	35
2015-16	252	413	665	181	484	73

There was a shortfall in conducting internal audit ranging between 14 and 73 per cent during the years 2011-12 to 2015-16.

It was further noticed that 17,903 paragraphs of internal audit were outstanding at the end of the year 2015-16. The year-wise break up of outstanding paragraphs is as under:

Year	Upto 2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	Total
No. of paras	10,933	1,431	1,364	1,237	1,080	1,858	17,903

Non-settlement of large number of outstanding paragraphs indicates lack of monitoring and effective follow up action by the Department on the observations raised by its own Internal Audit Wing.

2.3 Results of audit

In 2015-16, test check of records of 71 units relating to VAT/Sales Tax assessment and other records showed underassessment of tax and other irregularities involving ₹ 214.14 crore in 1,570 cases, which fall under the following categories as given below:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1	Paragraph on 'Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999'	1	13.51
2	Underassessment of tax	326	142.42
3	Acceptance of defective statutory forms	49	5.65
4	Evasion of tax due to suppression of sales/ purchase	106	30.36
5	Irregular/incorrect/excess allowance of Input Tax Credit	424	16.60
6	Other irregularities relating to		
	(i) Revenue	559	5.40
	(ii) Expenditure	105	0.20
Total		1,570	214.14

During the year 2015-16, the Department accepted underassessment and other deficiencies of ₹ 21.97 crore in 636 cases, of which 31 cases involving ₹ 1.20 crore were pointed out in audit during the year 2015-16 and the rest in the earlier years. During the year 2015-16, the Department recovered/adjusted ₹ 2.72 crore in 105 cases, of which 7 cases involving ₹ 0.21 crore pertained to the year 2015-16 and the rest to earlier years.

The Department accepted and recovered the entire amount of ₹ 18.24 lakh pointed out by audit after issue of draft paragraph to the Government. This has not been discussed in the Report.

A paragraph on 'Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999' involving ₹ 13.51 crore and a few illustrative cases involving ₹ 12.70 crore are discussed in the succeeding paragraphs.

2.4 Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999

2.4.1 Introduction

The levy and collection of entry tax is governed by the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 (RET Act) and Rajasthan Tax on Entry of Goods into Local Areas Rules, 1999 (RET Rules) and notifications issued thereunder. Entry tax is leviable on entry of notified goods into a local area for consumption, use or sale therein, at such rates as prescribed from time to time by the State Government. Further, the State Government issued notifications under Section 9 of the Act from time to time and provided exemption from tax payable under the Act in respect of goods specified on the condition that the tax leviable under the RVAT Act in respect of these goods had been paid. The RET Act is administered by the Commercial Taxes Department (Department) of the Government of Rajasthan. The RET Act provides for registration of eligible dealers¹, filing of periodical returns and self-assessment by the dealers.

An audit on ‘Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999’ covering the period 2012-13 to 2014-15 (*i.e.*, assessments for the financial years 2010-11 to 2012-13) was conducted to examine compliance of the purchasing dealers regarding payment of entry tax on notified goods. Information from six manufacturers/sellers of selected notified goods² of other States³ were also collected and cross checked with the assessment records of the purchasing dealers of Rajasthan. Information regarding purchases and sales of goods available on departmental website *RajVISTA*⁴ was also collected and cross checked with the assessment records of the purchasing dealers of notified goods. The findings are discussed in the succeeding paragraphs:

2.4.2 Registration and Returns

Section 11 of the RET Act stipulates that a dealer who brings the notified goods into a local area is liable to get himself registered under this Act.

Commercial Taxes Department also administered other indirect taxes such as Value Added Tax (VAT) and Central Sales Tax (CST). The dealers registered for these taxes provide information to the Department regarding purchases of goods using declaration forms VAT-47⁵ and CST forms ‘C’⁶. All the information was available in Departmental records and website *RajVISTA* and accessible to all Assessing Authorities (AAs) of the Department. However, the Departmental information system was not designed to cross link purchases

¹ Every dealer who brought or received goods liable to tax under RET Act, aggregate value of which is not less than ₹ one lakh in a year, was liable to get himself registered under this Act.

² Generator Sets, Hydraulic Excavators, Cranes, Motor Vehicles, Dyes & Chemicals, and Explosive.

³ Andhra Pradesh, Gujarat, Jammu & Kashmir, Karnataka and Uttar Pradesh.

⁴ *RajVISTA*: It is a website for official use by the Department.

⁵ VAT-47 form: declaration form necessary for import of specified goods by registered dealers in the course of inter-State trade.

⁶ ‘C’ form: CST declaration form for purchase of goods to avail concessional rate of tax in the course of inter-State purchase.

from other States as shown by the dealers in their form 'C' and VAT 47 (as discussed in detail in paragraph 2.4.4). In absence of these, the AAs were not able to identify and register the eligible dealers under RET Act who were evading entry tax.

Analysis of information available with the departmental record and website *RajVISTA* disclosed that 143 dealers out of 231 dealers who had evaded tax were not registered under the RET Act. Further, information regarding the import of notified goods collected from selling dealers of five States disclosed that 151 out of 238 dealers who had evaded tax were not registered under this Act. Thus, it was found that 62 *per cent* (294 dealers) of test checked dealers (469 dealers⁷) who had evaded entry tax were not registered under the RET Act.

The Government replied (September 2016) that detailed directions had been issued in April 2014. However, the facts remained that these were general instructions and specific instructions were not issued to utilise the information for registration of dealers liable under RET Act (October 2016).

Lacuna in the return form

There were separate return forms under RVAT Act and RET Act upto June 2015. Thereafter, both the return forms were merged and revised forms VAT-10 and VAT 10-A had been prescribed (July 2015) for showing turnover under these Acts. Scrutiny of revised return forms revealed that no column had been prescribed for showing registration number under RET Act. In absence of this, it could not be ensured whether the dealers were registered under RET Act.

2.4.3 Short/non-levy of Entry tax

By issue of notifications dated 8 March 2006 and 9 March 2011 under Section 3(1) of the RET Act, the State Government specified the tax payable by a dealer in respect of notified goods brought into any local area for consumption or use or sale therein, at such rates as shown in the notifications. Besides, interest at 12 *per cent* per annum was also payable for delayed payment as per Section 34A of the Act.

2.4.4 Non-levy of Entry tax due to non-utilisation of information available with Department

The *RajVISTA* did not indicate the name/TIN of the dealers who were liable to pay entry tax on the notified goods. AAs had also not utilised the system to ascertain the dealers liable to pay entry tax. In this regard, few evasion prone commodities were selected by audit for test check. Information regarding these commodities was collected from *RajVISTA*/departmental records and cross checked with the assessment records of the concerned dealers.

Analysis of purchases/sale details available on *RajVISTA* and VAT assessment records disclosed that 231 dealers had imported goods like air

⁷ Total 469 dealers: information available with the Department; 231 dealers and information collected from other States; 238 dealers.

conditioners, ammonium nitrate, explosives, furnace oil, pet coke, high speed diesel, computers and their accessories, electrical and electronic goods, transformers, lubricant oil, DG sets, weigh bridges, hydraulic excavators, cranes (mining equipment), PP/HDPE bags and fabrics, motor vehicles and HDPE valuing ₹ 203.05 crore during the years 2010-11 to 2012-13. These goods were not sold by the purchasing dealers. The dealers had neither paid VAT nor entry tax on these goods. Therefore, the dealers were liable to pay entry tax amounting to ₹ 5.91 crore on these goods. However, the AAs had not utilised the information for assessment and registration of the dealers for entry tax.

This resulted in non-levy of entry tax of ₹ 7.87 crore including interest of ₹ 1.96 crore.

The Government replied (September 2016) that demand of ₹ 25 lakh had been raised in 11 cases. The replies for the remaining cases were either not received or not supported with necessary documents (October 2016).

2.4.5 Absence of mechanism for sharing information with other States

Scrutiny of information available with the Departmental website disclosed that the Department had not made efforts to collect the information from the Commercial Taxes Departments of other States to plug the revenue leakage. To examine revenue leakage, details of sales for the period 2010-11 to 2012-13 from six selling dealers⁸ of diesel generating sets, hydraulic excavators, cranes (mining equipment) and motor vehicles, *etc.* of other States were collected by audit and cross checked with the returns and assessment records of the purchasing dealers of Rajasthan State.

Cross verification of statement of purchases collected from other States with the record available in the Department disclosed that 238 dealers purchased notified goods valuing ₹ 87.95 crore without payment of entry tax. These goods were not sold by the purchasers. The dealers had neither paid VAT nor entry tax on these goods. The dealers were, therefore, liable to pay entry tax amounting to ₹ 3.42 crore on these goods. Since the information was not available with the Department, the AAs could not detect the tax evaded by these dealers.

This resulted in non-levy of entry tax of ₹ 4.78 crore including interest of ₹ 1.36 crore.

The Government replied (September 2016) that demand of ₹ 88 lakh had been raised in 35 cases, out of which ₹ 13 lakh had been recovered. The reply in the remaining cases had not been received (October 2016).

⁸ M/s. Sudhir Genset, Jammu (Jammu & Kashmir); M/s. Volvo India Private Limited, Bengaluru (Karnataka); M/s. Tata Motors Limited, Lucknow (Uttar Pradesh); M/s. Industrial Trade Link, Ahmedabad (Gujrat); M/s Solar Industries Limited, Visakhapatnam (Andhra Pradesh) and M/s. Cranex Limited, Ghaziabad (Uttar Pradesh).

2.4.6 Exemption under RET Act

As per Section 9 of the RET Act, the State Government may exempt dealers from tax payable under the Act fully or partially by issuing a notification. It was observed that the State Government had issued several notifications for allowing exemptions to dealers. Scrutiny of some notifications disclosed that while allowing the exemption, the State Government had not prescribed any return or format to monitor the terms and conditions specified in the notifications. Further, the AAs had also not monitored to ensure that the dealers had observed the terms and conditions prescribed in notifications. A few cases are discussed as under:

2.4.6.1 Irregular allowance of exemption

Notifications available on *RajVISTA* disclosed that 14 units had been granted exemption from payment of entry tax upto a certain limit fixed by the Government. Out of these, three units were test checked.

During test check of records of Circle Special-II, Kota, it was noticed that the State Government *vide* notification dated 8 April 2011 had allowed exemption to a dealer (M/s Adani Power Rajasthan Limited, Kota, RET/2001/N-01064) from payment of entry tax on purchase of capital goods, plant and machinery and parts thereof for setting up a power project. Analysis of information available on *RajVISTA* regarding 'C' forms used by the dealer disclosed that the dealer had imported high speed diesel and furnace oil valuing ₹ 20.88 crore during the year 2012-13. These goods were not exempted under the above notification. However, the dealer neither paid entry tax nor showed these purchases in returns.

The AA while finalising (March 2015) the entry tax assessment of the dealer did not levy entry tax on these goods and erroneously considered these to be covered under the above notification. This resulted in non-levy of entry tax of ₹ 82 lakh including interest of ₹ 19 lakh.

The Government replied (September 2016) that demand of ₹ 75 lakh including interest of ₹ 23 lakh had been raised (July 2016). The position of recovery is awaited (October 2016).

2.4.6.2 Non-monitoring of exemption allowed to the dealers

The State Government *vide* notification dated 3 August 2009 exempted M/s Rajwest Power Limited, Bhadresh (Barmer) from payment of tax payable on the entry of notified goods to be used only for setting up of power plant at Bhadresh (Barmer). The exemption was allowed for a specific quantity and monetary value of goods. The prescribed limit was further increased *vide* notification dated 6 January 2012.

Similarly, State Government *vide* notification dated 13 March 2012 exempted M/s Regen Powertech Private Limited, Udaipur from payment of tax on the entry of notified goods for use as plant and machinery in its project for manufacture of wind electric generators and towers near Udaipur. This exemption was also allowed for a specific quantity and monetary value of goods for a period of five years.

During audit (February and May 2016) of records of Circle Special-II, Udaipur and Barmer, it was noticed that neither any records were manually maintained nor was any IT system put in place to monitor the quantum of exemption availed by the dealers. In case of M/s Regen Powertech Private Limited, the AA issued a notice to provide details of goods imported and exemption availed by the dealer. However, the required information was not provided by the dealer. In absence of the required records, the correctness of the exemption availed, therefore, could not be ensured.

After this was pointed out, the Government replied (September 2016) that M/s Regen Powertech Private Limited had furnished a summary of assets capitalised and M/s Rajwest Power Limited had furnished the details of purchases of DG Sets. The reply of the Government was not tenable as the dealers had furnished the details after being pointed out by audit. There is a need for the Department to evolve a system to monitor the quantum of exemption availed by the dealers.

2.4.7 Demand recovered at the instance of audit

During test check of records of three CTOs,⁹ it was noticed that five dealers evaded entry tax amounting to ₹ 4 lakh. On being pointed out (August 2016), the Government intimated (September 2016) that recovery of tax and interest amounting to ₹ 4 lakh had been made.

2.4.8 Conclusion and Recommendations

Any leakage of entry tax has an adverse impact on the Government's revenue. Although the Department had necessary information but no system was introduced to bring the eligible dealers under RET regime. While allowing exemptions to dealers, no return or format was prescribed to monitor the terms and conditions specified in the notifications. No column for showing registration number under RET Act was prescribed in the revised return form. In absence of registration number in return form, it could not be ensured that the dealers were registered under RET Act.

The Government may evolve a system to bring the eligible dealers under RET Act using information available on Departmental website. Further, the Government may evolve a mechanism to share or exchange information with other States regarding purchases/sales of specified or evasion prone commodities to plug the revenue leakage. A specific proforma may be prescribed in returns to disclose the quantum of exemption availed by a dealer. Further, a new column may be inserted in the format of return to mention RET registration number.

⁹ CTO: Alwar- Special, Dausa and Makarana.

2.5 Irregular allowance of partial exemption from tax

As per Section 4 of RVAT Act, 2003, sale of goods is taxable at the rates specified in the Schedules appended to the Act. Further, Section 8(3) and 8(5) of RVAT Act provides that the State Government, by issue of notification, may exempt from tax the sale or purchase by any person or class of persons as mentioned in Schedule-II without any condition or with such condition as may be specified in the notification. Every notification issued under this Section shall be laid, as soon as after it is so issued, before the House of the State Legislature while it is in session for a period of not less than thirty days, which may be comprised in one session or in two successive sessions.

As per Schedule-VI appended to the RVAT Act, rate of tax on High Speed Diesel (HSD) was 18 *per cent* during the year 2012-13. However, the State Government *vide* notification dated 18 August 2008 exempted North-Western Zone, Jaipur of Indian Railways (NWR) from tax on HSD to the extent the rate of tax exceeded 10 *per cent* on the conditions specified therein. One of the conditions was that the benefit would be available subject to the condition that the aforesaid zone shall fully source its HSD requirement from the State of Rajasthan only. Subsequently, the Finance Department, Government of Rajasthan issued a clarification (10 December 2008) that NWR will fully source its requirements from Rajasthan which would not in any case be less than 90 *per cent* of the total purchase of HSD by NWR.

As per information collected (January 2016) from the Department, three dealers¹⁰ had sold HSD to NWR amounting to ₹ 1,045.60 crore during the year 2012-13 at the tax rate of 10 *per cent*. Scrutiny of the information submitted by the NWR to AC, Circle Special Rajasthan, Jaipur for the year 2012-13 disclosed that NWR purchased 7.22 to 9.23 *per cent* HSD from other States during the year. The AA allowed partial exemption of ₹ 83.65 crore to NWR.

It was observed that the condition which governed the rate of tax on HSD had been changed *vide* clarification issued by the Finance Department. Any such change required issuance of notification as per Section 8(3) of the Rajasthan VAT Act, 2003. The partial tax exemption of ₹ 83.65 crore to NWR was, therefore not covered by the notification.

The omission was pointed out to the Department (February 2016) and reported to Government (February 2016). The Government replied (September 2016) that the clarification (10 December 2008) had been issued in continuation of the notification. It further stated that the form of notification was being examined by the Finance Department and decision taken after examination would be intimated (October 2016).

¹⁰ M/s Bharat Petroleum Corporation Ltd., M/s Hindustan Petroleum Corporation Ltd. and M/s Indian Oil Corporation Ltd.

2.6 Short levy of tax due to application of incorrect rate of tax

2.6.1 As per Schedule-VI appended to the RVAT Act, 2003, tax was payable on sale of all types of motor vehicles including their parts and accessories at the rate of 15 *per cent*. Besides, as per Section 55 of the Act, interest at the rate of 12 *per cent* per annum was also payable for delayed payment of tax.

During test check of assessment records of CTO, Circle-H Jaipur, it was noticed (June 2015) that a dealer had shown taxable sale of goods *i.e.* Leaf Spring amounting to ₹ 4.55 crore during the year 2011-12 at the rate of five *per cent*. Leaf Spring is a motor vehicle part and taxable at the rate of 15 *per cent*. However, the AA, while finalising the assessment of the dealer, assessed tax at the rate of 5 *per cent* instead of 15 *per cent*. This resulted in short levy of tax amounting to ₹ 45.47 lakh besides interest of ₹ 19.09 lakh (calculated upto March 2015).

The omission was pointed out to the Department (July 2015) and reported to the Government (July 2015). Government replied (August 2016) that demand of ₹ 65.47 lakh (tax ₹ 45.47 lakh; interest ₹ 20.00 lakh) had been raised and ₹ 2.27 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.6.2 As per Schedule-V appended to the RVAT Act, 2003, the goods not covered in other Schedules appended to the Act were taxable at the rate of 14 *per cent*. 'Branded Potato Chips' were not covered under any entry mentioned in the Schedules and, therefore, taxable at the rate of 14 *per cent*.

During test check of assessment records of AC, Circle Special-IV, Jaipur, it was noticed (November 2015) that a dealer had sold 'Branded Potato Chips' amounting to ₹ 1.59 crore and ₹ 5.66 crore during the years 2011-12 and 2012-13 respectively at the rate of five *per cent* instead of correct rate of 14 *per cent*. However, the AA, while finalising (January and November 2014) the assessments of the dealer, assessed tax at the rate of 5 *per cent*. This resulted in short levy of tax amounting to ₹ 65.27 lakh besides interest of ₹ 21.30 lakh (calculated upto March 2015).

The omission was pointed out to the Department (December 2015) and reported to the Government (December 2015). The Government replied (September 2016) that a demand of ₹ 94.40 lakh (tax ₹ 65.27 lakh; interest ₹ 29.13 lakh) had been raised and ₹ 10.21 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.7 Short levy of exemption fee

The State Government *vide* notification dated 11 August 2006 exempted a registered dealer engaged in the execution of works contract from payment of tax leviable on the transfer of property in the goods involved in the execution of works contract subject to the condition that AA shall issue Exemption

Certificate (EC) and such dealers pay exemption fee at the rate specified as under:

Sl. No.	Description of work contract	Rate of Exemption fee (per cent of the total value of the contract)
1	Works contract where the cost of material does not exceed five <i>per cent</i> of the total contract amount. (w.e.f. 9 March 2010)	0.25
2	Works contracts relating to building, roads, bridges, dams, canals, sewerage system.	1.50
3	Works contracts relating to installation of plants and machinery including pspo, water treatment plant, laying of pipe line with material.	2.25
4	Any other kind of works contract not covered by above items.	3.00

A works contract order awarded for different nature of works (composite work contract) is not covered under serial number one to three of the above notification and, therefore, the rate of exemption fee leviable on the composite works was three *per cent*.

Further, the Additional Commissioner (VAT and IT), Commercial Taxes Department determined under Section 36¹¹ of RVAT Act, 2003 that 'civil finishing work' was covered under entry number 4 of the notification and EC should be issued at the rate of three *per cent*.

2.7.1 During test check of assessment records of AC, Works Contract and Leasing Tax Circle, Alwar, it was noticed (January 2016) that two dealers had applied for two ECs, one for 'construction of raw water reservoir' and another for 'civil finishing work' for contracts value of ₹ 36.50 crore. Scrutiny of the work orders disclosed that 'construction of raw water reservoir' and 'civil finishing work' were not covered under entry number 1 to 3 of the notification and, therefore, ECs should have been issued at the rate of three *per cent* under entry number 4 of the notification. However, the AA incorrectly issued ECs at the rate of 1.50 *per cent* for these works instead of correct rate of 3 *per cent*. This resulted in short levy of exemption fee of ₹ 54.75 lakh.

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (August 2016) that a demand of ₹ 22.77 lakh for tax and ₹ 15.52 lakh for interest had been raised for the works executed during the years 2011-12 and 2012-13. The reply on remaining demand of exemption fee of ₹ 31.98 lakh is awaited (October 2016).

2.7.2 During test check of assessment records of AC, Circle Special, Bhilwara, it was noticed (June 2015) that four work contracts were awarded for composite works valued at ₹ 13.49 crore to a dealer. The AA issued ECs to the dealer at the rate of 2.25 *per cent* instead of correct rate of 3.00 *per cent* of

¹¹ This Section empowers the Commissioner, Commercial Taxes to make an order determining the disputed question, on filing of the application in prescribed manner.

the total value of these composite works. This resulted in short levy of exemption fee amounting to ₹ 10.12 lakh.

The omission was pointed out to the Department (July 2015) and reported to the Government (July 2015). The Government replied (August 2016) that a demand of ₹ 10.12 lakh for tax and ₹ 5.66 lakh for interest had been raised and ₹ 1.01 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.8 Non-recovery of deferred tax

As per notification dated 31 March 2006, the industrial units availing benefits of exemption from tax under the Rajasthan Sales Tax/Central Sales Tax Exemption Scheme for Industries, 1998 (Exemption Scheme), were allowed to defer the payment of tax payable by them for the period specified therein. As per paragraph 7 of the notification, the deferred tax of a quarter was payable within a period of fifteen days from the end of the corresponding quarter after seven years without interest. Further, as per paragraph 8 of the notification, in case any payment of deferred tax is not made in time, the total deferred amount as on the date of such default shall be recoverable immediately along with interest from the first day of default of such payment.

During test check of records of CTO, Circle-B, Hanumangarh, it was noticed (July 2015) that a dealer who had availed the benefit of the Exemption Scheme, opted to defer the payment of tax under the notification and deferred the tax amounting to ₹ 20.20 lakh during the years 2006-07 to 2011-12. As per the notification, the dealer was liable to pay the deferred tax on quarterly basis starting from July 2013. The dealer did not pay the deferred tax in the specified period. However, the AA did not take any action to recover the deferred tax along with the interest. This resulted in non-recovery of deferred tax of ₹ 20.20 lakh and interest of ₹ 4.14 lakh (calculated upto March 2015).

The omission was pointed out to the Department (August 2015) and reported to the Government (August 2015). The Government replied (August 2016) that during the period 2006-07 to 2012-13, incorrect deferment of tax of ₹ 20.20 lakh was allowed to the dealer which was reduced to ₹ 14.52 lakh. The dealer had deposited the deferred tax amounting to ₹ 7.34 lakh (August 2016). However, the Department did not intimate whether the disallowed deferment amounting to ₹ 5.68 lakh was recovered. Further, the position of recovery of the remaining deferred tax amounting to ₹ 7.18 lakh and interest thereon is awaited (October 2016).

2.9 Excess allowance of subsidy under Rajasthan Investment Promotion Scheme, 2003

As per para 7(i)(b) read with proviso of the Rajasthan Investment Promotion Scheme, 2003 (Scheme), in case of investment made for modernisation/expansion/diversification, the amount of subsidy was to be a maximum of 75 per cent of the additional amount of tax¹² payable or deposited by the unit over and above the highest tax payable or deposited, whichever is higher, in

¹² Rajasthan Sales Tax/Central Sales Tax or VAT.

any of the three immediately preceding years. Further, as per para 10 of the Scheme, breach of any condition shall make the subsidy amount liable to be recovered along with interest at the rate of 18 *per cent* per annum from the date from which subsidy was allowed.

Finance Department, Government of Rajasthan clarified (10 October 2008) that under Incentive Schemes of 1987, 1989 and 1998, the goods manufactured by the units were not exempted but the units were exempted from payment of tax under the Rajasthan Sales Tax Act. As such, 'tax payable' by such units was the amount of tax leviable on the taxable turnover. It was also clarified (10 October 2008) that in case of a unit availing benefit of deferment of tax, if the unit deposited a part of tax payable, then the proportionate amount of subsidy shall only be allowed.

During test check of assessment records of AC, Circle Special, Bhilwara, it was noticed (June 2015) that a dealer was granted (January 2010) entitlement certificate with effect from 9 March 2007 for interest subsidy under the expansion cum modernisation and diversification category of the Scheme. During the period 2003-04 to 2005-06 (three immediately preceding years), the dealer had availed benefits of partial exemption/deferment of tax under Incentive Schemes (1987, 1989 and 1998) and notification dated 6 May 1986¹³. During this period, the dealer had deposited tax after deducting the partial exemption/deferment amount from the 'tax payable'.

The dealer claimed interest subsidy of ₹ 12.87 crore for the period 2010-11 to 2013-14 which was sanctioned during 2011-12 to 2013-14. Scrutiny of the subsidy record revealed that:

- The AA while calculating the tax payable for the three preceding years *i.e.* 2003-04 to 2005-06 deducted the amount of partial exemption availed by the dealer from the tax leviable on the turnover despite the clarification issued (10 October 2008) by the Government. Therefore, the AA had incorrectly calculated the highest tax payable among the three preceding years amounting to ₹ 6.81 crore instead of ₹ 8.09 crore.
- Further, the dealer had availed benefit of deferment and exemption of tax under incentive schemes amounting to ₹ 41.60 lakh¹⁴ during the years 2010-11 and 2011-12. However, while granting subsidy, the AA irregularly considered the deferment/exemption of tax availed by the dealer as tax deposited.

The AA, therefore, irregularly granted subsidy of ₹ 12.87 crore instead of allowable subsidy of ₹ 9.92 crore¹⁵. This resulted in excess grant of subsidy of ₹ 2.95 crore besides recoverable interest of ₹ 1.33 crore (calculated upto March 2015).

¹³ The State Government *vide* notification dated 6 May 1986 allowed the dealers to claim partial exemption from tax payable in respect of goods in the course of inter-State trade or commerce by way of reduction at the rate of 50/75 *per cent* of the tax so payable on increased sales made over and above and subject to the conditions mentioned therein.

¹⁴ Exemption of tax of ₹ 9.99 lakh during the period 1.1.2011 to 31.3.2011 and deferment of tax of ₹ 31.61 lakh during the period 1.1.2011 to 30.6.2011.

¹⁵ Bases on actual calculations as per provisions of RIPS subsidy allowable was calculated by Audit.

The omission was pointed out to the Department (March 2016) and reported to the Government (March 2016). The Government replied (August 2016) that a demand of ₹ 4.89 crore (tax ₹ 2.95 crore; interest ₹ 1.94 crore) had been raised and ₹ 29.48 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.10 Irregular allowance of exemption from tax under VAT

As per Rule 21(1) of RVAT Rules, 2006, a dealer who claims partial or full exemption from payment of tax on sale of goods to another dealer in the State or in the course of export of goods out of the territory of India, shall furnish declaration form/certificate prior to the date of filing of annual return. Provided that the CCT on being satisfied and after recording reasons for doing so, may by notification in the Official Gazette, extend the period of furnishing such declaration form/certificate for a period not exceeding one year. Provided further that for the assessments completed upto 30 September 2014, the dealers were required to furnish declaration forms/certificates upto 30 June 2015.

During test check of assessment records of AC, Circle-E, Jaipur, it was noticed (October 2015) that five dealers did not submit prescribed declaration forms/certificates for partial/full exemption from payment of tax on sale of goods for the year 2012-13. The AA, while finalising (November 2014 to March 2015) the assessments of these dealers, raised demand for non-submission of declaration forms/certificates. Thereafter, the dealers submitted (December 2014 to March 2015) the prescribed declaration forms/certificates. As the assessments of the dealers were made after 30 September 2014, these declaration forms were not acceptable. However, the AA accepted (January to March 2015) these declaration forms in-contravention of rules and reduced the demand of ₹ 25.34 lakh during the year 2014-15 through rectification orders. This resulted in irregular reduction of demand of ₹ 25.34 lakh.

The omission was pointed out to the Department (November 2015) and reported to the Government (November 2015). The Government replied (August 2016) that a demand of ₹ 20.37 lakh for tax and ₹ 7.68 lakh for interest had been raised. The reply on recovery is awaited (October 2016).

2.11 Non-levy of tax due to filing returns with nil turnovers

As per Rule 19(5) of the RVAT Rules, 2006, quarterly return shall be submitted by the dealers along with statement of purchases in Form VAT-07A and statement of sales in Form VAT-08A. Further, as per Section 61(1) of the RVAT Act, 2003, where any dealer has concealed any particulars from any return furnished by him or has deliberately furnished inaccurate particulars therein, the AA may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him under this Act, a sum equal to two times of the amount of tax evaded.

During test check of assessment records of AC, Circle-A, Jaipur, it was noticed (January 2016) that two dealers had submitted their returns with nil turnovers for the year 2012-13. Scrutiny of the report generated through a

module available on departmental website 'RajVISTA' disclosed that these dealers sold goods valued ₹ 2.60 crore to six registered dealers and collected tax of ₹ 12.99 lakh. However, the AA while finalising (September 2014 and March 2015) the assessments of the dealers assessed nil turnovers without using the information available on 'RajVISTA' and did not raise any demand against these dealers. This resulted in non-levy of tax amounting to ₹ 12.99 lakh besides penalty of ₹ 25.98 lakh and interest of ₹ 3.90 lakh (calculated upto March 2015).

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (September 2016) that notices had been issued to the dealers. Further progress is awaited (October 2016).

2.12 Non-imposition of penalty for non-filing of return

As per Section 21 of RVAT Act, 2003 read with Rule 19(2) of RVAT Rules, 2006, every dealer shall submit return electronically through the official website within such time and with such late fee for delayed furnishing of returns, as may be prescribed. Failure to do so shall be deemed to be a case of non-filing of return(s). Further, Section 24(4) of RVAT Act provides that where a dealer fails to furnish return in accordance with the provisions of Section 21, the AA shall assess the dealer to the best of his judgment on the basis of the material available on record and shall impose a penalty for the non-filing of returns of an amount equal to 20 *per cent* of the net tax payable subject to a minimum of five thousand rupees.

During test check of assessment records of AC, Circle Special-I, Jaipur, it was noticed (September 2015) that a dealer had not submitted his returns electronically through the official website for the year 2012-13. On being enquired by the AA, the dealer submitted hard copy of the returns instead of submitting these electronically through the official website and declared turnover of ₹ 31.75 crore and tax payable of ₹ 1.32 crore. A penalty for non-filing of returns of an amount equal to 20 *per cent* of the net tax payable was, therefore, to be imposed. However, the AA, while finalising (February 2015) the assessment of the dealer levied late fee of ₹ 3.09 lakh for delayed submission of returns instead of imposing penalty of ₹ 26.49 lakh for non-filing of returns. This resulted in non-imposition of penalty of ₹ 26.49 lakh.

The omission was pointed out to the Department (October 2015) and reported to the Government (October 2015). The Government replied (September 2016) that a demand of ₹ 26.49 lakh had been raised and ₹ 0.14 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.13 Non-imposition of penalty for wrong availment of input tax credit

As per Section 18(1) of the RVAT Act, 2003, Input Tax Credit (ITC) shall be allowed to registered dealers in respect of purchases of any taxable goods made within the State from a registered dealer for the purposes specified

therein. Further, as per Section 61(2)(b) of RVAT Act, where any dealer has availed ITC wrongly, the AA shall reverse such credit of input tax and shall impose on such dealer penalty equal to double the amount of such wrong credit.

During test check of assessment records of AC, Circle Special Rajasthan, Jaipur, it was noticed (January 2016) that a dealer availed ITC of ₹ 12.00 lakh wrongly during the year 2011-12. The AA, while finalising (December 2013) the assessment of the dealer, reversed the credit of input tax. However, AA did not impose penalty equal to double the amount of wrong credit. This resulted in non-imposition of penalty of ₹ 24.01 lakh.

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (September 2016) that a demand for penalty of ₹ 24.01 lakh had been raised. The reply on recovery is awaited (October 2016).

2.14 Non-imposition of penalty for misuse of declaration forms

As per Section 10A read with Section 10(d) of CST Act, 1956, if any person, after purchasing any goods for any of the purposes specified in Section 8(3)(b)¹⁶ fails to make use of the goods for any such purpose specified, the authority, who granted to him a certificate for registration under this Act, may impose upon him by way of penalty a sum not exceeding one and half times the tax leviable in respect of sale of goods under Section 8(2) of the Act.

2.14.1 During test check of assessment records of ACs, Circle Special Rajasthan, Jaipur, and Circle A, Jaipur, it was noticed (January 2016) that two dealers purchased goods *i.e.* machinery, tools, weigh bridge, furniture, kitchen items and CCTV camera, *etc.* valued at ₹ 79.90 lakh and ₹ 95.17 lakh respectively from other States against declaration forms 'C' during the year 2012-13. There was nothing on record to indicate that these purchased goods were used by the dealers for the purposes as specified in Section 8(3)(b). The dealers were, therefore, liable for a penalty of ₹ 35.29 lakh *i.e.* one and half time of tax leviable at the rate of 5 or 14 *per cent as applicable*. The AAs, while finalising (November and December 2014) the assessments of the dealers, did not take any action for imposition of penalty. This resulted in non-imposition of penalty of ₹ 35.29 lakh.

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (September 2016) that a demand of ₹ 35.29 lakh had been raised and ₹ 8.03 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.14.2 During test check of assessment records of three Circles¹⁷, it was noticed (November 2015 to March 2016) that three dealers¹⁸ had despatched goods valuing ₹ 2.27 crore and ₹ 24.81 crore to their consignment agents

¹⁶ Re-sale by him or use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power.

¹⁷ Circles: Special-IV Jaipur, Special-I Udaipur and A-Alwar.

¹⁸ M/s Avis Lifecare Pvt. Ltd., M/s Shree Padmawati Corporation and M/s Khanna Traders.

outside the State against declaration form 'F' during the year 2011-12 and 2012-13 respectively. Scrutiny of the information available on departmental website 'RajVISTA' disclosed that the dealers had purchased these goods from outside the State against declaration forms 'C'. As these purchased goods were not used by the dealers for the purposes as specified in Section 8(3)(b), a penalty of ₹ 3.47 crore *i.e.* one and half times of tax leviable on the purchase value of ₹ 18.63 crore, should have been imposed on the dealers. However, the AAs, while finalising (February 2014 to March 2015) the assessments of the dealers, did not take any action for imposition of penalty. This resulted in non-imposition of penalty of ₹ 3.47 crore.

The omission was pointed out to the Department (March and April 2016) and reported to the Government (March and April 2016). The Government replied (September 2016) that a demand of ₹ 3.47 crore had been raised and ₹ 2.00 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.15 Irregular exemption from tax on goods transferred outside the State

As per Section 6A(1) of CST Act, 1956, where any dealer claims that he is not liable to pay tax under this Act in respect of any goods on the ground that the movement of such goods from one State to another was not by reason of sale, he may furnish to the AA a declaration form containing the prescribed particulars along with the evidence of despatch of such goods and if the dealer fails to furnish such declaration, then the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale.

During test check of assessment records of AC, Circle Special-III, Jaipur, it was noticed (February 2016) that a dealer who was a manufacturer and trader of bearings and its components during the year 2012-13 had shown goods received from outside the State for job work amounting to ₹ 9.28 crore and receipts (Income) from job work amounting to ₹ 94.40 lakh. Scrutiny of the information available on the record disclosed that the dealer had transferred goods outside the State of Rajasthan after job work but had not submitted the prescribed declaration forms 'F' amounting to ₹ 10.22 crore in support of these transactions. Therefore, these transactions should have been treated as sale for all purposes of the Act. However, the AA finalised (February 2015) the assessment of the dealer without levying tax on these transactions. This resulted in irregular exemption from tax amounting to ₹ 51.10 lakh and interest of ₹ 15.33 lakh (calculated upto March 2015).

The omission was pointed out to the Department (April 2016) and reported to the Government (April 2016). The Government replied (September 2016) that a demand of ₹ 51.10 lakh for tax and ₹ 24.27 lakh for interest had been raised. The reply on recovery is awaited (October 2016).

2.16 Irregular allowance of partial exemption from tax under CST

As per Section 8(1) of CST Act, 1956, every dealer who in the course of inter-State trade or commerce, sells goods to a registered dealer, shall be liable to

pay tax at the rate of two *per cent* on the turnover under this Act on fulfillment of conditions specified in Section 8 (3) and (4) of the Act.

State Government by issue of a notification dated 14 February 2008 under Section 8(5) of the CST Act directed that the tax payable under the CST Act by a registered dealer who commences purchase of plant and machinery on or after 14 February 2008 for setting up of enterprises during the period he enjoys status of micro and small enterprises in respect of the sale of goods manufactured by him from his place of business in the course of inter-State trade or commerce shall be calculated at the rate of 0.25 *per cent*.

During test check of the assessment records of AC, Circle 'E' Jaipur, it was noticed (October 2015) that a dealer had sold goods in the course of inter- State trade valued at ₹ 5.35 crore and ₹ 8.45 crore during the years 2010-11 and 2011-12 respectively at the tax rate of 0.25 *per cent*. Scrutiny of assessment records revealed that the dealer was a registered dealer since 17 October 2005 under RVAT Act and CST Act. Further, the dealer had purchased plant and machinery prior to 14 February 2008. Therefore, the dealer was not eligible to avail the benefit under the aforesaid notification. However, the AA, while finalising (January 2013 and October 2013) the assessments of the dealer could not detect the irregularity and assessed the tax at concessional rate of 0.25 *per cent* instead of correct tax rate of two *per cent*. This resulted in short levy of tax of ₹ 24.16 lakh besides interest of ₹ 11.27 lakh for the years 2010-11 and 2011-12.

The omission was pointed out to the Department (November 2015) and reported to the Government (November 2015). The Government replied (August 2016) that a demand of ₹ 86.63 lakh (tax ₹ 24.15 lakh; interest ₹ 14.17 lakh and penalty ₹ 48.31 lakh) had been raised and ₹ 24.15 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

CHAPTER-III

**TAXES ON VEHICLES,
GOODS AND PASSENGERS**

CHAPTER-III : Taxes on Vehicles, Goods and Passengers

3.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder and are under the administrative control of the Transport Department. The receipts from road tax and special road tax are regulated under the provisions of the Rajasthan State Motor Vehicles Taxation (RMVT) Act 1951, the rules framed thereunder and notification issued from time to time.

The Transport Department is headed by the Transport Commissioner and is assisted by five Additional Transport Commissioners and 13 Deputy Transport Commissioners. The entire State is divided into 11 regions, headed by Regional Transport Officers (RTO) cum *ex officio* Member, Regional Transport Authority. Besides, there are 37 vehicles registration cum taxation offices headed by District Transport Officers (DTO).

3.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria laid down by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as departmental instructions issued from time to time.

The position of last five years of internal audit was as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in per cent
2011-12	-	43	43	43	-	-
2012-13	-	43	43	43	-	-
2013-14	-	43	43	39	4	9.30
2014-15	4	51	55	45	10	18.18
2015-16	10	57	67	66	1	1.50

Source: Furnished by the concerned Department.

It was noticed that 12,375 paragraphs were outstanding at the end of 2015-16. The year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1992-93 to 2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Paras	8,210	664	729	651	805	1,316	12,375

Out of 12,375 paragraphs, 8,210 paragraphs pertained to the period prior to 2010-11 which indicates that the Department needs to pay more attention towards settlement of the observations particularly those that are pending for

more than five years as with the passage of time, the chances of recovery would become bleak.

The Government may issue appropriate instructions to the Department for early disposal of the outstanding observations raised by the Internal Audit Wing.

3.3 Results of audit

During test check of the records of 27 units during the year 2015-16, audit noticed irregularities in 9,235 cases involving ₹ 38.12 crore, which broadly fall under the following categories:

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1	Paragraph on 'Control of Transport Department on Plying of Goods Vehicles'	1	10.62
2	Non/short payment of tax, penalty, interest and compounding fees, etc.	5,672	13.01
3	Non/short determination of tax, computation of motor vehicle tax/special road tax.	3,473	14.46
4	Other irregularities relating to		
	A- Revenue	13	0.01
	B- Expenditure	76	0.02
Total		9,235	38.12

During the year, the Department accepted underassessment and other irregularities of ₹ 27.86 crore in 9,325 cases, out of which 2,503 cases involving ₹ 7.49 crore were pointed out in audit during the year 2015-16 and the rest in earlier years. During the year 2015-16, an amount of ₹ 7.40 crore was recovered in 2,704 cases, out of which ₹ 1.28 crore in 493 cases were pointed out in 2015-16 and the rest in earlier years.

A paragraph on 'Control of Transport Department on Plying of Goods Vehicles' involving ₹ 10.62 crore and few illustrative cases involving ₹ 10.35 crore are discussed in the succeeding paragraphs.

3.4 Control of Transport Department on Plying of Goods Vehicles

3.4.1 Introduction

One of the major sources of revenue for Transport Department (Department) is levy of tax on goods vehicles which are broadly those motor vehicles which have been constructed or adapted for use solely for the carriage of goods. These are further divided in three categories: heavy goods vehicle, light goods vehicle and medium goods vehicle. Goods vehicles are allowed to ply with either National Permit (NP) or all Rajasthan goods permit. The vehicles whose gross vehicle weight does not exceed 3000 kilogram have been exempted from availing permits.

The Department has implemented VAHAN application software developed by National Information Centre (NIC) for registration of vehicles. The application helps the Department to register vehicles, collect tax, issue various certificates, permits and record fitness of vehicles.

3.4.2 Objective and scope of Audit

Records pertaining to selected¹ nine Regional Transport Officers² (RTOs) and five District Transport Officers³ (DTOs) for the period from 2012-13 to 2014-15 were test checked between October 2015 and August 2016 to ascertain whether enforcement provisions regarding recovery of tax, surcharge, penalty, fee and other charges on goods vehicles plying in the State were effective. A few observations noticed during transaction audit have also been included in this paragraph.

Audit Findings

3.4.3 Registration of Goods vehicles

Under Section 39 of the Motor Vehicle Act (MV Act), 1988, no person shall drive any motor vehicle in any public/other place unless the vehicle is registered in accordance with the provision of the Act. The data relating to registration of vehicles are entered in the Registration module under VAHAN software.

3.4.3.1 Lack of deterrence for delayed registration

As per Rule 47 of the Central Motor Vehicle Rules (CMV Rules), 1989, an application for registration of motor vehicle shall be made within seven days from the date of taking delivery of the vehicle. Further, under Section 41 of the MV Act read with Rule 4.17 of the Rajasthan Motor Vehicles Rules, (RMV Rules), 1990, Compounding Fee (CF) at the rate of ₹ 25 per calendar

¹ 14 RTOs/DTOs (25 per cent selection) on the basis of probability proportion to size sampling method were selected out of 54 district transport officers in Rajasthan.

² RTO: Alwar, Bharatpur, Bikaner, Chittorgarh, Jaipur, Jodhpur, Kota, Sikar and Udaipur.

³ DTO: Banswara, Deedwana, Jaisalmer, Nagaur and Pratapgarh.

month limited to ₹ 100 is leviable for late registration of vehicle. The rate has not been revised after April 1990.

Scrutiny of registration files of three RTOs⁴ revealed that 20 vehicles were registered after the expiry of the prescribed period of seven days. It was also observed from the records that in 16 cases, the vehicles were registered even after a delay of one month to twenty months from the date of taking delivery. The section relating to CF was incorporated for prevention of late registration of vehicles. However, extremely low rate of CF has defeated the very purpose of the section.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.3.2 Non/short realisation of Fancy Number Registration fee

As per Rule 4.3 of the RMV Rules, the State Government may allot registration mark in advance or allow a person to retain old number already allotted to his previous vehicle on his new vehicle on payment of fee. The Department specified (1 October 2014) process for allotment of advance number or retention of old number. The State Government vide notifications dated 30 April 2003 and 1 October 2014 prescribed fees for fancy numbers.

There was a system to monitor the allotment of the numbers in VAHAN but there was no provision in VAHAN for levy of registration mark fee payable for each fancy number. The fee payable was being worked out manually. Scrutiny of records of 699 new fancy numbers allotted by 14 RTOs/DTOs⁵ during the year 2012-13 to 2014-15 revealed that in 349 cases, the registration mark fee amounting to ₹ 56.88 lakh was either not realised or short realised. The reasons for short/not-realisation was neither found on record nor were made available to audit.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.4 Authorisation of National Permits

As per Section 66 of the MV Act, 1988, no owner of a motor vehicle shall use or permit the use of vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any goods in accordance with the conditions of a permit granted or countersigned by a prescribed authority authorising him the use of the vehicle in that place and in the manner specified. However, the goods vehicles whose gross vehicle weight does not exceed 3000 kilogram were not required to take such permits.

3.4.4.1 Non-renewal of authorisation of National Permits

Goods vehicle intending to move at national level has to apply to the RTO for a National Permit in a prescribed form. A National Permit is valid for five years from the date of issue. Application for renewal of National Permit is required to be submitted 15 days prior to expiry of such permit. Under the new

⁴ RTO: Jodhpur, Sikar and Udaipur.

⁵ RTO: Alwar, Bharatpur, Bikaner, Chittorgarh, Jaipur, Jodhpur, Kota, Sikar, and Udaipur; DTO: Banswara, Didwana, Jaisalmer, Nagaur and Pratapgarh.

National Permit System (May 2010), a composite fee of ₹ 15,000 per annum along with home state authorisation fee of ₹ 1,000 had to be deposited for authorisation of National Permit up to March 2012. Thereafter, a composite fee of ₹ 16,500 per annum along with home state authorisation fee of ₹ 1,000 was to be deposited for authorisation of National Permit.

Scrutiny of vehicles files, permit registers, receipt books, cash books and data available on VAHAN software of nine RTOs⁶ disclosed that out of 3,36,675 goods vehicles having National Permit, 22,439 vehicles had not renewed their authorisation as mentioned in the following table:

	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Total permits issued (in numbers)	40,777	75,110	70,620	72,481	77,687	3,36,675
Numbers of defaulters	2,122	4,183	4,710	4,396	7,028	22,439
Percentage of defaulters	5.20	5.57	6.67	6.07	9.05	6.66
Rate per authorisation (in ₹)	16,000	16,000	17,500	17,500	17,500	-
Due Amount (₹ in crore)	3.40	6.69	8.24	7.69	12.30	38.32

There was nothing on record to indicate that these vehicles were declared off the road or had been transferred to other states. The RTOs had neither made any effort to ensure that these vehicles off the road nor had issued any notices to the vehicles owners. The amount of authorisation fee and composite fee involved in these 22,439 vehicles amounted to ₹ 38.32 crore.

3.4.4.2 Non-observance of formalities after cancellation of National Permit

Under Section 86 (D) of MV Act, the transport authority which granted a permit may cancel the permit or suspend it for such period as it thinks fit, if the holder of the permit has obtained the permit by fraud or misrepresentation. Under Rule 5.35 (1)(i) of RMV Rules, when a Regional Transport Authority suspends or cancels any permit under Section 86 of MV Act, the holder shall surrender Part A⁷, B⁸ and authorisation of the permit within seven days of the receipt of order in writing of the concerned authority.

During test check of permit records of RTO, Bharatpur for the years 2013-15, it was noticed that 207 National Permits of goods vehicles were cancelled on the ground of fraud or misrepresentation. It was also observed that the validity of authorisation of 31 permits out of 207 permits had expired. The part A, B and valid authorisation of the permit were neither surrendered despite cancellation of the National Permits nor any action was initiated by transport authorities to seize the vehicles. Thus, post cancellation formalities were not carried out, in absence of which possibilities of running the vehicles after cancellation of permits cannot be ruled out.

⁶ RTO: Alwar, Bharatpur, Bikaner, Chittorgarh, Jaipur, Jodhpur, Kota, Sikar and Udaipur.

⁷ Part A- details of vehicle, owner, name of states for which permit issued, validity period and conditions

⁸ Part B- details of vehicle, owners including transferor and transferee of permit, etc.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

Thus, the Government may consider putting a system in place to watch the movement of those vehicles that were granted National Permit but had not applied for renewal of their authorisation.

3.4.5 Levy and Collection of Tax

It was observed that no system existed in the Department to monitor proper maintenance of tax ledger of registered vehicles to monitor recovery of tax, fee and other charges. No return was prescribed to show the number of vehicles that had not paid the tax dues.

No report was drawn by the RTOs/DTOs to know the number of vehicles that were declared off road or had moved/shifted their operations to other districts/States. Weak monitoring mechanism resulted in lack of action on the part of the taxation officers for realisation of the tax due. A few cases are mentioned in the following paragraphs:

3.4.5.1 Non/short realisation of Motor Vehicles Tax and Special Road Tax

Under Section 4 of the Rajasthan Motor Vehicle Tax Act, 1951 and the rules made thereunder, motor vehicle tax (MVT) and special road tax (SRT) are to be levied and collected on goods vehicles including articulated goods vehicles used or kept for use in the State at the rates prescribed by the State Government vide notification dated 9 March 2007. Further, surcharge at the rate of five *per cent* on tax was also payable *vide* notification dated 9 March 2011.

- **Articulated goods vehicles**

During test check of the tax ledger and data available on VAHAN software of 16 RTOs/DTOs⁹ for the years 2012-15, it was found that in case of 640 articulated goods vehicles, MVT and SRT (including surcharge) of ₹ 2.26 crore for the period April 2012 to March 2015 were not deposited. After this was pointed out, the Department intimated that out of these vehicles, tax amounting to ₹ 20.74 lakh in respect of 74 vehicles was either already deposited or not due. Thus, in respect of 566 articulated goods vehicles, taxes were not paid by the owners of these vehicles. However, the taxation officers did not initiate any action to realise the tax due. This resulted in non-realisation of tax and surcharge amounting to ₹ 2.06 crore.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

- **Goods vehicles**

During test check of the tax ledger and data available on VAHAN software of 19 RTOs/DTOs¹⁰, it was found that in case of 1689 goods vehicles, MVT and

⁹ RTO: Alwar, Bikaner, Chittorgarh, Jaipur, Jodhpur, Kota, Sikar and Udaipur; DTO: Didwana, Hanumangarh, Jaisalmer, Kishangarh, Nagaur and Pratapgarh. Local Audit: RTO Ajmer and DTO Bhilwara.

¹⁰ RTO: Alwar, Bharatpur, Bikaner, Chittorgarh, Jaipur, Jodhpur, Kota, Sikar and Udaipur; DTO: Banswara, Didwana, Jaisalmer, Nagaur and Pratapgarh. Local Audit: RTO Ajmer and DTO: Bhilwara, Dholpur Hanumangarh and Ramganjmandi

SRT (including surcharge) of ₹ 3.79 crore for the period from April 2012 to March 2015 were not deposited. After this was pointed out, the Department intimated that out of these vehicles, tax amounting to ₹ 15.98 lakh in respect of 110 vehicles was either already deposited or not due. Thus, in respect of 1,579 goods vehicles, taxes were not paid by the owners of these vehicles. However, the taxation officers did not initiate any action to realise the tax due. This resulted in non-realisation of tax and surcharge amounting to ₹ 3.63 crore.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.5.2 Non/short realisation of motor vehicle tax in respect of dumpers/tippers

Under Section 4 of the RMVT Act and the rules made thereunder, MVT is to be levied and collected on goods vehicles of special category (dumpers/tippers, *etc.*) used or kept for use in the State at the rates prescribed by the State Government *vide* notification dated 1 March 2002. Further, *vide* notification dated 9 March 2011, surcharge at the rate of five *per cent* on tax was also payable.

During scrutiny of the tax ledger and data available on VAHAN software of 17 RTOs/DTOs¹¹, it was found that in case of 803 dumpers/tippers, MVT and surcharge of ₹ 2.95 crore for the period from April 2012 to March 2015 were not deposited. After this was pointed out, the Department intimated that out of these vehicles, tax amounting to ₹ 9.97 lakh in respect of 38 vehicles was either already deposited or not due. Thus, in respect of 765 vehicles, taxes were not paid by the owners of these vehicles. However, the taxation officers did not initiate any action to realise the tax due. This resulted in non-realisation of tax and surcharge amounting to ₹ 2.85 crore.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.5.3 Non/short realisation of outstanding instalments of lump-sum tax from transport vehicles

Under Section 4-C of the Rajasthan Motor Vehicles Taxation Act, 1951 and the rules made thereunder, a lump-sum tax on transport vehicles shall be levied at the rates prescribed by notification issued from time to time by the State Government. The lump-sum tax may be paid at the option of vehicle owner either in full or in three equal instalments and in six equal instalments with effect from 14 July 2014 within a period of one year. Further, *vide* notification dated 9 March 2011, surcharge at the rate of 10 *per cent* on tax was also payable.

During test check of the records of five Regional Transport Offices (RTOs)/District Transport Offices (DTOs)¹² for the years 2013-14 to 2014-15, it was noticed (between June 2015 to November 2015) that in respect of 188 transport vehicles, the vehicle owners opted for lump-sum payment of tax in

¹¹ RTO: Alwar, Bharatpur, Bikaner, Chittorgarh, Jaipur, Jodhpur, Kota, Sikar and Udaipur; DTO: Banswara, Didwana, Jaisalmer, Nagaur, and Pratapgarh. Local Audit: RTO: Ajmer and DTO: Bhilwara and Ramganjmandi.

¹² RTO: Udaipur and Sikar; DTO: Jaipur (CC), Balotara and Chomu.

instalments. The vehicle owners after paying first or second instalments had not paid the remaining instalments. However, taxation officers did not initiate any action to realise the amount of tax due. This resulted in non-realisation of lump-sum tax amounting ₹ 85.69 lakh.

After this was pointed out (between June 2015 to May 2016) the Department replied (July 2016) that in respect of 49 vehicles, 22.26 lakh had been recovered. The replies in respect of remaining vehicles are awaited (October 2016).

3.4.5.4 Undue benefit due to exemption of tax

As per Rule 28 of the RMVT Rules, motor vehicle owned and exclusively used by or on behalf of any Department of the Central Government, the Government of Rajasthan or the Government of any other State of India other than those used in any commercial enterprise were totally exempted from tax liability. Further, motor vehicles designed and constructed or adopted for use only for the purpose of exploration of oil and natural gas and used in Rajasthan for the said purpose are completely exempted from payment of the tax under Rule 28 (O) of the RMVT Rules. Any motor vehicle with seating capacity more than nine excluding driver, owned by and used solely for the purpose of any educational institution, recognised by the Government was exempt from payment of tax. Under Section 41(4) of MV Act, 1988, fire tender has been specified as a transport vehicle.

During test check of the records of eight RTOs/DTOs¹³ for the year 2012-15, it was noticed that 11 fire tenders used by PSUs¹⁴ and educational institutions¹⁵ were irregularly registered as non-transport vehicles by the concerned taxation officers. This resulted in undue exemption of tax amounting to ₹ 49.21 lakh.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.6 Certificate of Fitness of goods vehicles

Under Section 56 of MV Act, read with Rule 62 of CMV Rules, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness (FC) issued by competent authority in the prescribed form. Further, under Rule 4.2A of RMV Rules, a transport vehicle shall not be deemed to be validly registered after the expiry of 15 years from the date of its first registration until the vehicle is re-registered. As per Rule 81 of the CMV Rules, FC in respect of a new goods vehicle shall be valid for two years; thereafter, it shall be renewed every year against payment of prescribed fees of ₹ 100.

It was observed that Department had no system to monitor and ensure that old vehicles which were plying had valid FCs. Each RC in respect of a new goods vehicle was valid for two years and details thereof were available with the RTO in which he was registered. However, after the expiry of the two years

¹³ RTO: Alwar, Bharatpur, Jaipur, Jodhpur, Kota and Sikar; DTO: Jaisalmer and Nagaur.

¹⁴ Bharat Petroleum Co. Ltd, Gas Authority of India Ltd, RIICO, Godawari green energy Ltd., J K cement Ltd and Ultra tech cement Ltd, Narayan Seva Sansthan..

¹⁵ Param education society, Sikar.

the vehicle owner could renew his FC in any other RTO. In these cases, there was no system to update the renewal of FC data with the RTO in which the vehicle was registered. Thus, the software did not give a complete picture of the vehicles that had not come for renewal of the FCs.

Analysis of the data available in VAHAN revealed that the FCs in respect of 1,74,264 goods vehicle registered within 15 years under transport category had not been renewed during the period 2012-13 to 2014-15. Apart from monitoring the reliasation of revenue of ₹ 1.74 crore, plying of vehicles without valid FCs was not ensured, thus compromising the safety norms.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.7 Non-recovery of fine in respect of pending challans

Under Section 200 (1) of the MV Act and the rules made thereunder, fine on any offence shall be levied at the rates prescribed by the State Government. The Government notifications¹⁶ prescribed rate of fine for certain categories of offences.

During scrutiny of 12 RTOs/DTOs,¹⁷ it was observed that there was no mechanism for monitoring the challans issued by the Enforcement Wing of the Department. No register for the purpose was maintained in these offices. Month-wise bundles of challans remained unattended in shelves. Though, a module for monitoring of challans existed in the VAHAN software, the details were not being fed in except in RTO, Jaipur. Scrutiny of pending challans¹⁸ checked for the years 2012-15 revealed that 812 pending challans in respect of goods vehicles were not compounded by the owners of these vehicles. The taxation officers also did not initiate any further action regarding these challans. An amount of ₹ 73.45 lakh could have been recovered by the Department.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.8 Transfer of vehicles without obtaining temporary registration certificate

Under Rule 4.2 (1) (a) of the RMV Rules, 1990, an application for temporary registration is to be made when any motor vehicle is sold or distributed by manufacturer to his dealer or sub-dealer or its branch for resale within or outside the State. Explanation note of above Rule stipulated that temporary registration issued to any such vehicle shall cease to be in force as soon as it reaches the premises of the dealer or sub-dealer or its branch. Sub Rule (2) of Rule 4.2 provides that the temporary registration certificate (TRC) shall be issued on payment of prescribed fee and is valid for a period not exceeding one month ordinarily.

¹⁶ 21 August 2009, 22 July 2010, 28 January 2013 and 3 July 2014.

¹⁷ RTO: Alwar, Bharatpur, Bikaner, Chittorgarh, Jaipur, Jodhpur, Kota, Sikar and Udaipur; DTO: Didwana, Jaisalmer and Nagaur.

¹⁸ 25 pending challans of the last quarter of financial years 2012-15 were selected for each RTO/DTO. However, in RTO: Chittorgarh, Sikar; DTO: Deedwana and Jaisalmer only 72, 64, 50 and 26 pending challans were available respectively. Therefore, total 812 challans were test checked.

During test check of the trade certificate register and annual returns of RTO, Alwar for the years 2012-15, it was noticed that a manufacturer (M/s Ashok Leyland) had transferred vehicles to its branch offices without TRCs. However, the taxation officers did not correlate the TRCs with the return submitted by the manufacturer regarding number of vehicles transferred by it. This resulted in non-realisation of TRC fees amounting to ₹ 16.43 lakh.

The matter was pointed out (between August 2016 and September 2016) to the Department and the Government; their reply is awaited (October 2016).

3.4.9 Conclusions and Recommendations

The rate of Compounding Fee has not been revised after 1 April 1990. The low rate has failed to act as deterrence in case of late registration of goods vehicles. In absence of a system to monitor the maintenance of tax ledgers of registered vehicles for prompt and timely recovery of tax, the tax authorities failed to monitor the vehicles liable to pay tax. The Department had no system to monitor old vehicles plying without valid fitness certificate which resulted in non-realisation of renewal fee besides compromising public safety.

It is recommended that the Department should consider revising the rate of Compounding Fee in case of delayed registration of goods vehicles and incorporate suitable provision in VAHAN software to ensure its levy; improve the system of updation and monitoring of tax ledgers of registered vehicles to ensure timely recovery of tax, fee, etc.; consider prescribing returns to show the number of vehicles from which tax was due but not received; undertake measures to check plying of goods vehicles without valid fitness certificates and consider implementing a facility to issue notice/SMS alert to vehicle owners not having valid fitness certificate on the basis of MIS report of VAHAN database.

3.5 Non/short realisation of penalty on late deposit of special road tax and surcharge by fleet owner

Section 4 of the RMVT Act, 1951 provided that all the tax shall be payable in advance. In respect of fleet owner, special road tax (SRT) shall be paid on or before 14th day of each month. Further, Section 6 of RMVT Act stipulated that if the tax due in respect of a vehicle is not paid within the period allowed, the defaulter shall be liable to pay in addition to the tax due, a penalty at the rate of 1.5 per cent per month or part thereof for delayed payment.

During test check of records of RTO, Jaipur for the year 2014-15, it was noticed (March 2016) that the Rajasthan State Road Transport Corporation (RSRTC) deposited/adjusted ₹ 115.73 crore during the year 2014-15. It was noticed that the RSRTC deposited the tax late by one to three months after June 2014 for which it was liable to pay the penalty on SRT and surcharge amounting to ₹ 2.31 crore.

The matter was pointed out to the Department and reported to the Government (between March 2016 and May 2016); their reply is awaited (October 2016).

3.6 Taxes on motor vehicles not realised

Under Sections 4 and 4-B of the RMVT Act, 1951 and the Rules made thereunder, motor vehicle tax and special road tax are to be levied and collected on all motor vehicles used or kept for use in the State at the rates prescribed by the State Government from time to time. Further, *vide* notification dated 9 March 2011, surcharge at the rate of 5 per cent on tax is also payable.

During test check of the registration records, tax ledgers, general index registers and information available on VAHAN software of eight RTOs¹⁹ and six DTOs²⁰ for the period 2012-13 to 2014-15, it was noticed (between June 2015 and March 2016) that in respect of 2,204 vehicles for the period from April 2013 to March 2015, the tax was either not paid or short paid by the owners of these vehicles. There was no evidence on record to prove that the vehicles were off the road or were transferred to other District/States. However, the taxation officers did not initiate any action to realise the tax due to the State Government. This resulted in non/short realisation of tax and surcharge amounting to ₹ 8.04 crore as mentioned below:

Sl. No.	Category of vehicles	No. of vehicles	Period of tax	Amount (₹ in crore)	Name of offices where irregularities noticed
1	Contract carriages (seating capacity upto 13 persons excluding driver)	1,799	April 2013 to March 2015	3.21	RTOs- Ajmer, Alwar, Bharatpur, Bikaner, Jodhpur, Kota, Sikar and Udaipur. DTOs- Bhilwara, Chomu, Dholpur, Hanumangarh and Jaipur (CC).
2	Contract carriages (seating capacity more than 13 persons excluding driver)	159	April 2013 to March 2015	3.11	RTOs- Bikaner, Jodhpur, Sikar and Udaipur. DTO- Jaipur (CC).
3	Stage carriages	184	April 2013 to March 2015	1.33	RTOs- Alwar, Jodhpur, Sikar and Udaipur. DTOs- Bhiwadi and Hanumangarh.
4	Passenger vehicles kept without permits	14	April 2014 to March 2015	0.13	RTO- Jodhpur.
5	Private service vehicles	48	April 2013 to March 2015	0.26	DTO- Jaipur (CC)
Total		2,204		8.04	

After being pointed out (between June 2015 and May 2016), the Department stated (August 2016) that in respect of 805 vehicles, ₹ 2.73 crore had been recovered and in respect of 116 vehicles, the owners had already paid the tax amount of ₹ 0.55 crore. However, no reasons for not making the relevant

¹⁹ RTO: Ajmer, Alwar, Bharatpur, Bikaner, Jodhpur, Kota, Sikar and Udaipur.

²⁰ DTO: Bhilwara, Bhiwari, Chomu, Dholpur, Hanumangarh and Jaipur (CC) .

entries in the VAHAN or in the registers maintained for this purpose were furnished to audit. The progress of recovery in the remaining cases is awaited (October 2016).

CHAPTER-IV

LAND REVENUE

CHAPTER-IV : LAND REVENUE

4.1 Tax administration

Allotment of land, assessment and collection of land revenue are governed under the Rajasthan Land Revenue Act, 1956 and rules framed there under. The Land revenue mainly comprises rent on land, lease rent, premium, conversion charges and receipts from sale of Government land.

The Revenue Department functions as the Administrative Department of the Government. The overall control of revenue related judicial matters along with supervision and monitoring over revenue officers vests with the Board of Revenue (BOR). The BOR is assisted by 33 Collectors at the district level, 289 Sub-Divisional Officers (SDOs) at the sub-division level and 314 *Tehsildars* at the *Tehsil* level.

4.2 Internal audit conducted by the Department

The Financial Adviser, BOR is the head of the Internal Audit Wing. There were 18 internal audit parties. The position of number of units due for audit, number of units actually audited and number of units remaining unaudited during the period from 2011-12 to 2015-16 is as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2011-12	35	624	659	589	70	11
2012-13	70	672	742	670	72	10
2013-14	72	672	744	586	158	21
2014-15	158	672	830	551	279	34
2015-16	279	809	1,088	883	205	19

Source: Information provided by the Board of Revenue, Ajmer.

The Department stated that the arrear in audit was due to the shortage of posts and deployment of staff in disposal of outstanding audit paras raised by the Internal Audit Parties.

It was noticed that 19,792 paragraphs were outstanding at the end of 2015-16. Year-wise break up of outstanding paragraphs of Internal Audit wing is as under:

Year	Upto 2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Paras	8,741	1,065	1,520	1,669	1,653	5,144	19,792

Source: Information provided by the Board of Revenue, Ajmer.

Out of 19,792 paragraphs, 8,741 paragraphs were outstanding for more than five years for want of compliance/corrective action. The reason given for slow pace of disposal of paras was the shortage of posts in various cadres.

The Government may take steps to ensure expeditious compliance with the outstanding observations raised by the Internal Audit wing.

4.3 Results of audit

During test check of records of 11 units of Land Revenue Department conducted during the year 2015-16, audit noticed non/short recovery of premium, lease rent, conversion charges, non-reversion of land and other irregularities amounting to ₹ 119.50 crore in 11,055 cases as detailed under:

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Non-recovery/short recovery of premium and lease rent from State Government Departments	28	25.12
2	Non-recovery/short recovery of conversion charges from <i>khatedars</i> ¹	622	7.90
3	Non-reversion of land to Government	13	45.52
4	Other irregularities relating to:		
	(i) Revenue	6,729	4.46
	(ii) Expenditure	3,663	36.50
Total		11,055	119.50

During the year 2015-16, the Department accepted audit observations of ₹ 148.62 crore in 1,854 cases, which were pointed out in earlier years. The Department recovered ₹ 118.90 crore in 981 cases during the year 2015-16 which related to the earlier years.

Few illustrative cases involving ₹ 51.19 crore are discussed in the succeeding paragraphs.

¹ *Khatedars* are tenants on Government land to whom land is given for agricultural purpose.

4.4 Short recovery of cost of land and lease rent due to incorrect application of District Level Committee rates

As per Government's notification (October 2005), premium² of the land allotted to the Government departments/corporations/institutions would be charged as per the rates decided by the concerned District Level Committee (DLC). In addition, annual lease rent at the rate of 10 per cent of the cost of land was also recoverable from the lease holder.

4.4.1 The statement of DLC rate (effective from 4 October 2012), provided that cost of the land located in villages situated on State Highway and Mega Highway upto 100 metres from the Road would be three times rate for the category of agricultural land.

In District Nagaur, land measuring 2.76 hectares bearing *khasra*³ number 302 in village *Panwari*, *tehsil* Kuchamancity was allotted (6 December 2012) to *Rajasthan Rajya Bhandar Vyvastha Nigam* (RRBVN) for 99 years on lease basis at a cost of ₹ 44.35 lakh at agriculture rate of ₹ 16.07 lakh per hectare and lease rent of ₹ 13.30 lakh⁴, aggregating to ₹ 57.65 lakh.

During scrutiny (July 2015) of allotment records⁵ of District Collector, Nagaur, it was found that the allotted land was situated on Kishangarh-Kuchaman city mega highway for which three times DLC rate was applicable. Thus, the cost of land was ₹ 1.33 crore at the rate of ₹ 48.21 lakh per hectare and lease rent of ₹ 39.92 lakh, aggregating to ₹ 1.73 crore. This resulted in short recovery of cost of land and lease rent of ₹ 1.15 crore⁶.

The matter was pointed out to the Department (August 2015) and reported to the Government (June 2016); their reply is awaited (October 2016).

4.4.2 DLC Jaipur prescribed special rates for the category of agricultural land located in villages situated on National Highway/State Highway/Main Road which were effective from 26 March 2012.

In District Jaipur, Government land measuring 12.77 hectare (50.49 *bigha*) at *khasra* number 1176/2/2 in village Govindgarh, was allotted (January 2013) to Rajasthan Co-operative Dairy Federation Limited for establishment of Metro Dairy.

During test check (April 2016) of the allotment records of District Collector, Jaipur, it was noticed that the above land was situated on Govindgarh-Malikipur main road and was adjacent to National Highway number 11. The Department recovered the cost of land and lease rent at the rate of ₹ 9.14 lakh per *bigha* prescribed by DLC for un-irrigated agricultural land situated away from National Highway/State Highway/main road instead of ₹ 14.11 lakh per *bigha* for agricultural land situated on National Highway/State Highway/main road.

This resulted in short recovery of cost of land and lease rent of ₹ 3.92 crore as

² Premium here means the cost of land.

³ A type of index of field-book map, popularly known as *khasra* where in all facts about crop are mentioned.

⁴ for the period 2012-15 (₹ 44.35 lakh x 3 x 10 per cent = ₹ 13.30 lakh)

⁵ Records checked: check list submitted by Sub-divisional Officer, Nava (Nagaur) and Joint Inspection Report of RRBVN.

⁶ Short recovery of cost of land and lease rent ₹ 1.73 crore (-) ₹ 57.65 lakh = ₹ 1.15 crore.

detailed below:

(₹ In lakh)

Area in bigha	DLC rate per bigha	Premium of the land	Lease rent for 3 years (21.1.13 to 20.1.16) at the rate of ₹ 71.24 lakh per year	Total amount recoverable	Amount recovered	Short recovery
50.49	14.11	712.41	213.72	926.13	534.10	392.03

The matter was pointed out to the Department (May 2016) and reported to the Government (September 2016); their reply is awaited (October 2016).

4.4.3 As per Circular (2 March 1987) issued by the State Government, allotable Government land in rural areas shall be allotted to departments and enterprises of Central Government at prevailing rate of agricultural land of concerned area prescribed by DLC.

In District Alwar, 149.22 hectare land situated at village *Bahadurpur patti Katla, tehsil* Alwar was allotted (29 November 2013) to Central Reserve Police Force (Woman Battalion) (CRPF) for 99 years on lease basis.

During test check (November 2015) of the allotment records, it was found that the rate of land was increased on 6 September 2013 from ₹ 10.00 lakh per hectare to ₹ 13.00 lakh per hectare. The land was allotted to CRPF on 29 November 2013. However, the Collector applied pre-revised DLC rate in the allotment and recovered ₹ 3.73 crore⁷ instead of ₹ 4.85 crore⁸. This resulted in short recovery of cost of land of ₹ 1.12 crore.

After this was pointed out in January 2016 and reported to the Government in June 2016, the Government replied (September 2016) that a notice for recovery had been issued (June 2016) and steps for recovery were being taken.

4.5 Non-reversion of land to Government

4.5.1 As per Clause 3 (iii) of 'Terms of Allotment' issued under Rajasthan Land Revenue (Allotment of Unoccupied Government Agricultural Lands for Construction of Schools, Colleges, Dispensaries, Dharamshalas and other Buildings of Public Utility) Rules, 1963, the land shall be used strictly for the purpose for which it was allotted and the construction of building for which the land was allotted shall commence within six months from the date of handing over possession. The allottee shall within two years be liable to complete the construction of building and put it to use for the purpose for which the land was allotted. As per Clause 3 (vii) of the terms of allotment, in case of breach of any conditions, the land shall revert to the State Government.

During test check (July 2015 and November 2015) of the allotment records of three District Collectors⁹, it was noticed that Government land measuring

⁷ 149.22 hectare X 10 lakh = 14.92 crore X 25 per cent = ₹ 3.73 crore

⁸ 149.22 hectare X 13 lakh = 19.40 crore X 25 per cent = ₹ 4.85 crore

⁹ Nagaur, Alwar and Tonk.

46.15 *bigha*¹⁰ valued at ₹ 2.32 crore¹¹ was allotted for educational/*Krishi Upaj Mandi* purposes in three cases during the years 2005 to 2010. It was also noticed that the land in these cases was not used within the prescribed period after it was handed over between the years 2005 and 2013 to the allottees. However, the concerned Collectors did not monitor the use of allotted land and take any action to revert the land to the Government. This resulted in non-reversion of land worth ₹ 2.32 crore.

The matter was pointed out to the Department (between August 2015 and January 2016) and reported to the Government (July 2016). The Revenue Board, Ajmer replied (August 2016) that in case of Tagore Mahila Sikshan Sansthan, Alwar, action for cancelation of allotment and reversion of the land to the Government was under process at district level; in case of Shri Govindam Kalayankari Vikas Sansthan, Tonk, a letter had been written to the Government for granting one year extension for construction/use of land. The reply in one case was awaited. The reply from the Government is awaited (October 2016).

4.5.2 Rule 7 of the Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959 prescribes that industries should be set up within a period of two years on the land allotted for the purpose, failing which the land should revert to the Government unless the period of two years is extended by the allotting authorities due to valid reasons.

During test check (January 2016) of allotment records of District Collector, Bikaner, it was noticed that land measuring 75 hectares was allotted (30 March 2009) for 99 years on lease basis to the Rajasthan Small Industries Corporation Limited (RAJSICO) for establishment of Inland Container Depot with the condition that the depot should be established within a period of two years from the date of issue of lease deed. In case of non-establishment or violation of any terms and conditions of lease deed, the land was to be reverted to the Government. It was noticed that the RAJSICO had neither established depot within the prescribed period nor any permission to extend the period was granted. However, the authorities did not take any action to revert land to the Government. This resulted in non-reversion of land worth ₹ 33.41 crore.

The matter was pointed out to the Department (February 2016) and reported to the Government (August 2016). The Revenue Board, Ajmer replied (August 2016) that a letter for reversion of the land had been written to the Government and action would be taken as per Government's instruction. The reply from the Government is awaited (October 2016).

4.5.3 Rule 8 of Rajasthan Land Revenue (Allotment of Land for Agro-Based Export Oriented Produce Purposes) Rules, 1996, prescribes certain conditions of allotment of land. As per Rule 10, in the event of violation of any of the conditions of these rules as well as other regulations that may be specified from time to time by the Revenue Department of the State Government, the

¹⁰ *Krishi Upaj Mandi*, Mundawa, Nagaur: 30 *bigha*, Tagore Mahila Sikshan Sansthan, Alwar: 4.05 *bigha* and Shri Govindam Kalayankari Vikas Sansthan, Tonk: 12.10 *bigha*.

¹¹ *Krishi Upaj Mandi*, Mundawa, Nagaur: ₹ 90.00 lakh, Tagore Mahila Sikshan Sansthan, Alwar: ₹ 87.21 lakh and Shri Govindam Kalayankari Vikas Sansthan, Tonk: ₹ 54.37 lakh.

Department may cancel the allotment after giving an opportunity of being heard to the allottee.

Further, as per terms and conditions of lease deed, in case of breach of the conditions of lease, the lease shall stand terminated and the said plot shall revert to the lessor and the lessee shall not be entitled to any compensation for premature determination of the lease.

During test check (March 2016) of the allotment records of District Collector, Jaipur, it was noticed that 120 *bigha* land (*khasra* No. 333) situated in village *Papad, tehsil Jamwaramgarh*, district Jaipur was allotted (March 2003) to Rajtek Plantation Private Limited, Jaipur for *Jojoba* plantation. Scrutiny of records revealed that the allottee neither started any work on the allotted land nor applied for any extension. As such, the land valuing ₹ 5.73 crore at DLC rate remained unutilised for two years from the date of allotment. The Government had not taken any action to determine the lease and revert the land to the Government due to violation of provisions of the Rules and terms and conditions of lease agreement. This resulted in non-reversion of land worth ₹ 5.73 crore.

On being pointed out (March 2016), the Collector agreed with the audit observation (April 2016).

The matter was pointed out to the Department (May 2016) and reported to the Government (September 2016). The Revenue Board, Ajmer replied (September 2016) that a letter for cancellation of allotment of the land had been written (21 March 2013) to the Government and the case was under consideration at Government level.

It would be seen from the reply received that the decision regarding reversion of the land had not been taken by the Government despite a lapse of more than three years. The reply from the Government is awaited (October 2016).

4.6 Non-recovery of conversion charges from Rajasthan Housing Board

For allotment of land to Rajasthan Housing Board (RHB), a notification dated 8 September 1987 was issued by the State Government *vide* which if the Government allots its own agricultural land to RHB, then the RHB has to pay the cost of land on prevailing market rate and the conversion charges at normal rate under Rajasthan Land Revenue (allotment, conversion and regularisation of agricultural land for residential and commercial or for any other purposes of public interest) Rules, 1981.

During test check (July 2015) of the allotment records of District Collector, Nagaur, it was noticed that 200 *bigha* agricultural land bearing *khasra* number 73 situated at village *Nagaur* was allotted (3 June 2010) to RHB at a cost of ₹ 3.12 crore. Out of 200 *bigha* land, 113 *bigha* was for residential and commercial purposes and remaining 87 *bigha* was meant for public utility. It was found that the conversion charges of ₹ 43.75 lakh were not recovered from the RHB.

After this was pointed out in July 2015 and reported to the Government in July 2016, the Government replied (September 2016) that a demand had been raised (August 2016) and steps for recovery were being taken.

4.7 Non-recovery/short recovery of conversion charges

As per Rule 7 of Rajasthan Land Revenue (Conversion of Agricultural Land for non-agricultural purposes in Rural Areas) Rules, 2007, premium for conversion of agricultural land for non-agricultural purpose shall be charged at the rates prescribed by the Government from time to time.

Further, under Rule 13 *ibid*, a person who had used agricultural land for non-agricultural purpose without permission can apply for regularisation of the case by depositing four times of the conversion charges.

During test check (between June 2015 and April 2016) of conversion records of seven District Collectors¹², it was noticed that in 115 cases, *khatedari* land was used for residential, industrial, commercial and institutional purposes without conversion of the land. However, in 79 cases, the Department did not take any action for recovery of premium and four times of the conversion charges which resulted in non-recovery of ₹ 1.66 crore. Further, in 36 cases, conversion charges were short recovered to the extent of ₹ 90.56 lakh. The details of 115 cases are as under:-

(₹ in lakh)

Sl. no.	Nature of land use	Non-recovery of conversion charges		Short recovery of conversion charges	
		Cases	Amount	Cases	Amount
1	Residential	-	-	3	22.97
2	Commercial	1	52.38	18	24.72
3	Industrial	43	45.32	12	29.63
4	Institutional	35	68.55	3	13.24
Total		79	166.25	36	90.56

This resulted in short/non-recovery of conversion charges of ₹ 2.57 crore.

The matter was pointed out to the Department between August 2015 and May 2016 and reported to the Government in September 2016. The Revenue Board recovered ₹ 2.52 lakh in two cases and recovery proceedings were initiated in one case. In another case the conversion charges were recovered for land measuring 800 meter instead of 10,300 meter for which no reasons were furnished. The reply in the remaining cases has not been received. The reply of the Government is awaited (October 2016).

4.8 Non-recovery of rebate on conversion charges

State Government had introduced (July 2010) 'Policy for Promotion of Agro-Processing and Agri-Business, 2010' (Policy). As per clause 11 of the Policy read with Rajasthan Investment Promotion Scheme (Scheme), 50 *per cent* concession would be available on the charges for conversion of land for industrial purpose if conversion of land was made for agro-processing and agri-business. Further, the benefits availed shall be withdrawn and recovered along with interest at the rate of 18 *per cent* per annum from the

¹² Alwar, Bikaner, Hanumangarh, Jaipur, Jhalawar, Jhunjhunu and Kota.

date from which the benefits have been availed in case of breach of any of the conditions for allotment of the land.

During test check (between March 2016 and April 2016) of conversion records of District Collector, Jaipur, it was noticed that 27 persons had applied for conversion of their agriculture land for establishment of agro-processing and agri-business projects. The concerned five Sub-divisional Officers¹³ (SDOs) had issued orders (between February 2013 and March 2015) for conversion of land at 50 *per cent* of conversion charges prescribed for industrial purpose with condition that the beneficiaries would have to use the land for explicit purposes within five years.

Cross verification of conversion records and information regarding sale of lands received from concerned sub-registrar (SR) offices disclosed that the beneficiaries had sold (between February 2013 and March 2015) the converted land without establishing agro-processing and agri-business projects within a period of 3 days to 19 months after conversion of the land.

Due to absence of mechanism at the level of SDOs/*Tehsildars*/SRs to watch compliance with the conditions of conversion orders, the Department remained unaware about sale of land. This resulted in non-recovery of rebate on conversion charges of ₹ 41.69 lakh and interest of ₹ 10.69 lakh, aggregating to ₹ 52.38 lakh.

The matter was pointed out to the Department (May 2016) and reported to the Government (September 2016); their reply is awaited (October 2016).

¹³ Chaksu, Jamwaramgarh, Sambhar, Shahpura and Virat Nagar.

CHAPTER-V

**STAMP DUTY AND
REGISTRATION FEE**

CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State are regulated under the Indian Stamp Act, 1899, the Registration Act 1908, the Rajasthan Stamp (RS) Act, 1998 and the Rules made thereunder. The SD is leviable on execution of instruments and RF is payable on registration of instruments.

The Secretary, Finance (Revenue) is responsible for determination of policy, monitoring and control at the Government level. The Inspector General, Registration and Stamps (IGRS) is the head of the Registration and Stamps Department. He is assisted by an Additional Inspector General in administrative matters and by a Financial Adviser in financial matters. Besides, one Additional Inspector General, Jaipur is entrusted with the work of Chief Vigilance Officer. The entire State has been divided into 18 circles, headed by Deputy Inspector General (DIG) (Stamps) and there are 114 Sub-Registrars (SRs) and 409 *ex-officio* SRs¹.

5.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of the Financial Adviser. Planning for internal audit of units is made on the basis of importance and revenue realisation. The position of the internal audit conducted and units remaining unaudited during the years 2011-12 to 2015-16 was as under:

Year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2011-12	369	149	220	59.62
2012-13	369	183	186	50.40
2013-14	369	117	252	68.29
2014-15	523	16	507	96.94
2015-16	523	125	398	76.10

Source: Information provided by the IGRS.

The short fall in coverage of units due for audit ranged between 50 per cent and 97 per cent during 2011-12 to 2015-16. The Department stated that the short fall was due to shortage of manpower.

It was noticed that 11,216 paragraphs of internal audit reports were outstanding at the end of 2015-16. Year-wise breakup of outstanding paragraphs of internal audit reports is as under:

Year	Upto 2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Paras	7,270	941	1,187	794	121	903	11,216

* Source: Information provided by the IGRS.

¹ Tehsildars and Naib Tehsildars have been declared as ex-officio SRs.

Out of 11,216 paragraphs, 7,270 paragraphs were outstanding for more than five years. The huge outstanding position defeated the very purpose of internal audit.

The Government may consider advising the Department to focus its attention on addressing the short comings pointed out by internal audit as with the passage of time it would become difficult to settle the outstanding paragraphs.

5.3 Results of audit

During the year 2015-16, test check of records of 227 units of the Registration and Stamps Department disclosed short realisation of SD and RF of ₹ 232.70 crore in 1,880 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. No.	Categories	Number of Cases	Amount
1	Paragraph on 'Coordination between Public Offices and Sub-registrar Offices relating to Stamp Duty and Registration Fee'	1	130.34
2	Incorrect determination of market value of property	1,377	19.89
3	Non/ short levy of Stamp Duty and Registration Fee	437	81.00
4	Other irregularities related to:		
	(i) Revenue	64	1.43
	(ii) Expenditure	01	0.04
Total		1,880	232.70

During the year 2015-16, the Department accepted under assessment and other deficiencies of ₹ 41.52 crore pertaining to 2,767 cases, of which 1,347 cases involving ₹ 34.55 crore were pointed out during the year 2015-16 and the rest in the earlier years. The Department recovered ₹ 6.97 crore in 1,529 cases during the year 2015-16, of which 145 cases involving ₹ 0.95 crore related to the year 2015-16 and rest of the earlier years.

A paragraph on 'Coordination between Public Offices and Sub-registrar Offices relating to Stamp Duty and Registration Fee' involving revenue of ₹ 130.34 crore and a few illustrative cases involving ₹ 11.37 crore are discussed in the succeeding paragraphs.

5.4 Coordination between Public Offices and Sub-registrar Offices relating to Stamp Duty and Registration Fee

5.4.1 Introduction

The instruments are chargeable with Stamp Duty (SD) of the amount indicated in the schedule under section 3 in accordance with the Rajasthan Stamp (RS) Act, 1998. As per State Government's notification (16 December 1997), all offices of Central Government and State Government, Corporation and Autonomous Bodies, Local Bodies, Registered Societies and Co-operative Institutions, all Incorporated and Unincorporated Companies, Notary Public and Offices of the Oath Commissioner have been declared as Public Offices.

Section 37 stipulates that every person-in-charge of a public office shall examine every document/instrument produced before him to ascertain whether it is stamped properly. When a person-in-charge of a public office, during the course of inspection or otherwise, detects from an instrument or copy thereof that the instrument is not duly stamped, he shall impound and forthwith make a reference to the Collector² in that matter.

The Inspector General (Registration and Stamps) (IGRS) issued directions from time to time³ to the DIGs (Stamps)/SRs to inspect the records of public offices to ensure whether SD was being paid correctly.

5.4.2 Audit objectives and scope

Audit was conducted during February 2016 to June 2016 in 22 Public Offices⁴ of three districts⁵ out of 33 districts covering the period 2011-12 to 2015-16 with a view to ascertain whether coordination existed between Registration and Stamps Department and Public Offices to ensure prompt and correct realisation of SD on the transactions/instruments executed or presented in the public offices. Cases of similar nature found during regular audit are also included in this paragraph.

Audit findings

5.4.3 Failure to sensitise persons-in-charge of Public offices

The State Government notified (16 December 1997) certain offices as public offices. However, it was observed that neither any advertisement was published nor any circular/guideline issued by IGRS to the persons-in-charge of these public offices for effective implementation of the provisions of the Act/Rules.

It was noticed that persons-in-charge of selected public offices had not made any reference of non-levy/short levy of SD to Collector (Stamps) although

² Means any officer whom the State Government may, by notification in the Official Gazette, appoint on this behalf.

³ December 2009, August 2010.

⁴ Registrar of Firms, Jaipur (City), Jaipur (Rural), Jodhpur, Alwar, Bhiwadi; Registrar of Companies Jaipur; National Highway Authority Jaipur; Debts Recovery Tribunal, Jaipur; Jodhpur Development Authority, Jodhpur; Urban Improvement Trusts, Bhiwadi, Alwar; RIICO-Sitapura, Bais Godam, VKIA, Malviya Nagar Jaipur, Bhiwadi-I, II, Neemrana, Alwar, Jodhpur; Nagar Nigam, Jaipur and Jodhpur.

⁵ Alwar, Jaipur and Jodhpur.

they were liable to make reference to Collector (Stamps) for non/short levy of SD.

No steps were taken by IGRS to sensitise the persons-in-charge of their responsibilities as regards SD despite a lapse of 19 years since issue of notification.

5.4.4 Inspections of public offices by DIGs/Collectors (Stamps)/SRs

The IGRS directed (January 1998) the DIGs (Stamps) to inspect the records of public offices to see whether SD was being paid by the public correctly. The need for conducting the inspections was reiterated from time to time and in 2010 the IGRS had instructed all DIGs (Stamps) to inspect public offices once in a year and SRs once in a quarter.

Information relating to inspection of 22 public offices falling within jurisdiction of DIGs (Stamps) in the three districts was sought. No information regarding inspection was furnished by DIGs (Stamps), Alwar and Jaipur though they were required to conduct 90 inspections.

In Jodhpur district, four public offices⁶ were selected for test check by audit. We noticed that out of these, no inspection was conducted by DIGs (Stamps), Jodhpur in two offices, three inspections were conducted in Jodhpur Development Authority (JDA) and two inspections were conducted in Nagar Nigam Jodhpur against target of five in each.

However, when we conducted audit of 22 public offices of three districts, we noticed short levy of SD of ₹ 130.34 crore in 131 cases in 12 public offices as detailed in the following table:

(₹ in crore)

Sl. No.	Name of Public Office	Number of cases	Short levy of SD
1	Registrar of Firm; Jaipur (City) and Jodhpur	77	84.41
2	Registrar of Companies Jaipur	6	2.15
3	National Highway Authority of India, Jaipur	15	36.48
4	Debt Recovery Tribunal, Jaipur	16	0.61
5	Urban Improvement Trust; Alwar and Bhiwadi	10	4.21
6	Rajasthan Industrial Investment Corporation; Bhiwadi-II, Jaipur- Bais Godam, Neemrana, Sitapura, and VKIA Jaipur.	7	2.48
Total		131	130.34

The findings indicate that had the concerned DIG (Stamps)/SRs conducted the inspection as directed by the IGRS, a number of cases of under stamping could have been checked and leakage of huge revenue could have been plugged. The above cases have been discussed in detail in the succeeding paragraphs.

⁶ Jodhpur Development Authority, Nagar Nigam, RIICO and RoF Jodhpur.

5.4.5 Non-levy/short levy of Stamp Duty

Section 17 of the Registration Act provides that non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or contingent, of the value of ₹ 100 and above to or in immovable property, are required to be compulsorily registered. Further, as per Article 21 of the Schedule appended to the RS Act, in case of instrument of conveyance, the SD is chargeable at the rate of five *per cent* on the market value of the property. Surcharge is also chargeable on SD at the rate of ten *per cent* with effect from 9 March 2011 and 20 *per cent*.

Article 43(1) (c)⁷ provides that where share contribution of initial capital is brought in by way of immovable property, the SD is chargeable as on conveyance on the market value of such property.

5.4.5.1 Transfer of immovable property to partnership firms

• Cases relating to Public Offices

Scrutiny of records of Registrar of Firm (RoF) Jaipur City, Jodhpur, UIT Bhiwadi and RIICO-II Bhiwadi revealed (between February 2016 and June 2016) that in 56 cases of partnership deeds, immovable properties amounting to ₹ 1,121.69 crore were contributed as share contribution by the partners during the period 2008-09 to 2015-16. These instruments fell under the category of conveyance, on which SD of ₹ 67.30 crore was chargeable. However, it was noticed that SD of ₹ 0.28 lakh only was paid on these partnership deeds. The Persons-in-charge of these offices failed to perform their duty as public officer to ensure that correct SD was paid on execution of partnership deeds and did not intimate the transactions to the concerned DIGs. This resulted in short levy of SD of ₹ 67.30 crore including surcharge. A few instances are mentioned in the following table:

(₹ In crore)

Sl. no.	Registration number date	Name of firm	Areas of properties	Market value of properties	SD Payable
1	<u>13/452/2011</u> 15.4.2011	M/s. KGK Homes, Jaipur	2692.75 sqm	11.27	0.67
2	<u>13/451/2011</u> 15.4.2011	M/s. KGK Venture, Jaipur	50.576 bigha	45.52	2.73
3	<u>13/588/2011</u> 11.5.2011	M/s. KGK Residential, Jaipur	171090 sqm	85.63	5.14
4	<u>13/587/2011</u> 11.5.2011	M/s. KGK Commercials, Jaipur	46850 sqm	194.80	11.69
5	<u>13/774/2011</u> 21.6.2011	M/s. KGK Realtor, Jaipur	57600 sqm	221.76	13.31

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in 46 documents, cases had been registered with DIGs (Stamps); in four documents, notice for recovery had been issued and compliance of remaining six cases was awaited.

⁷ Substituted by Rajasthan Finance Act, 2012 (Act no. 18 of 2012) w.e.f. 26 March 2012.

• **Cases relating to Sub-Registrar**

Scrutiny of the recital of 17 sale deeds of six SRs⁸, test checked during September 2015 to January 2016, revealed that in 12 cases, land owned by individuals/companies/firms was transferred to partnership firms as their share in partnership firms and in five cases, the ownership of firms was changed. Thus, the individual owner/owners/companies or partners (assigners) had transferred (assigned) their land to assignee (proprietor/partnership firm/companies) and therefore, the assignee had become the sole owner of the said property. Hence, the immovable properties possessed by the individuals/firms/companies were transferred to the others on which SD, surcharge and RF of ₹10.12 crore was leviable. However, the SRs while registering the sale deeds did not charge the same which resulted in non-levy of SD, surcharge and RF of ₹ 10.12 crore.

The matter was pointed out to the Department (between October 2015 and February 2016) and reported to the Government (September 2016). The Government replied (September 2016) that cases had been registered with DIG (Stamps) in 12 documents and notices for recovery had been issued in two cases. In case of three documents, it was stated that SR, Jaipur-III had not agreed with the audit observation and these cases were under examination at department level.

5.4.6 Non-execution of lease deeds

5.4.6.1 During scrutiny of records and information provided by Senior Regional Manager, Rajasthan Industrial Investment Corporation (RIICO), Sitapura and Baisgodam, Jaipur it was noticed that RIICO had allotted/sold three plots (between February 2012 and July 2015) to entrepreneurs. The allotment cost of these plots was ₹ 25.55 crore on which SD of ₹ 1.53 crore was chargeable. The lease deeds of these plots were to be got registered within 90 days from the date of deposit of full amount of development charges as per the terms of allotment letter. However, the lease deeds were not executed/registered though possession of the land was given to purchasers. Persons-in-charge of RIICO offices had neither taken any action for execution of lease deeds nor intimated the Collector (Stamps) about the transactions. This resulted in non-levy of SD of ₹ 1.53 crore including surcharge.

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in one document, case had been registered with DIGs (Stamps) and in other two cases, notices for recovery had been issued.

5.4.6.2 Scrutiny of information provided by the Debt Recovery Tribunal (DRT), Jaipur revealed that due to failure in repayment of loan, properties of 16 borrowers were attached and auctioned by the DRT. SD of ₹ 61 lakh was chargeable on auction amount (₹ 10.25 crore) of these properties. The DRT granted certificate of sale to the successful bidders/purchasers. However, the person-in-charge of DRT had not ensured that the certificates of sale were registered. This resulted in non-levy of SD of ₹ 61 lakh including surcharge.

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in six

⁸ Ajmer-I, Bharatpur, Jaipur-II, Jaipur-III, Jaipur-VI and Jaipur-VII.

documents, cases had been registered with DIGs (Stamps); in six documents, notices for recovery had been issued and compliance of remaining four cases was awaited.

5.4.6.3 Scrutiny of records of UIT, Alwar revealed that eight plots were auctioned and allotted (between September 2015 and March 2016) to the successful bidders/purchasers. The purchasers deposited cost of the plots to the UIT. SD of ₹ 55 lakh was chargeable on auction amount (₹ 9.22 crore) of these plots. Scrutiny of the allotment record revealed that the purchasers did not execute the lease deeds with UIT. However, the persons-in-charge of UIT had neither intimated the SR about the sale of plots nor taken any action to execute the lease deeds. This resulted in non-levy of SD of ₹ 55 lakh including surcharge.

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in all eight cases, notices for recovery had been issued.

5.4.7 Non levy of Stamp Duty on concession agreements

Section 2 (x-a) of the RST defines concession agreement as an agreement involving a grant of rights, land or property by the State Government, local authority, public sector undertaking or other statutory entity to provide some service on commercial basis using such assets of the State Government or a local authority or a public sector undertaking, as the case may be, subject to certain conditions.

As per Article 20-A of the Schedule to the RS Act, 1998, prescribed rate of stamp duty is payable on concession agreements executed by the executants. The rate of stamp duty is based on the capital investment made by the executants. As per explanation below this rule, concession agreements executed prior to 14 July 2014 shall be chargeable under this article.

Scrutiny of information available on website of National Highway Authority of India (NHAI), New Delhi revealed that 15 concession agreements were executed on Built Operate and Transfer basis during the years 2002 to 2015 between NHAI and various contractors/concessionaires/consultants for the National Highway projects situated in Rajasthan. Out of these, 14 agreements were executed prior to 14 July 2014 while one agreement was executed on 14 October 2015. Though all these concession agreements were liable to be stamped, NHAI had neither sent the copies of concession agreements to concerned DIGs (Stamps) to ensure levy of SD on concession agreements nor had impounded the documents. This resulted in short levy of SD of ₹ 36.48 crore including surcharge. A few instances are mentioned in the following table:

(₹ in crore)

Sl. no.	Date of agreement	Name of project	Name of contractor/concessionaire/consultant	Total project cost	Payable		
					Stamp duty	Surcharge	Total
1	22.6.2011	Beawar-Pali-Pindwara	L&T BPP Pvt. Ltd.	₹ 2,388.00 crore. For capital cost more than 1,000 crore, the duty payable was rupees five crore.	5.00	1.00	6.00
2	22.2.2013	Fatehpur-Raj./Har border	Salasar Highways Pvt. Ltd.	₹ 530.07 crore. For capital cost more than 500 crore, the duty payable was rupees two crore.	2.00	0.40	2.40
3	13.10.2005	Bharatpur-Mahua	Madhucon Agra-Jaipur Expressway Ltd.	₹ 250.00 crore. For capital cost more than 200 crore, the duty payable was rupees one crore.	1.00	0.20	1.20
4	10.3.2006	Agra-Bharatpur	M/s Oriental Pathways. (Agra) Pvt. Ltd.	₹ 195.00 crore. For capital cost more than 50 crore, the duty payable was rupees forty lakh.	0.40	0.08	0.48

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in two documents, cases had been registered with DIGs (Stamps); in six documents, notices for recovery had been issued; in two documents, cases were under analysis at Department level; in three documents, cases were under analysis at DIG (Stamps) level and compliance of remaining two cases was awaited.

5.4.8 Short levy of Stamp Duty on dissolution of partnership firms or retirement of a partner

As per provisions of Article 43(2) (a)⁹ to the Schedule of the RS Act, an instrument of dissolution of partnership or if on retirement of a partner, any property is taken as his share by a partner other than the partner who brought in that property as his share of contribution in the partnership, the SD is chargeable at the rate of conveyance on the market value of such property.

During scrutiny of records of RoF, Jaipur City and RIICO, Bhiwadi, it was noticed (between February 2016 and June 2016) that in five cases, one or more partners of firms retired. In these cases, the immovable properties of these firms were transferred to partners other than the partner who had brought in his share as immovable property. However, it was noticed that SD of ₹ 0.03 lakh only was paid on these partnership deeds instead of ₹ 7.89 crore on market value of ₹ 131.59 crore of such properties. This resulted in short levy of SD of ₹ 7.89 crore including surcharge.

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in all five documents, cases had been registered with DIGs (Stamps).

⁹ Substituted by Rajasthan Finance Act, 2012 (Act no. 18 of 2012) w.e.f. 26 March 2012.

5.4.9 Non-levy of Stamp Duty and surcharge on transfer of lease by way of assignment

As per Article 55 of the Schedule to the RS Act, in case of instrument of transfer of lease by way of assignment, the SD is leviable as a conveyance on the market value of the property which is the subject matter of transfer. The IGRS vide circular number 06/2009 clarified that the instrument executed for change in the partnership/dissolution of firm/change in legal entity of firm should come in the category of transfer of lease by way of assignment.

During scrutiny of records of Senior Regional Manager, RIICO, Neemrana, it was noticed (May 2016) that in one case, legal entity of M/s Shubham Buildev Private Limited registered under Company Act, 1956 was changed to Limited Liability Partnership (LLP) with effect from 1 November 2014. The SR charged (February 2014) SD of ₹ 18 lakh only on conversion charges of ₹ 3.60 crore while registering the amended lease deed. The fact that the legal entity of the company was changed to LLP was not considered by the SR while registering the amended lease deed on which SD of ₹ 72 lakh on the market value of ₹ 12 crore of the property should have been charged.

Similarly in another case of UIT, Bhiwadi, it was noticed (May 2016) that provisions of Section 37(4) were not followed by the person in-charge of the UIT while giving approval of change of legal entity from Rajsha Infrastructures Private Limited to Rajsha Infrastructures LLP. The market value of the property mentioned in the document was ₹ 46 crore on which SD of ₹ 2.76 crore was chargeable. This was not got stamped/ registered.

The above cases resulted in non-levy of SD aggregating to ₹ 3.48 crore including surcharge.

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in the case pertaining to Neemrana, the document had already been registered with SR, Behror as document number 617 dated 26 February 2014 and hence no action was required.

The reply of the Government is not tenable because the legal entity of the company was changed to LLP on 31 October 2014 and amended lease deed was issued on 17 April 2015. The document, therefore, should have been registered after change of legal entity and SD should have been charged on market value of the immovable property. The compliance of remaining one case was awaited.

5.4.10 Non-levy of Stamp Duty on amalgamation of companies

As per Article 21(iii) to the Schedule of the RS Act, an order under Section 394 of the Company Act 1956 in respect of amalgamation, demerger or reconstruction of a company is chargeable with SD subject to a maximum of ₹ 25 crore at the following rate:

(i) An amount equal to four *per cent* of the aggregate amount comprising the market value of shares issued or allotted or cancelled in exchange of or otherwise, or on the face value of such shares, whichever is higher and the amount of consideration, if any, paid for such amalgamation, demerger or reconstruction, or

(ii) An amount equal to four *per cent* of the market value of the immovable property situated in the State of Rajasthan of the transferor company whichever is higher.

During scrutiny of records of Registrar of Company (RoC), Jaipur, it was noticed that 11 companies valuing ₹ 44.69 crore were amalgamated with six other companies during 2011-12 to 2015-16. Scrutiny of records revealed that the persons-in-charge of the public office had not ensured that the documents were got registered. The persons-in-charge failed to fulfill their duty as per Section 37 of the Act and non-registration of amalgamation orders resulted in non-levy of SD of ₹ 2.15 crore including surcharge.

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in four documents, cases had been registered with DIGs (Stamps); in one case, instruction had been issued by DIG (Stamps) to concerned SR for recovery and compliance of remaining one case was awaited.

5.4.11 Non-levy of Stamp Duty on order of change of land use

As per notification dated 8 March 2016, the SD chargeable on the order of land use change and conversion issued under the Rajasthan Urban Areas (Change of Land use) (Conversion of agricultural land for non-agricultural purpose in Rural Areas) Rules, 2007 or under any other relevant rules, as the case may be, shall be charged at the rate of five *per cent* of the amount of charges or fee for land use change, subject to a minimum of ₹ 500 in each case.

During scrutiny of records and information provided by three Senior Regional Managers of RIICO¹⁰, it was noticed that land use of three plots having area of 6,459.22 square meters was changed. Registration fee, stamp duty and surcharge amounting to ₹ 22.73 lakh was payable on conversion charges of ₹ 3.54 crore.

However, the same was not recovered at the time of issue of order for land use change. In one case, the SR, Neemrana charged SD of only ₹ 100 at the time of registration of amended lease deed while in other two cases, SD was not recovered on order of land use change due to non-execution of amended lease deeds. This resulted in non-levy/short-levy of SD of ₹ 22.73¹¹ lakh including surcharge and registration fee.

The matter was pointed out to the Department and reported to Government (September 2016). The Government replied (October 2016) that in two documents, cases had been registered with DIGs (Stamps) and no action was required in case of document number 1,299 as the document had already been registered on 4 June 2012 with SR, Neemrana. The reply of the Government is not tenable in case of document number 1,299 because the document was executed on change of land use from industrial to hotel while SR had not charged SD on amended lease deed issued by RIICO on 19 August 2015 after the land use was changed from hotel to commercial.

¹⁰ Neemrana; VKIA and Bais godam (Rural), Jaipur.

¹¹ Stamp duty + surcharge + registration fee of ₹ 17.69 + ₹ 2.04 + ₹ 3.00 = ₹ 22.73 lakh.

Conclusions and Recommendations

The directions of IGRS to the DIGs/Collectors (Stamps)/SRs to inspect the records of public offices to watch whether SD was being paid correctly by the public could not be ensured. No steps were taken by IGRS to sensitise the person-in-charge of their responsibilities regarding SD despite provisions in RS Act, 1998 and issue of notification relating to public offices. Due to lack of effective coordination between public offices and SR offices, we observed non levy/short levy of SD on transfer of immovable property to partnership firms; non-execution of lease deeds; execution of concession agreements between NHAI and concessionaires; dissolution of partnership firm; transfer of lease by way of assignment; and amalgamation of companies.

The Government needs to enhance coordination between public offices and SR offices to plug leakage of revenue. It may ensure inspection of public offices by DIGs/Collector (Stamps)/SRs to check non-registration or under stamping of documents. The persons-in-charge of public offices must be sensitised of their responsibilities as regards SD and must inform the SRs all transactions which require the instruments to be stamped. It is also recommended that deeds of new partnership/change in partnership/retirement of partners/dissolution of partnership firm and amalgamation/demerger order of companies must be registered in SR offices before submission to RoF/RoC, as the case may be, and if needed, the RS Act may be accordingly amended.

5.5 Non-recovery of Stamp Duty and Registration Fee on agreement to sell with transfer of possession

Section 2(xi) of the RS Act defines ‘conveyance’ as a conveyance on sale by which property or any estate or interest or any property is transferred to or vested in, any other person, *intervivos*. As per explanation (i) given below Article 21 of the Schedule to the RS Act, an agreement to sell an immovable property, in case of transfer of possession of such property before, at the time of or after the execution of any such instrument, be deemed to be a conveyance and SD shall be chargeable accordingly.

During test check (August 2015 and October 2015) of records of SRs, Bassi and Jaipur-II, it was noticed that two sale deeds were executed on 12 April 2013 and 19 February 2015. The recital of these sale deeds revealed that agreements to sell were executed (30 November 2008 and 31 January 2013) and on the basis of which plots/villas were sold by the executants which proved that possession was transferred at the time of agreements to sell. There was nothing on record to prove that the agreements to sell were registered or not. However, the SRs did not notice the fact while registering the sale deeds and did not ascertain payment of SD on agreement to sell at the rate prescribed for instrument of conveyance. This resulted in non-recovery of SD, surcharge and RF amounting to ₹ 1.09 crore.

The matter was pointed out to the Department (between September 2015 and November 2015) and reported to the Government (August 2016). The Government replied (August 2016) that case had been registered with DIG (Stamps) in one document and in other case, the document was under legal examination.

5.6 Non-recovery of exempted Stamp Duty under Rajasthan Investment Promotion Scheme

As per Clause 5 of Rajasthan Investment Promotion Scheme (RIPS)¹², 2010, an enterprise to which Entitlement Certificate (EC) has been issued shall be eligible to claim 50 per cent exemption on the SD payable on the instruments executed for the purchase or lease of land. Clause 3 of the RIPS stipulates that the scheme shall be applicable to new enterprise, sick industrial enterprise for its revival and existing enterprise making investment for modernization/ expansion/diversification subject to the condition that the enterprise shall commence commercial production or operation during the operative period of the scheme.

As per serial number 4 of Annexure-1 of RIPS, enterprise established at the site of an existing enterprise excluding sick industrial enterprise would not be eligible for benefit of subsidy and/or exemption under the RIPS. As per Clause 8(D), where on scrutiny or inspection by the officers of Commercial Taxes/Industries Department, it was found that the enterprise which had availed the benefits under the scheme was not eligible for such benefits, a reference should be made to the appropriate Screening Committee. On being satisfied with the genuineness of the reference, the Committee may take appropriate decision including withdrawal of benefit and recovery of the benefit already availed with interest at the rate of 18 per cent per annum.

During test check (between October 2015 and January 2016) of records (letters from RIICO, check list, EC and sale deed) of six SR¹³, it was noticed that in 15 cases, benefit of 50 per cent exemption of SD was availed by the purchasers who had failed either to fulfill the conditions or were not eligible for availing such benefits as detailed below:

(₹ in crore)

Sl. No.	Name of SR	Number of cases	Amount of SD and surcharge	Remarks
1	Jaipur-II, Jaipur-III, Jaipur-V & Kotputli	5	1.15	Purchasers purchased existing enterprises for new investment. Hence, they were not eligible to claim exemption under the Scheme.
2	Jaipur-VII & Shahpura	10	0.31	Irregular exemption was given to the purchaser on the basis of entitlement certificate issued to the seller.
Total	6	15	1.46	

Due to breach of conditions mentioned in the scheme or lack of eligibility, the beneficiaries were liable to refund the SD and surcharge of ₹ 1.46 crore together with interest.

After this was pointed out to the Department between November 2015 and February 2016 and reported to the Government in September 2016, the Department replied (October 2016) that entire amount of ₹ 2 lakh had been recovered in one case; cases had been registered with DIG (Stamps) in 12 documents and recovery was pending in two cases. The reply from the Government is awaited (October 2016).

¹² RIPS is a Scheme to promote investment in the State and to further generate employment opportunities through such investment and to facilitate investment in establishment of new enterprises and/ or investments made by the existing enterprises for modernisation/ expansion/ diversification.

¹³ Jaipur-II, Jaipur-III, Jaipur-V, Jaipur-VII, Kotputli and Shahpura.

5.7 Short levy of Stamp Duty and Registration Fee on lease deeds where rent is fixed and no premium is paid

The Article 33(a)(iii) of the Schedule to the RS Act prescribes that where rent is fixed and no premium is paid or delivered and where the lease purports to be for a term in excess of twenty years or in perpetuity or where the term is not mentioned, the SD should be chargeable as on conveyance on the market value of the property.

During test check (October 2015) of records of SR, Jaipur-VII, it was noticed that one lease deed was got registered for a period of more than 20 years. As such, the valuation should have been done on the market value of the property and SD should have been charged as on conveyance as per extant provisions. However, the SR charged SD, surcharge and RF of ₹ 42 lakh on value of ₹ 7.47 crore instead of chargeable SD, surcharge and RF of ₹ 65 lakh on market value of ₹ 11.75 crore. This resulted in short levy of SD and RF of ₹ 23 lakh.

The matter was pointed out to the Department (November 2015) and reported to the Government (July 2016). The Government replied (August 2016) that a case had been registered with the DIG (Stamps).

5.8 Non-levy/short levy of Stamp Duty, surcharge and Registration Fee on development agreements/sale deeds

The State Government vide notification dated 6 March 2013 reduced the chargeable SD to one *per cent* of the market value of the property in case of an agreement or memorandum relating to giving authority or power to a promoter or a developer, by whatever name called, for construction on or development of, or sale or transfer (in any manner whatsoever) of any immovable property. As per Article 21(i) of the Schedule to the RS Act, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Rule 58 of the RS Rules provides that the market value of the land shall be assessed on the basis of the rates recommended by the DLC or the rates approved by the State Government, whichever is higher.

Following cases of non-levy/short levy of SD, surcharge and RF were noticed.

5.8.1 Non-payment of Stamp Duty and surcharge on Development Agreements

During test check (between August 2015 and October 2015) of records (sale deeds and related documents) of two SRs¹⁴, it was noticed that four documents were registered for sale of plots/flats/shops. The recitals of these four instruments disclosed that plots and multistoried flats/shops were got constructed/developed by developers on behalf of the owners as per terms and conditions of the development agreements. However, copies of the development agreement were not found on record. It could not be ascertained where the SD leviable on these document was recovered at the time of the execution of the development agreement. The fact about registration and payment of SD on development agreements was not ascertained by the SRs before registering the sale documents of plots/flats/shops. This resulted in

¹⁴ SRs: Jaipur-II and Udaipur-II.

non-levy of stamp duty and surcharge of ₹ 74 lakh on market value of ₹ 67.38 crore.

The matter was pointed out to the Department (between September 2015 and November 2015) and reported (September 2016) to the Government. The Government replied (September 2016) that cases had been registered with DIG (Stamps) in three documents and were under consideration. In one case, the matter was dropped without giving any reason.

5.8.2 Misclassification of sale deed as development agreements

5.8.2.1 During test check (October 2015) of records of SR, Neemrana, it was noticed that one document (number 1855) was registered as development agreement for land measuring 2.90 lakh square feet at village *Mohaldiya*. On scrutiny of the recital of deed, it was found that the owner had given possession of the land to the developer and authorised him to take the lease deed in his favour after obtaining permission of change of land use under Section 90-A of Land Revenue Act, 1956, from UIT, Bhiwadi. It was also seen that the owner had received ₹ 3.43 crore as non-refundable security deposit from developer. The SR charged SD and surcharge of ₹ 13 lakh at the rate of one *per cent* of total value of the property (₹ 12.14 crore) treating the document as development agreement instead of ₹ 67 lakh at the conveyance rate of five *per cent*. Misclassification of document of sale deed as development agreement resulted in short levy of SD and surcharge of ₹ 54 lakh.

The matter was pointed out to the Department (November 2015) and reported to the Government (May 2016). The Government replied (September 2016) that a case had been registered with DIG (Stamps).

5.8.2.2 During test check (between January 2016 and February 2016) of records of two SRs¹⁵, it was noticed that four documents were registered between April 2014 and May 2014 as development agreements. The documents were classified on the basis of their title and SD was levied at the rate of one *per cent* on the market value of the property as per Article 5 (e) of the Schedule. On scrutiny of recital of these development agreements, it was noticed that the owners of the land had authorised the developers to take possession of the land with the right to construct, develop and deal with the land in exchange of entitlement to the extent of 40 to 100 *per cent* of the property. The developers were entitled to dispose of the developed property without requiring any consent from the owners. Such authorisation was covered under the category of conveyance as per Article 21(i) of the RS Act and SD was chargeable at the conveyance rate on the share of property transferred to the developer. However, the SRs recovered SD of ₹ 10.90 lakh at the rate of one *per cent* including surcharge and RF on market value of ₹ 8.13 crore of the properties instead of ₹ 34.98 lakh at the rate of five *per cent* of developer share on market value of ₹ 5.47 crore of the properties and one *per cent* of owners share on market value of ₹ 2.66 crore of the properties. This resulted in short levy of SD, surcharge and RF of ₹ 24.08 lakh.

The matter was pointed out to the Department (February 2016) and reported to the Government (May 2016). The Government replied (September 2016) that

¹⁵ SRs: Alwar-I and Jaipur-V.

cases had been registered with DIG (Stamps) in four documents and were under consideration.

5.9 Non-levy of Stamp Duty and surcharge on change of land use

As per notification dated 14 July 2014, a provision was made in the Rajasthan Urban Areas (change of land use) Rules, 2010. Accordingly, in case of conversion of land, SD shall be charged at the rate of 10 *per cent* of conversion charges. Prior to this, SD was leviable on difference of market value of land, calculated on the basis of previous land use and changed land use. Further, it was also clarified that the provisions of the notification would also be applicable to all conversion orders issued prior to the date of issue of this notification.

During test check (February 2016) of conversion records of SR Sriganganagar, it was noticed from the recitals of two registered sale deeds that the change of land use from industrial/residential to commercial was made by conversion orders dated 1 September 2010 and 29 April 2014. On scrutiny, it was found that the facts about payment of SD on change of land use and registration thereof were neither mentioned in the sale deed nor copy enclosed. However, the SR did not charge SD of ₹ 54.52 lakh including surcharge of ₹ 4.96 lakh on market value of ₹ 4.96 crore of the land. This resulted in non-levy of SD and surcharge of ₹ 54.52 lakh.

The matter was pointed out to the Department (February 2016) and reported to the Government (July 2016). The Government replied (August 2016) that cases had been registered with DIG (Stamps) and were under consideration.

5.10 Short levy of Stamp Duty and Registration Fee due to undervaluation of immovable property

As per Article 21(i) of the Schedule to the RS Act, SD¹⁶ on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Rule 58 of the RS Rules provides that the market value of the land shall be assessed on the basis of the rates recommended by the DLC or the rates approved by State Government, whichever is higher. The RF is also chargeable at the rate of one *per cent* of the valuation subject to maximum of ₹ 50,000 since 9 April 2010 and one *per cent* with effect from 9 March 2015.

As per notification dated 14 July 2014, the valuation of agricultural land purchased by companies/firms/institutions shall be done at one and half times of agricultural DLC rate of concerned area. The RIICO revised the rates of industrial land *vide* its order dated 4 March 2014.

During test check (between May 2015 and January 2016) of records of 19 SRs¹⁷, it was noticed that 64 documents were registered as sale deeds pertaining to agricultural/commercial/industrial/residential land. Scrutiny of

¹⁶ At the rate of five *per cent* w.e.f. 08.07.2009.

¹⁷ Ajmer-I, Ajmer-II, Bali (Pali), Bansur (Alwar), Bhilwara, Jaipur-I, Jaipur-II, Jaipur-III Jaipur-V, Jaipur-VI, Mandal (Bhilwara), Mundawar (Alwar), Mojmabad (Jaipur), Neemrana (Alwar), Udaipur-I, Udaipur-II, Sanganer-I (Jaipur), Sanganer-II (Jaipur), and Viratnagar (Jaipur).

these documents revealed that the concerned SRs had assessed the market value of properties on lower side for various reasons as detailed below:

(₹ in crore)

Sl. No.	Nature of observation and Rule position	Number of documents	SD leviable as per the Rule	SD levied	Short levy of SD
1	Short assessment of SD as per DLC rates of agricultural land instead of one and half times of agricultural DLC rates in case of companies/firms/institutions, prescribed vide notification dated 14 July 2014.	26	2.15	1.38	0.77
Instances: In one case, the SR, Sanganer-II assessed the value (₹ 3.82 crore) of the land at agricultural rate instead of 1.5 times (₹ 5.73 crore) of agricultural rate and charged SD of ₹ 21.49 lakh instead of ₹ 31.98 lakh. In one other case, the SR, Mundawar determined the value (₹ 7.70 crore) of the land at the face value of the document instead of 1.5 times (₹ 11.18 crore) the agricultural rate and charged SD of ₹ 36.91 lakh instead of ₹ 61.96 lakh.					
2	In 23 cases, incorrect rates of DLC were applied and in four cases, less area was taken for valuation. (Rule 58 of the RS Rules, 2004)	27	6.11	2.10	4.01
Instances: In one case, the SR, Jaipur VI assessed value of a land as ₹ 5.96 crore by applying DLC rate of other area instead of ₹ 35.93 crore as per applicable DLC rate. In one other case, the SR, Ajmer-II assessed value of a land as ₹ 0.22 crore by applying DLC rate of area not situated on national highway instead of ₹ 1.76 crore as per DLC rate applicable for land situated on national highway. In one other case, the SR, Sanganer-II took 4,106.13 square meter area for valuation instead of 16,445 square meter area sold and valued the land at ₹ 1.89 crore instead of ₹ 11.84 crore.					
3	Short levy of SD due to assessment of market value of industrial land on old rates. (RIICO order dated 4 March 2014)	11	7.57	6.27	1.30
Instance: In one case, the SR, Neemrana assessed value as ₹ 105 crore at old DLC rate instead of ₹ 122.67 crore at prevailing DLC rate for industrial land sold and charged SD of ₹ 5.78 crore instead of ₹ 6.75 crore.					
Total		64	15.83	9.75	6.08

This resulted in short levy of SD and RF of ₹ 6.08 crore due to undervaluation of immovable properties.

After this was pointed out to the Department between June 2015 and February 2016 and reported to the Government in September 2016, the Government replied (September 2016) that complete amount of ₹ 0.05 crore had been recovered in one case; cases had been registered with DIG (Stamps) in 46 documents; notices for recovery had been issued to the executants in six cases and recovery was pending in 11 cases.

5.11 Short levy of Stamp Duty and Registration Fee due to undervaluation of properties registered as farm houses

According to paragraph 7 of circular 5/2011 issued (31 March 2011) by the IGRS, valuation would be made at residential rate on transfer of lease (sale) of farm houses.

During test check (August 2015) of registrations records of SR, Udaipur-II, it was noticed that in five cases, land measuring 1,21,641.98 square feet was sold for ₹ 1.10 crore through sale deeds after getting the agricultural land converted for farm house purposes. Scrutiny of these deeds revealed that in one case, the SR irregularly valued (₹ 50 lakh) the land (56,417 square feet) at 35 per cent of residential rate of that area and in four cases at face value (₹ 59 lakh) mentioned in the documents of that area (65,224.98 square feet).

However, valuation of ₹ 4.44 crore should had been done in all five cases at residential rate as per the circular *ibid*. This resulted in short levy of SD and RF of ₹ 17.49 lakh¹⁸.

The matter was pointed out to the Department (September 2015) and reported to the Government (August 2016). The Government replied (September 2016) that cases had been registered with DIG (Stamps) in four documents and in one case, the document was under legal examination.

5.12 Short levy of Stamp Duty and Registration Fee due to undervaluation of gift deed and extending benefit of concessional Stamp Duty

As per Article 31 of the Schedule to the RS Act, the SD on instrument of gift is chargeable as conveyance on market value of the property. The Government *vide* notification dated 6 March 2013 prescribed that the SD chargeable on gift deeds of immovable property executed in favour of relatives specified in the notification shall be reduced to 2.5 per cent, as the case may be.

The State Government *vide* another notification dated 9 March 2015 specified that SD on instrument of transfer of land for institutional purposes purchased by institutions other than co-operative societies/charitable institutions shall be charged at two times of the rates of agricultural land if the land is situated outside RIICO area.

During test check (October 2015) of the records of SR, Jaipur-II, it was noticed that four gift deeds were executed. In two cases, gift deeds of immovable properties were not executed in favour of relatives. However, the SR extended the benefit of exemption under the extant provisions. In two other cases, the SR incorrectly assessed the value of the land. This resulted in short levy of SD and RF of ₹ 14.45 lakh as detailed below:

(₹ in lakh)

Sl. No.	Document No Date	Market value assessed by SR	Market value to be assessed	SD and RF levied	SD and RF leviable	Short levy of SD and RF	Audit comment
1	2467 3.3.2014	181.62	181.62	5.49	10.49	5.00	Donor was firm and not covered under category of specified relatives. Hence, exemption of SD was not allowed.
2	7542 30.9.2014	40.66	40.66	1.52	2.64	1.12	Donor was firm and not covered under category of specified relatives. Hence, exemption of SD was not allowed.
3	7092 17.9.2014	14.78	47.52	0.55	1.78	1.23	Valuation was not taken as per revised DLC rates. Hence, gift deed undervalued.
4	3047 18.3.2015	269.10	378.24	17.49	24.59	7.10	The land was converted for institutional purposes. Hence, valuation was to be taken as two times of agricultural land instead of residential.
Total		506.16	648.04	25.05	39.50	14.45	

¹⁸ SD, surcharge and RF chargeable on valuation of ₹ 4,43,88,240 = ₹ 24,37,414
SD, surcharge and RF charged on valuation of ₹ 1,09,59,105 = ₹ 6,88,620
SD, surcharge and RF short levied = ₹ 17,48,794

The matter was pointed out to the Department (November 2015) and reported to the Government (July 2016). The Government replied (August 2016) that cases had been registered with DIG (Stamps) and action would be taken as per decision.

5.13 Short levy of Stamp Duty due to misclassification of mortgage deed as agreement of loan

As per notification dated 7 March, 1994, SD chargeable on *mortgage deed*¹⁹ executed in favour of any bank or co-operative society for obtaining loan for non-agricultural purposes shall be one *per cent* of the loan amount or ₹ 100, whichever is higher. As per Article 6 of the Schedule to the RS Act, SD on agreement relating to *deposit of title deeds*²⁰ shall be chargeable at 0.1 *per cent* of the amount of loan or debt.

During test check (January 2016) of records of SR, Alwar-II, it was noticed that a document titled as 'deposit of title deed' was registered by the SR by charging SD and surcharge of ₹ one lakh at the rate of 0.1 *per cent* on loan amount of ₹ 12.00 crore considering the document as agreement of loan. Scrutiny of recital of the document revealed that the borrower had mortgaged his property in favour of the loan provider company as security of the loan taken by him with the condition that in the event of default in payment of the amount of loan, the loan provider shall be free to sell out the property so mortgaged. As such, the document was squarely covered under mortgage deed on which SD and surcharge of ₹ 13 lakh at the rate of one *per cent* of the market value should have been charged. This resulted in short levy of SD and surcharge of ₹ 12 lakh.

The matter was pointed out to the Department (February 2016) and reported to the Government (July 2016). The Government replied (August 2016) that a case had been registered with DIG (Stamps).

¹⁹ In mortgage deed, the transaction tends to transfer an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of existing loan or for future debt. Therefore, there must be the intention to transfer an interest in property for the purpose of repayment of loan or performance of any contract and if loan is unpaid or contract not performed, the mortgagee shall have the right to sell the mortgaged property.

²⁰ A deposit of title deed is a simple agreement accompanied with the delivery (deposit) of title deed with the creditors towards the loan or debt.

CHAPTER-VI
STATE EXCISE

CHAPTER-VI : STATE EXCISE

6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven zones which are headed by the Additional Excise Commissioners (AEC). District Excise Officers (DEO) and Excise Inspectors working under the control of the AECs of the respective zones are deputed to oversee and regulate levy/collection of excise duties and other levies.

6.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit as furnished by the Department was as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remaining unaudited	Percentage of units remaining unaudited
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15
2013-14	7	41	48	42	6	13
2014-15	6	41	47	47	-	-
2015-16	-	41	41	37	4	10

It would be seen from the above that 10 *per cent* of units selected for internal audit had remained unaudited during 2015-16.

Year-wise break up of outstanding paragraphs of internal audit reports as furnished by the Department was as under:

Year	upto 2010-11	2011-12	2012-13	2013-14	2014-15	Total
Paras	94	46	63	139	203	545

It was also noticed that 545 paragraphs were outstanding at the end of 2014-15, of which 94 paragraphs were outstanding for more than five years. The huge pendency of paragraphs, therefore, defeated the very purpose of internal audit. The position of outstanding paragraphs for 2015-16 was not furnished to audit despite being requested (July 2016).

The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

6.3 Results of audit

Test-check of the records of 25 units of the State Excise Department conducted during the year 2015-16 disclosed non/short recovery of Excise Duty and Licence Fee, non-recovery of interest on security deposit, loss of Excise Duty on account of excess wastages of liquor and other irregularities involving ₹ 20.69 crore in 3,713 cases. These fall under the following categories:

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1	Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act.'	1	7.38
2	Non/short realisation of Excise Duty and Licence Fee	3,036	11.71
3	Loss of Excise Duty on account of excess wastages of Liquor	78	0.10
4	Non-recovery of interest on security deposits	449	0.17
5	Other irregularities		
	(i) Revenue	72	1.26
	(ii) Expenditure	77	0.07
Total		3,713	20.69

The Department accepted deficiencies in 1,336 cases involving ₹ 3.06 crore, of which 525 cases involving ₹ 1.14 crore had been pointed out in audit during 2015-16 and the remaining in earlier years. The Department recovered ₹ 1.86 crore in 847 cases, of which 36 cases involving ₹ 0.06 crore had been pointed out in audit during the year 2015-16 and the remaining in earlier years.

A Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act' involving ₹ 7.38 crore and few illustrative cases involving ₹ 87 lakh are discussed in the succeeding paragraphs.

6.4 Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act'

6.4.1 Introduction

The Rajasthan Excise Act, 1950 (Act) and Rules framed there under govern levy and collection of the excise duty leviable on liquor and beer produced in distilleries and breweries. A distillery is a licensed unit where spirits are obtained by distillation of molasses, grains and malt. It includes units where such spirits are redistilled, blended, compounded and processed to produce different kinds of Indian liquor, which are then bottled for sale. Brewery means a building where beer is brewed and includes every place therein where beer is stored.

The State Excise Department (Department) is responsible for the levy and collection of duties and fees on production, manufacture, possession, storage, transport, purchase and sale of liquor. There are 11 distilleries, eight breweries and 16 bottling plants producing liquor and beer in the state. There are located under the jurisdiction of five District Excise Officers¹ (DEOs) of the State.

The excise duty (ED) is leviable as per London Proof² Litre (LPL). The quantity of the spirit is depicted in Over Proof³ (OP) while the quantity of liquor is measured in Under Proof⁴ (UP).

6.4.2 Organisational set up

The Department is headed by Excise Commissioner (EC) under the administrative control of secretary, Finance (Revenue), Government of Rajasthan. He is assigned by seven Additional Excise Commissioner at zonal Headquarters (Ajmer, Bharatpur, Bikaner, Jaipur, Jodhpur, Kota and Udaipur) and 36 District Excise Officers (DEOs) in 33 Districts and two DEOs (prosecution) at Jaipur and Jodhpur. Besides, Assistant Excise Officers (AEOs) are posted in the distilleries/breweries to ensure the compliance of rules and regulations made by the Government from time to time.

6.4.3 Audit objectives

The Performance Audit (PA) was carried out with a view:

- to ascertain whether the provisions/system contained in Act and Rules were adequate to safeguard interest of the Department;
- to ascertain the level of compliance of the provisions existing in Act, Rules, Excise Policies and notifications/circulars issued thereunder; and
- to ascertain the adequacy and effectiveness of the internal control mechanism in preventing leakage of revenue.

¹ DEOs: Alwar, Banswar, Behror, Sikar and Udaipur.

² The proof spirit contains 49.24 % by weight of alcohol and 50.76 per cent of water of 57.06 per cent of alcohol by measure of volume.

³ Over proof spirit is that which is stronger than proof spirit and is described according to number of measure of proof spirit that 100 volumes would yield when suitably diluted with water. Thus, spirit of 66° or 66 O.P. contains 166 volumes of proof spirit.

⁴ When the strength of spirit is weaker than proof spirit, it is called under proof. Thus spirit of 25° or 25 UP contains 75 volumes of proof spirit and 25 volume of water.

6.4.4 Audit scope and methodology

The PA on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act' covering the period from 2010-11 to 2014-15 was conducted between April 2016 and June 2016. Of the 11 distilleries functioning in the State, two distilleries are run by Rajasthan State Ganganagar Sugar Mills Limited (Government Company). These have been excluded⁵ from the scope of this PA.

Audit test checked the records of the Excise Commissioner, nine distilleries, seven⁶ out of eight breweries and eight out of 16 bottling plants licenced for Indian Made Foreign Liquor (IMFL) located under the jurisdiction of five DEOs of the State.

6.4.5 Audit Criteria

The audit findings were bench marked against the criteria from the following Acts/Rules, etc.

- The Rajasthan Excise Act 1950,
- The Rajasthan Excise Rules 1956,
- The Rajasthan Brewery Rules 1972,
- The Rajasthan Distilleries Rules 1977,
- Rules regarding stock taking & wastage of liquor (at distilleries and warehouses) Rules 1959, and
- Conditions & Restrictions on establishment or licence of Bonded Warehouse.

6.4.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the State Excise Department in providing necessary information and records for audit. The audit methodology, scope and objectives of PA were discussed with the Secretary, Finance (Revenue), Government of Rajasthan in an Entry Conference held on 18 April 2016. An Exit Conference was held on 10 October 2016 with Secretary Finance (Revenue), Government of Rajasthan, Excise Commissioner and other officers wherein the findings of the Performance Audit were discussed. The replies received during the Exit Conference and at other points of time have been appropriately considered in the relevant paragraphs.

Audit findings

6.4.7 Working of distilleries/bottling plants

The production of Rectified Spirit (RS)/Extra Natural Alcohol (ENA) Country Liquor (CL) and Indian Made Foreign Liquor (IMFL) in the State was made in all the selected nine distilleries during period of audit. Grains and malt wash were distilled to obtain the spirit, which was redistilled, blended, compounded

⁵ As audit of the company was done by commercial Audit Wing of this office.

⁶ One brewery was not in operation for production during the period 2010-11 to 2014-15.

and processed to produce different kinds of IMFL and other intoxicants. RS/ENA is also imported from other states and utilised by the distilleries/bottling plants for production of CL/IMFL.

The system and compliance deficiencies noticed during the audit are mentioned in the succeeding paragraphs:

6.4.7.1 Short levy/realisation of additional fee

As per Rule 5 of the Rajasthan Distilleries Rules, 1977, an application for the renewal of licence for the following excise year must be made by the licensees to the EC on or before 28 February each year accompanied by treasury receipt showing payment of the prescribed licence fee. However, where the application for renewal is not made within the prescribed period, it shall be accompanied by a treasury receipt of an additional fee equivalent to 25 per cent of such fee.

Further, Rule 72-A of the Rajasthan Excise Rules, 1956 provides that where an application for renewal of licence is not made within the prescribed period, it shall be accompanied by additional fee at the following rates:

- (i) ₹ 5000 or 5 per cent of the licence fee whichever is less, if the delay in depositing the fee is upto one month.
- (ii) ₹ 10,000 or 10 per cent of the licence fee whichever is less, if the delay in depositing the fee is more than a period of one month.

Scrutiny of records of nine distilleries disclosed that in two distilleries, the licensees had applied for renewal of their licences beyond the prescribed date. The licensees were liable to pay additional licence fee in terms of Rule 5 of the Rajasthan Distilleries Rules but the Department worked out the additional licence fee as per Rule 72-A of the Rajasthan Excise Rules. This resulted in short realisation of additional fee of ₹ 18.60 lakh as mentioned below:

(₹ in lakh)

Sl. No.	Name of distilleries	Year	Licence fee (Distillery + Bonded warehouse)	Date of deposit	Additional fee leviable	Additional fee recovered	Short recovery of additional fee
1	HSB Agro Industries Limited, Sikar	2012-13	25	14. 3.2012	6.25	0.10	6.15
		2014-15	25	31. 3.2014	6.25	0.10	6.15
2	Hindustan Spirits Limited, Behror	2011-12	26	1. 3.2011	6.50	0.20	6.30
Total					19.00	0.40	18.60

After this being pointed out by audit (August 2016), the Government accepted (October 2016) the audit observation and directed the Department to recover the entire amount of ₹ 18.60 lakh, however, a report on recovery had not been received (October 2016).

6.4.7.2 Non-levy of licence fee for wholesale vend of country liquor from bonded warehouse established at the place of manufacture

As per Rule 68(12)(a) of the Rajasthan Excise Rules 1956, inserted *vide* notification of April 2011, licence fee at the rate of ₹ 5 lakh per year is to be levied for wholesale vend of CL from bonded warehouse established at the place of manufacture. This rule was made in addition to Rule 68(13) that authorised levy of annual licence fee at prescribed rates for wholesale vend by manufacturers of liquor to wholesale vendors. Licences for wholesale vend of IMFL/Beer and CL were required to be issued separately to the units under Rule 68(13) and 68(12)(a) respectively. As per the conditions of the licences, no other liquor could be stored in the warehouse except for which the licence was granted.

On scrutiny of licence files of distilleries and bottling plants, it was found that six distilleries and seven bottling plants were manufacturing and vending CL and IMFL in wholesale from the place of manufacture. The Department levied licence fee under Rule 68 (13) for the wholesale vend of IMFL. However, the licence fee for whole sale vend of CL under Rule 68 (12)(a) was not levied as per details given below:

(₹ in lakh)

Sl. No.	Name of distillery/bottling plant	Period	Licence fee recoverable at the rate of ₹ 5 lakh per year
A	Distilleries		
1	Hindustan Spirit Limited, Paniyala	2011-15	20.00
2	Vintage Distillers Limited, Alwar	2011-15	20.00
3	Agribiotech Industries Private Limited, Ajeetgarh	2011-15	20.00
4	HSB Agro Industries Private Limited, Reengus	2011-13	10.00 ⁷
5	Narang Distillery Limited, Banswara	2011-15	20.00
6	Globus Spirit Limited, Behror	2014-15	5.00 ⁸
B	Bottling Plants		
7	Golden Bottling Limited, Bhiwadi	2011-15	20.00
8	Ojas Industries Private, Limited, Neemrana	2011-14	15.00 ⁹
9	Alwar Malt and Agro Foods Co. Private Limited, Alwar	2011-12	5.00 ⁹
10	M/s Shree Mahamaya Liquor Industries, Udaipur	2011-15	20.00
11	M/s Rajwada Breweries and Bottling Private Limited, Ajmer	2011-15	20.00 ¹⁰
12	M/s Ajanta Chemicals Private Limited, Alwar	2011-15	20.00 ¹⁰
13	M/s Vijeta Beverages Private Limited, Jaipur	2011-15	20.00 ¹⁰
Total			215.00

⁷ The distillery did not produce CL during the period during 2013-14 and 2014-15.

⁸ Similar observation for the year 2011-12 to 2013-14 was included in the Audit Report for the year ended March 2015. As such, those periods have been excluded from this report.

⁹ M/s Ojas Industries Private, Limited, Neemrana was not in functioning from 2014-15 and M/s Alwar Malt and Agro Foods Co. Private Limited Alwar produced CL only in 2011-12.

¹⁰ Observation was pointed out during regular audit.

This resulted in non-levy of licence fee of ₹ 2.15 crore.

After this being pointed out, the EC accepted (October 2016) the audit contention that licence fee for wholesale vend of IMFL and CL should be levied separately under rule 68(13) and 68(12)(a) respectively. He added that a proposal for amendment in rules for charging separate vend fee for IMFL and CL was under consideration with the Government and action would be taken accordingly.

6.4.7.3 Delay in prescribing norms for production of spirit from grain

The spirit¹¹, used in preparation of liquor in the nine selected grain based distilleries is prepared from grains mostly from rice. Upto 31 May 2015, the State Government had not fixed any norms for quantity of spirit to be produced per quintal of grain.

Absence of norms was commented in the Audit Reports (Revenue Receipts) of the year 2005-06 and 2010-11. PAC had also recommended fixing the norms for this purpose. The norms for minimum recovery of alcohol were fixed as 40 BL of ENA/RS per quintal of grain in June 2015. Due to delay in fixing the norms, the Department had to forego revenue of ₹ 180.80 crore as discussed in the following paragraph.

Audit found instances in six distilleries where the production of spirit was less than 40 Bulk Litre (BL) per quintal of grain. It was as low as 28.61¹² BL per quintal of grain. No reasons were found on record for such low production or variations in production of spirit. No database was maintained by the Department to watch the recovery of spirit in each distillation to ensure efficiency of the distilleries. Steep fall in production of spirit was noticed in some instances during the continuous distillation¹³. However, one distillery namely M/s United Spirits Limited, Udaipur had produced spirit more than the minimum norms prescribed in June 2015 in each distillation during the period 2010-15. The Department had at no time analysed the reasons for the variations in production at various times.

Thus, there was a delay of 10 years in fixing the norms for production of spirit from grain. The shortfall in production of spirit during 2010-15 in case of six distilleries, when compared to norms fixed in 2015, was 93.35 lakh BL spirit. The revenue forgone was ₹ 180.80 crore in the form of excise duty.

After this being pointed out, the Department/Government accepted (October 2016) the fact that after notifying the norms of production, each distillery had shown production above the norms prescribed by the Government. However, the Department did not intimate the reason for late fixation of norms. Further, with advent of modern technology, the production of spirit/liquor is likely to increase from time to time and it would be in the interest of the revenue if the Government considers revising the norms of the production at regular intervals.

6.4.7.4 Excess production of alcohol in violation of ‘Consent to Operate’

Section 17 of the Act, empowers the EC to establish or grant licence or discontinue the manufacturing units of liquor known as distillery, brewery or

¹¹ Spirit includes both Extra Neutral Alcohol (ENA) and Rectified Spirit (RS).

¹² In M/s Vintage Distillers Limited, Alwar, during March 2011.

¹³ An instance in M/s Globus Spirits Limited, Behror: production of spirit was 46.12 BL on 31.10.2011 and 35.65 BL on 1.11.2011.

pot-still and to regulate the functioning of such units on such conditions as the State Government may impose.

Each distillery and bottling plant is required to obtain 'Consent to Operate' (CTO) from the Rajasthan State Pollution Control Board (RSPCB) determining the quantity of alcohol (ENA/RS/Liquor) that can be produced during the prescribed period. The RSPCB determines the quantity of alcohol to be produced daily or annually on the basis of the local conditions or nature of discharge of environmental pollutants. Further, the Department had directed (April 2009) the DEO, Sikar to ensure that the production of the unit was not more than the quantity prescribed in the CTO which proved that the Department was monitoring conditions of the CTO.

During test check of the 'production registers' of spirit (ENA/RS), IMFL and CL for the period 2010-15 at the distilleries and bottling plants, it was noticed that the distilleries and bottling plants produced spirit, IMFL and CL more than the quantity prescribed in the CTOs. The concerned DEOs and Officers in-charge (OICs) posted in the production units neither pointed out the violation of conditions of the CTOs nor brought it to the notice of RSPCB. No explanation for excess production was called from any distillers and bottlers. Further, no reason was found on record for the daily or annual excess production made by the units. Also, no permission to regularise the excess production was taken by the units from RSPCB or the Department.

Thus, the Department failed to take any action against the following licensees who produced spirit/alcohol in excess of their prescribed daily/annual capacity in contravention of the conditions of the CTOs and the order of the Department issued in this regard:

- In 699 instances, two distilleries¹⁴ had produced 120.46 lakh BL spirit in excess of their daily installed capacity permitted in the CTO. The daily excess production by these units was to the extent of 109 BL to 98,755 BL.
- In 23 instances, a distillery (M/s United Spirits Limited, Alwar) and a bottling plant (M/s Alwar Malt and Agro Foods Manufacturing Co. Limited, Alwar) produced 11.34 lakh BL of IMFL in excess of their installed capacity permitted in the CTO.
- In 249 instances during 2014-15, a distillery (M/s Vintage Distillers Limited, Alwar) produced 5,86,520 cases of CL in excess of its daily installed capacity of 10,000 cases permitted in the CTO.
- A bottling plant (M/s Shree Mahamaya Liquor Industries, Udaipur) produced 12.92 lakh BL of CL during 2014-15 in excess of its annual installed capacity of 50.00 lakh BL permitted in the CTO.

The Department had not included the CTO condition regarding production capacity in the licence as such no penalty provision could be applied for violation of CTO condition. Thus, absence of the condition resulted in loss of revenue¹⁵ to the Government in the cases mentioned above.

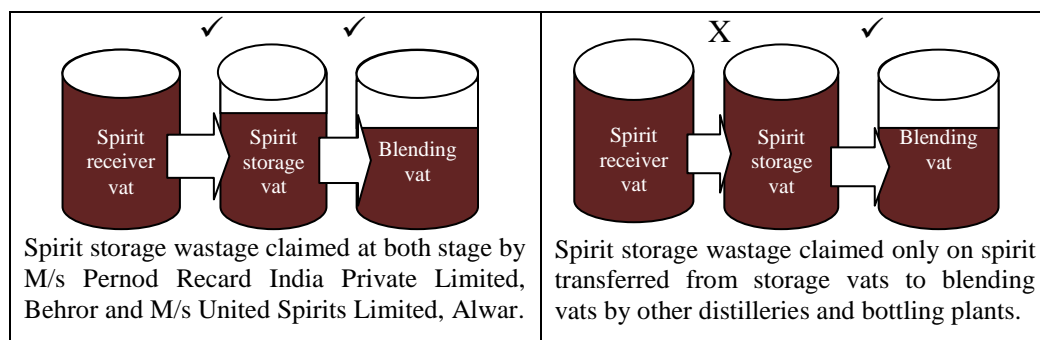
¹⁴ M/s Agribiotech Industries Limited, Ajeetgarh, Sikar and M/s Globus Spirits Limited, Behror.

¹⁵ For violation of conditions, penalty could have been levied under section 58(c) read with section 70 of the Act (from ₹ 5,000 to 10 times of licence fee).

After being pointed out, the EC and Secretary Finance (Revenue) accepted (October 2016) the audit contention and stated that licence fee for distilleries during the year 2016-17 had been decided on the basis of daily production capacity as prescribed by the RSPCB in CTO and any violation in future would be punishable under Section 58(c) of the RE Act. The Department also instructed (7 October 2016) the concerned officers-in-charge to ensure production as per quantity prescribed in CTO and to submit a monthly report in this regard to RSPCB.

6.4.7.5 Lack of uniformity in the system allowing wastage

Rule 3 of the Stock Taking & Wastage of Liquor (At Distilleries and Warehouses) Rules, 1959 provides that on the last working day of every calendar month, after all issues for that day are made, the officer-in-charge shall gauge and prove the spirit in each vat (vessel) in order to verify the stock and ascertain the wastage on each class of spirit at the distillery and warehouse. The norms of storage wastage of spirit had been provided in the Rule. However, it was noticed that the stage at which wastage should be allowed was not mentioned. Out of seven distilleries, five distilleries were allowing wastage on spirit transferred from storage vats to blending vats while the other two distilleries were allowing wastage on spirit transferred from receiver vats to storage vats involving excise duty of ₹ 9.70 lakh on short accountal of 2,727 LPL spirit and again from storage vats to blending vats. This is mentioned in the following diagram:



It would be seen from the above that two different systems had been followed by the distilleries and the Department accepted both the systems.

After this being pointed out, the Government stated (October 2016) that orders for recovery of the amount had been issued. Besides, the Stock Taking and wastage of liquor Rules, 1959 are also being amended to bring more clarity in this regard.

6.4.7.6 Absence of monitoring in allowing wastage of spirit

When the wastage is found in excess in any case at the time of monthly stock taking¹⁶, the officer-in-charge shall obtain written explanation from the distiller and shall submit his own explanation and forward these together with a full report of the circumstances to the DEO. The DEO will forthwith investigate the matter and report to the EC.

¹⁶ As per Rule 7, statement of wastages shall be prepared by the officer-in-charge for each month in Form CL 3 which shall be sent to the DEO concerned in the first week of the following month for further submission to the EC.

Scrutiny of spirit storage vat account registers revealed that though wastage was found in excess of the prescribed norms at the time of monthly stock taking, the officer-in-charge neither obtained written explanation from the distiller nor provided his own explanation. Further, no report of the circumstances was forwarded to the DEO. A few instances in case of M/s Vintage distillers Limited, Alwar involving excise duty of ₹ 26.98 lakh¹⁷ are mentioned in the following table:

Sl. No.	Vat No.	Date	Opening balance	Spirit received (in BL)	Closing balance (in BL)	Wastage taken (in BL)
1	SSV-10	31.12.2014	Nil	1,700	Nil	1,700
2	SSV-11	30.11.2014	Nil	1,000	Nil	1,000
3	SSV-5	31.3.2014	Nil	2,500	Nil	2,500
4	SSV-7	31.7.2013	Nil	3,700	Nil	3,700
Remarks: It may be seen from the above that spirit received in a vat was fully shown as storage wastage on the same day whereas opening balance and closing balance of the vats were nil.						
5	SSV-5	31.8.2013	38	2,629	38	2,629
6	SSV-5	30.11.2013	56	2,400	56	2,400
Remarks: Similarly in the above two cases the entire quantity received on the same day was shown as storage wastage on the same day and only opening balance was carried forward.						
Total						13,929

There was nothing on record to indicate that the DEO had at any time called for any explanation from the distiller and sent any report to the EC. Thus, the system was not followed.

After this was pointed out, the Government stated (October 2016) that order for recovery of the amount had been issued and action is being taken against the persons responsible for the lapse.

6.4.7.7 Loss due to non-adoption of actual strength of spirit

Rule 87 of the Rajasthan Distilleries Rules stipulates that no spirit shall be removed from a distillery until it has been gauged and proved by the officer appointed for the purpose. The gauging of the spirit is done in the laboratories situated in the units. A sample of the spirit is also sent to the departmental laboratory for ascertaining the strength of the spirit in accordance with the circular issued by the EC in February 2014.

Cross verification of the samples test checked in the unit laboratories and the departmental laboratories revealed that in 288 samples, the results of the departmental laboratories indicated that the spirit was at higher strength than that mentioned in the accounts as per the unit laboratories. The Department had not taken any cognizance of these reports. This resulted in short depiction of 15,905.41 LPL spirit in the accounts of eight production units¹⁸ depriving

¹⁷ 13,929 BL x 166% (measuring in LPL) = 23,122.14 LPL x ED@ ₹ 116.67 per LPL = ₹ 26.98 lakh.

¹⁸ M/s Agribiotech Industries Limited Ajeetgarh, Beam Global Spirits & Wine (India) Private Limited, Behror, Globus Spirits Limited Behror, Pernod Recard India Private Limited Behror, Radico Khaitan Limited Reengus, Mahamaya Liquor Industries, Udaipur and Solkit Distillery and Breweries Private Limited Udaipur and United Spirits Limited, Udaipur.

the Government of excise revenue of ₹ 23.44 lakh. A few instances are given below:

Sl No.	Name of Units	Date of samples taken	Strength as per private laboratory (in O.P)	Strength as per Government laboratory (in O.P)	Quantity from which the sample taken (in BL)	Short depiction of spirit in LPL	Excise duty involved (in ₹)
1	M/s Globus Spirits Limited, Behror	30.12.2014	68.0	68.2	59,467.00	118.93	20,218
		11. 3.2015	66.0	66.3	2,73,984.00	821.95	95,897
2	M/s Radico Khaitan Limited, Sikar	8.1.2013	68.0	68.5	19,962.00	99.81	16,968
		18.10.2014	68.0	68.5	19,965.00	99.83	16,971
3	M/s United Spirits Limited, Udaipur	2.1.2015	68.0	68.3	24,955.00	74.86	12,726
		3.2.2015	68.0	68.3	24,958.00	74.87	12,728

After this being pointed out, the Government stated (October 2016) that the reports drawn from the departmental laboratories were more authentic and acceptable. It was further stated that direction had been issued to recover the amount from concerned units.

6.4.7.8 Chemical examination of IMFL and CL

Rule 106 read with Rule 91 of the Rajasthan Distilleries Rules stipulates that in proving spirit at fixed strengths of 25⁰ (whisky, brandy and rum), 35⁰ (gin and vodka) and 40⁰ / 50⁰ (CL) UP, it will be sufficient for the officer in-charge to satisfy himself that the strength is within 0.5⁰ over the reputed strength. The issue of spirit below the fixed strength is not permitted. This was also clarified by the Department vide circular issued in January 2015.

It was found that the samples of liquor were being sent to the Government laboratories or Government approved laboratories for ascertaining the strength of liquor. Scrutiny of chemical analysis reports of IMFL and CL received from the distilleries and bottling plants revealed that in following samples, the strength of liquor was less than the prescribed limit. This resulted in short realisation of excise duty amounting to ₹ 29.16 lakh as mentioned in the following paragraphs:

- **IMFL**

In two distilleries¹⁹, 437 samples of IMFL for the period from April 2014 to January 2015 were got examined in the Departmental Excise Laboratory, Udaipur and in Jagdamba Laboratory, Jaipur authorised by the Department for ascertaining the strength of the liquor, it was found that alcoholic content in liquor was more than the prescribed limit. It was shown less than 25 UP in request of IMFL and less than 35 UP in respect of wine. This resulted in short depiction of 15,877 LPL alcohol on which excise duty was not levied. This deprived the Government from revenue of ₹ 26.99 lakh. A few instances

¹⁹ M/s Pernod Recard India private Limited, Behror and M/s United Spirits Limited, Udaipur.

are given below:

Sl. No.	Brand name	Batch No.	Month of batch	Strength taken in account (In UP)	Strength shown in lab. report (In UP)	Quantity (In BL)	Short depiction of alcohol (In LPL)
M/s. United Spirits Limited, Udaipur							
1	MCD No. 1 Deluxe Whiskey	1	April 2014	25.0	24.6	29,060.00	116.24
2	Blue Ribond London Dry Zin	17	June 2014	25.0	24.6	29,050.00	116.20
M/s Pernod Ricard India Pvt. Ltd., Behror							
3	100 Pipers Blended Scotch Whisky	16	August 2014	25.0	24.8	19,453.00	38.91
4	Royal Stag Deluxe Whisky	78	August 2014	25.0	24.8	29,946.00	59.89
5	Fuel Orange Vodka	6	November 2014	34.4	34.2	10,961.00	21.92
Total							353.16

• **Country liquor**

In a bottling plant (M/s Mahamaya Bottling Plant, Udaipur), 79 samples of CL for the period from August 2014 to January 2015 were got examined in the departmental Excise Laboratory, Udaipur and it was found that the alcoholic content in liquor was more than the prescribed limit. It was shown less than 40 and 50 UP in respect of CL. This resulted in excess utilisation of 1,864 LPL alcohol on which excise duty was not levied. This deprived the Government from revenue of ₹ 2.17 lakh. A few instances are given below:

Sl. No.	Brand name	Batch No.	Date of batch	Strength taken in account (In UP)	Strength shown in lab. report (In UP)	Quantity (In BL)	Short depiction of alcohol (In LPL)
1	Ghoomer (Plain C.L.)	222	13. 8.2014	50.0	49.7	6,912.00	20.74
2	Ghoomer (Plain C.L.)	37	29.10.2014	40.0	39.7	11,102.40	33.31
3	Rana (Plain C.L.)	7	17.12.2014	40.0	39.8	8,640.00	17.28
4	Rana (Plain C.L.)	8	18.12.2014	50.0	49.9	9,504.00	9.50
Total							80.83

In addition to loss of excise duty, the despatch of below strength liquor was in violation of Rules. No action was found taken against the distillers/bottlers by the AEOs posted at the units.

After this being pointed out, the Government stated (October 2016) that directions to recover the amount from concerned units had been issued.

6.4.7.9 Non levy of excise duty on Spirit and IMFL short delivered at the destination during export

Section 18 of the Act provides that no excisable article shall be removed from any distillery until the duty payable therefor under this Act has been paid or a bond in form R.D.15 or R.D.16 has been executed for the payment thereof. Condition number (2) of the bond provides that if the whole quantity of spirit transported/exported on any occasion is not delivered at the destination, the distiller is liable to pay for any loss of duty to the Government by reason of such non-delivery or short delivery. The duty shall be paid on demand at the rate applicable. Further, there is no provision in the Rules regarding allowance of wastage of spirit/IMFL/beer in transit during export and payment of duty in importing states.

During the scrutiny of the Excise Verification Certificates of Malt Spirit, High Bouquet Spirit (HBS), Concentrate Alcoholic Beverage (CAB), ENA, *etc.* exported by two distilleries (M/s United Spirits Limited Alwar and M/s Pernod Ricard India Private Limited Behror) during the period 2010-15, it was noticed that during the course of export of the above liquor outside the State under bond, 9,392.60 LPL of spirit involving excise duty of ₹ 15.97 lakh were short delivered at the destination. Similarly, during the course of export of IMFL outside the State under bond during 2014-15 by two units²⁰, 4,063 LPL spirit involving excise duty of ₹ 6.91 lakh were short delivered at the destination.

The duty on short delivered quantity of spirit and IMFL was neither paid by the distillers nor demanded by the Department. This resulted in non-levy of excise duty amounting to ₹ 22.88 lakh.

After this being pointed out, the EC accepted (10 October 2016) the audit contention that there was no clear and direct provision in the rules for transit wastage in case of export out of the State. It was further stated that recovery pertaining to excess transit wastage as per Rule 5(1) of the Stock Taking & Wastage of Liquor (At Distilleries and Warehouses) Rules 1959 in case of spirit and Rule 7(1) of the Conditions & Restrictions on Establishment of Bonded Warehouse in case of IMFL was being made by the concerned DEOs. The Secretary Finance (Revenue) stated that there was a need to amend the rules in this regard and directed the EC to submit a draft accordingly.

6.4.7.10 Non-disposal of liquor

Rule 7 of the Rajasthan Distilleries Rules provides that on expiry of licence of a distiller or if his licence is cancelled or suspended, he shall be bound to pay the duty on and to remove all spirit remaining within the distillery in accordance with the rules in force.

Scrutiny of the information furnished by the AEO of a bottling unit (M/s Ojas Industries Private Limited, Behror) revealed that the unit stopped its production with effect from April 2014. At that time the closing stock of

²⁰ M/s Pernod Recard India Private Limited and M/s Beam Global Spirits & Wine (India) Private Limited Behror.

the unit was as under:

Sl. No.	Liquor/ spirit	Year	Quantity (In LPL)	Rate of excise duty per LPL (In ₹)	Amount of excise duty involved (₹ in crore)
1	IMFL	2005-06	37,455.57	170.00	0.64
2	IMFL	2010-11	9,845.25	170.00	0.17
3	CL	2013-14	311.04	116.67	0.01
4	RS	2013-14	104,352.85	116.67	1.21
5	Blend of IMFL	2005-06 and 2013-14	40,094.50	170.00	0.68
6	Blend of CL	2005-06 and 2013-14	8,524.77	116.67	0.10
7	CL	Stock at depots of Rajasthan State Ganganagar Sugar Mills and unit Bonded warehouse	14,536.80	116.67	0.17
Total			2,15,120.78		2.98

No action was taken by the Department for destruction or sale for re-distillation of the stock on realisation of excise duty. The delay in issue of approval by the Department resulted in blockade of revenue of ₹ 2.98 crore due to the State exchequer. Further, any mis-happening due to use of such liquor in closed unit cannot be ruled out. It was also observed that no time limit for disposal of liquor was fixed.

After this being pointed out, the Government stated (October 2016) that disposal of stock of 62,179 BL of RS and 16,527 BL of IMFL blend had been made by transferring these to M/s Vintage Distillers Limited, Alwar and disposal of remaining stock was under process. However, the reply was silent on the time limit within which the stock would be disposed off.

6.4.8 Working of breweries

Seven breweries were in operation for production of beer in the State during the period 2010-11 to 2014-15. The main raw materials used for production of beer are – barley malt, rice flakes, sugar and hops.

The records of all functioning breweries were examined. The findings are discussed in the succeeding paragraphs:

6.4.8.1 Non-fixation of norms for yield of beer

The Rajasthan Brewery Rules, 1972 do not lay down any norms for yield of beer. However, paragraph 243 of Excise Technical Manual (ETM) provides that 36 gallon of wort (brew) is obtainable from 84 pounds of malt or 56 pounds of sugar. Further, norms for beer production in Karnataka and Andhra Pradesh States were prescribed as 6500 BL beer per metric ton.

The issue of non-prescription of norms for yield of beer from grain had been brought to the notice of the Government by Audit Report (Revenue Receipts) of the year 2005-06. The EC constituted (July 2011) a committee which recommended (June 2014) the norms of 40 BL ENA/RS, 570 BL mild beer and 420 BL strong beer per quintal of grain used for each production. The Department prescribed (June 2015) the norms for minimum recovery of spirit

but no norms for beer production were fixed (July 2016) by the Department in spite of the recommendation made by the committee.

An analysis of the recovery of grain based brew for a period of five years (2010-11 to 2014-15) in respect of seven breweries was made and it was found that the average monthly recovery of strong brew ranged between 606²¹ and 370²² BL and recovery of mild brew ranged between 741²³ and 224²⁴ BL per quintal of grain used. Though there was a wide gap between the monthly recovery of brew reported by the breweries, no system was put in place to analyse the recovery of brew according to the specific condition prevailing in the breweries. It was observed that based on the recommendation of the committee, there was shortfall in production of 43.60 lakh BL beer in four breweries²⁵.

After this being pointed out, the Government accepted (October 2016) the audit observation regarding prescribing of norms in respect of beer production and also stated that preparation of a draft for notification in this regard was under consideration.

6.4.8.2 Wastage in production of beer

Rule 49-A (inserted in 1996) of the Rajasthan Brewery Rules, 1972 provided allowance for wastage on production of beer at the rate of seven *per cent*.

Audit noticed that though wastage on production of beer occurred at various stages such as in manufacturing, bottling, storage, transit, export, expired stock, the Department had not fixed the norms of wastage admissible at each stage. It was found that though the wastage was less than seven *per cent*, it ranged between 3.82²⁶ and 6.97 *per cent* during 2010 to 2015 and there was no uniformity in claiming the wastage by the breweries. The department had not examined allowance of the wastage at various stages to ascertain the reasons for variations despite lapse of 20 years since implementation of Rule 49-A. Since the allowance of wastage had direct impact on revenue collection, it needs to be fixed scientifically for each stage.

After this being pointed out, the Government stated (October 2016) that breweries module in the computerised system had been implemented by the Department from 1 August 2016 and amendment in Rules regarding Stock Taking and Wastage of Liquor Rules, 1959 was under consideration of the Department.

6.4.8.3 Non levy of excise duty on short delivered beer exported to other states

Rule 41 of the Rajasthan Brewery Rules, 1972 provides that no beer shall be removed from a brewery until the duty imposed under Section 28 of the Act has been paid or until a bond under Section 18 of the Act in form R.B.11 or R.B.12 has been executed by the brewer for export of beer outside the State. Condition number (2) of the bond provides that if the quantity of beer

²¹ M/s Carlsberg India Private Limited, Alwar during November 2013.

²² M/s Mahou India Private Limited (Arian Breweries), Bhiwadi during October 2012.

²³ M/s United Breweries Limited, Bhiwadi, during December 2013.

²⁴ M/s Carlsberg India Private Limited, Alwar during April 2014.

²⁵ M/s Carlsberg India Private Limited, Alwar, M/s Devans Modern Breweries Limited, M/s Mount Shivalik Industries Limited Behror and M/s Mahou India Private Limited Bhiwadi.

²⁶ M/s Carlsberg India Private Limited, Alwar (2014-15) and M/s Mount Shivalik Industries Limited Behror (2010-14).

mentioned in the bond has not been delivered at the destination, the brewer is liable to pay for any loss of duty, which the Government may suffer by reason of such non-delivery or short delivery and will have to pay on demand the duty at the rate applicable. Further, there is no provision in the Rules regarding allowance for wastage of beer in transit during export and payment of duty in importing states.

During the scrutiny of the Excise Verification Certificates of beer exported by six breweries during the period 2014-15, it was noticed that during the course of export of beer outside the State under bond, 55,273.90 bulk litres (7,086.40 cartons) of beer were short delivered at the destination. The duty on this quantity of beer exported was neither paid by the brewers nor demanded by the Department. This resulted in non-levy of excise duty amounting to ₹ 27.85 lakh.

After this being pointed out, the Government stated (October 2016) that action was being initiated as per rule for recovery of amount on short delivered beer exported out of state.

6.4.8.4 Compliance to the audit observations made in earlier audit reports

Mention was made in the inspection reports as well as Audit Reports (Revenue Receipts) of the years 2012-13 to 2014-15 about the recovery of excise duty of ₹ 2.19 crore on the wastage of beer exported out of the State by five breweries. The Department recovered the entire amount in respect of three breweries while in respect of two breweries²⁷, the Department exempted (August/September 2014) ₹ 66.31 lakh payable by two breweries, the order of exemption issued was without the consent of the Government as required as under section 71(2) of the Act. The Department, therefore, granted undue benefits to some breweries by exempting excise duty on wastage of beer exported out of the state.

After this being pointed out, the Government accepted (10 October 2016) the audit contention that there were no provisions in the rules regarding wastage of beer in transit during export and payment of duty in importing States and stated that recovery from one unit had been made and a notice for recovery to other unit was issued.

6.4.8.5 Non-disposal of spoilt beer

Liquor Sourcing Policy of RSBCL provides that any stock of beer lying unsold for a period over six months from the date/month of bottling becomes unfit for human consumption and it shall be drained out.

Scrutiny of records of breweries revealed that the breweries did not despatch

²⁷ M/s United Breweries Limited Bhiwadi (₹ 10.86 lakh) and M/s Mount Shivalik Industries Limited, Berhor (₹ 55.45 lakh).

the stock of beer within six months as per the details given below:

Sl. No.	Name of breweries	No. of cases of spoilt beer	Year of production
1	Carlsberg India Private Limited, Alwar	1,171	2012-13
		1,075	2013-14
		394	2014-15
2	Devans Modern Breweries Limited Behror	1,955	2012-13
3	SAB Miller India Limited, Neemrana	1,952	2010-14
4	United Breweries Limited, Bhiwadi	2,227	2010-15
		53,970	2014-15
Total		62,744	

It may be seen from the above that 62,744 cases of expired beer which were produced during 2010-15 in four breweries were not disposed (June 2016). No action was taken by the Department for the destruction of the expired stock even after realisation of excise duty at the rate applicable at the time of expiry. Further, possibility of any mishap due to use of such beer could not be ruled out.

After this being pointed out, the Government stated (October 2016) that action for disposal of spoilt beer was under process.

6.4.9 Internal control mechanism

6.4.9.1 Manpower Management

For efficient functioning of the State Excise Department, a proper manpower planning to meet its objectives and optimum deployment of manpower is of prime importance. To ensure efficient and effective control of the activities of the distilleries, breweries and bottling plants, Rule 21 of the Rajasthan Distilleries Rules and Rule 22 of the Rajasthan Brewery Rules provide that independent AEOs/inspectors should be posted in these establishments for exercising control over movement of excisable goods from such units.

The position of excise authorities posted in distilleries, breweries and bottling plants as on 31 March 2015 is detailed below:

Sl. No.	District	No. of production units				No. of AEOs posted
		Distilleries	Breweries	Bottling plants	Total	
1	Alwar	2	1	1	4	2
2	Banswara	1	-	-	1	-
3	Behror	3	6	4	13	4
4	Sikar	2	-	1	3	1
5	Udaipur	1	-	2	3	1
Total		9	7	8	24	8

It would be seen that eight AEOs were deployed for supervision of 24 production units. In addition to their own duties, the AEOs were assigned additional charge of other units. The Department did not furnish any reason

for not adhering to the provision of the Distillery and Brewery Rules which stipulates that independent AEOs/inspectors should be posted in production units for exercising control over movement of excisable goods from such units.

After this being pointed out, the Government stated (October 2016) that action for posting of AEOs at production units was under process.

6.4.9.2 Inspection of distilleries/breweries and bottling plants

Rule 54 of the Rajasthan Brewery Rules provides that the DEO in-charge will inspect the brewery at least once in every two months. As per Excise Manual, yearly inspection in respect of 50 *per cent* distilleries and all bonded warehouses is required. However, only DEO, Behror intimated that he had conducted the inspection for the period from 2010-11 to 2014-15 and DEO, Banswara conducted only two inspections during the same period. The other three DEOs did not furnish any information regarding inspection conducted.

The EC and Additional Commissioners were also required to conduct inspections bi-annually and annually respectively as per the Excise Manual. There was nothing on record to show that inspections were conducted by them. The efficacy of the system of inspection, therefore, could not be ascertained in audit.

After this being pointed out, the Government stated (October 2016) that new directions for inspection of production units by Additional Commissioner and DEOs were issued on 17 August 2016 and accordingly inspections would be ensured. However, information regarding the inspections conducted by three DEOs was not provided.

6.4.9.3 Non supply of excise locks

Condition number 13 of the Conditions and Restrictions on Establishment or Licence of Bonded Warehouse provides that the doors of all buildings or rooms which are used for the storage of spirit shall be provided with double locks, the keys of which are not inter changeable and of which one lock shall be an excise lock in the charge of the officer-in-charge and the other a bonded warehouse lock in the charge of proprietor.

Information furnished by the production units revealed that except five units²⁸, locks were not issued to remaining 19 units despite being requisitioned by the units. Further, the Headquarter office, Udaipur confirmed that 21 excise locks were available in stock as on 31 March 2015.

After this being pointed out, the Government stated (October 2016) that excise locks would be provided to units as per their requirements and demands.

²⁸ Two units (M/s Agribiotech Industries Limited and M/s H.S.B. Agro Industries Limited) at Sikar, two units (M/s Shree Mahamaya Liquor Industries and M/s Solkit Distillery and Breweries Private Limited) at Udaipur and one unit (M/s Narang Distillery) at Banswara.

6.4.10 Conclusions and recommendations

We noticed that:

- Distilleries and bottling plants were manufacturing and vending CL and IMFL in wholesale from the place of manufacture. The Department levied licence fee under Rule 68(13) for the wholesale vend of IMFL. However, the licence fee for whole sale vend of CL under Rule 68 (12)(a) was not levied.

The Government may consider removing the ambiguity in the Rule 68(13) by mentioning exceptions of liquor that are covered under Rule 68(12)(a). It may consider levying licence fee for wholesale vend of CL under Rule 68(12)(a) in the interest of revenue.

- Distilleries had failed to achieve norms of minimum production efficiency. In many instances, the production was very low as compared to the norms prescribed by the Department. No database was maintained by the Department to watch the recovery of spirit in each distillation to ensure efficiency of the distilleries.

The Department needs to maintain a database indicating the quantity of alcohol produced from grains and the norms fixed by the Department may be reviewed from time to time as with modernisation of the plants the yields may improve.

- The distilleries and bottling plants produced spirit, IMFL and CL more than the quantity prescribed in the CTOs. No permission to regularise the excess daily production was taken by the units from RSPCB or the Department. The Department failed to monitor the production of alcohol over and above the daily/annual prescribed capacity.

The Department needs to take measures to ensure that the production does not exceed the prescribed limit in the CTOs. It may ensure imposition of fines in case of any violation in this regard.

- Though the norms of storage wastage of spirit had been provided in the Rule, the stage at which wastage should be allowed was not mentioned.

The Department needs to prescribe the stage at which wastage is admissible to ensure that the storage wastages are calculated uniformly by all distilleries/bottling plants and no loss to the Government accrues as a result of it.

- The results of the departmental laboratories regarding strength of spirit indicated that the spirit was at higher strength than that mentioned in the accounts as per the unit laboratories. The Department had not taken any cognizance of these reports. This resulted in short depiction of spirit in the accounts depriving the Government of excise revenue. Further, despatch of below strength liquor was in violation of Rules.

The Department needs to take cognizance of the reports of spirit examined in the departmental laboratories as per circular issued by the Department in this regard. Surprise inspections should be conducted on a random basis to examine the strength of liquor.

- The Department had not examined allowance of the wastage in breweries at various stages to ascertain the reasons for in variations taken by the breweries.

The Department may consider re-fixing the wastage norms scientifically for each stage after proper technical evaluation of the technology/condition prevailing in the breweries.

6.5 Non-levy of vend fee

As per sub rule (1) of Rule 69 of Rajasthan Excise Rules, 1956, vend fee at the rate of ₹ 2.00 per bulk litre (BL) is leviable on sale of Beer to retail licensees.

During test check of permits issued and other relevant records pertaining to M/s Canteen Stores Department (CSD) under the jurisdiction of DEO, Jaipur City, it was noticed (February, 2016) that 15 lakh BL Beer was sold to its retail off licensees (unit run canteens) in the State by CSD during the year 2011-12 to 2014-15. However, vend fee leviable on Beer at the rate of ₹ 2.00 per BL was neither deposited by the retailers of CSD nor demanded by the Department. This resulted in non-levy of vend fee amounting to ₹ 30 lakh.

After it was pointed out (between March 2016 and April 2016), the Department stated (August 2016) that the direction for recovery from CSD was being initiated.

6.6 Short realisation of composite fees

According to the Rajasthan Excise and Temperance Policy 2014-15, country liquor shops of rural area were classified in three categories. The country liquor shops of villages located within five kilometers radius from the municipal area were decided as composite shops of peripheral area. The villages of such peripheral area were further categorized as 'A' and 'B'. Composite fee for shops of category 'A' was fixed as equal to 3.5 per cent of annualised billing amount of Rajasthan State Brewage Corporation Limited (RSBCL) during 2013-14 or annual license fee prescribed for IMFL shops situated in concerned municipal area, whichever was higher. The composite fee for shops of category 'B' was fixed as equal to 3.5 per cent of annualised billing amount of RSBCL during 2013-14 or 50 per cent of annual licence fee prescribed for IMFL shops of concerned municipal area or ₹ 40,000, whichever was higher.

During test check of records of five²⁹ DEOs for the year 2014-15, it was noticed (between December 2015 and April 2016) that nine licensees were liable to pay composite fees of ₹ 1.06 crore for their country liquor shops classified in the category of composite shops of peripheral area but the concerned DEOs recovered composite fees of ₹ 49 lakh from these licensees as per category of composite shops of rural area. This resulted in short realisation of composite fees of ₹ 57 lakh.

²⁹ DEO: Ajmer, Alwar, Jaipur City, Sikar and Udaipur.

After it was pointed out (between December 2015 and April 2016), the Government stated (August 2016) that fees had been realised as per norms/rules. The reply is not correct as the composite fee had not been realised as per the provisions of the policy framed by the Government. The policy specified the levy of composite fees in accordance with the categorisation of shops that is as shops of 'peripheral area' or 'rural area' as per location of such villages.

CHAPTER-VII

NON-TAX RECEIPTS

CHAPTER-VII : NON-TAX RECEIPTS

7.1 Tax administration

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level, the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by seven Additional Directors, Mines (ADM) and six Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through nine circles headed by Superintending Mining Engineer (SME).

There are 49 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for assessment and collection of revenue besides prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing headed by ADM (Vigilance) for prevention of illegal excavation and despatch of minerals.

7.2 Internal audit conducted by the Department

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner and that subordinate offices are maintaining various records and registers properly and accurately besides taking adequate safeguards against non-collection, short collection or evasion of revenue.

Scrutiny of records of the DMG, Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit, the Departmental authorities were not aware of the areas of the weakness in the system which resulted in evasion or leakage of revenue. The matter was pointed out in the Comptroller and Auditor General's Audit Reports since 2011-12. However, only three out of 129 units were audited during the year 2014-15.

7.3 Results of audit

Test check of the records of 30 units out of 125 units of the Department of Mines and Geology and Directorate of Petroleum, conducted during the year 2015-16, revealed non-recovery/short recovery of revenue amounting to ₹ 283.48 crore in 3,966 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1	Paragraph on 'Allocation of Mines in Rajasthan'	1	-
2	Non/short recovery of dead rent and royalty	723	148.15
3	Non/short recovery of cost of unauthorised excavated minerals	511	124.39
4	Non/short recovery of Environment Management Fund	445	2.68
5	Non-levy of penalty/interest	196	2.58
6	Non-forfeiture of security deposit	226	1.00
7	Other irregularities	Revenue	1,773
		Expenditure	91
Total		3,966	283.48

During the year 2015-16, the Department accepted short realisation of revenue, *etc.* of ₹ 9.75 crore in 1,375 cases, of which 171 cases involving ₹ 0.63 crore were pointed out in audit during the year 2015-16 and rest in earlier years. The Department recovered ₹ 4.49 crore in 1,171 cases, out of which six cases involving ₹ 0.17 crore were of current year and the rest were of earlier years.

On being pointed out by audit, the Department accepted and recovered the entire amount of ₹ 84 lakh in one case. This paragraph has not been discussed in the Report.

A paragraph on 'Allocation of Mines in Rajasthan' and a few illustrative cases involving ₹ 23.14 crore are discussed in the succeeding paragraphs.

7.4 Allocation of Mines in Rajasthan

7.4.1 Introduction

Rajasthan has a wide spectrum of mineral deposits covering almost 79 different kinds of minerals out of which 57 minerals are commercially exploited. It is a major source of non-tax revenue and constitutes 34.61 *per cent* of non-tax revenue and 7.05 *per cent* of total revenue receipts of the State Government.

Minerals have been classified into two categories namely, Minor Minerals which includes building stones, gravel, ordinary clay, ordinary sand and other minerals as notified by the Government of India (GoI). The remaining minerals are termed as Major Minerals which are further classified as hydrocarbons or fuel minerals (such as coal, lignite, *etc.*), atomic minerals, metallic and non-metallic minerals.

Management of mineral resources is the responsibility of both the Central and State Government. The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) prescribes the legal framework for the regulation of mines and development of all minerals other than petroleum and natural gas. In case of major minerals listed in Schedule-I appended with the MMDR Act, the mineral concessions are granted by the State Governments only after the prior approval of the Central Government. The Government of Rajasthan (GoR) framed the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 in regard to concession of minor minerals.

The policy for obtaining Mining Leases on Government land under MMDR¹ Act and RMMC Rules² was based on 'first come first serve' basis. The State Government amended RMMC Rules vide Rajasthan Mineral Policy, 2011 (January 2011) wherein it changed its policy of allotment and specified that after delineation, 50 *per cent* area would be reserved for allotment to different categories by way of lottery and the remaining 50 *per cent* area would be allotted by auction. The GoI also shifted (12 January 2015) from the policy of 'first come first serve' to allotment through auction.

7.4.2 Organisational structure

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. DMG is engaged in two fold activities, namely (i) Mineral Survey, Prospecting and Exploration and (ii) Mineral Administration including collection of revenue, checking of illegal mining and supervision of mineral exploitation.

The overall control and supervision of these activities is exercised by DMG with one Financial Advisor, one Additional Director (Administration), seven

¹ Section 11 deals with preferential right of the persons. In cases where the State Government has not notified in the Official Gazette the area for grant of Mining Lease and two or more persons have applied for a ML in respect of any land in such area, the applicant whose application was received earlier shall have a preferential right to be considered for grant over the applicant whose application was received later.

² Rule 7 provides procedure for allotment of mining lease of minor mineral.

Additional Directors (Mines), six Additional Directors (Geology) and 49 Mining Engineers/Assistant Mining Engineers, 12 Superintending Geologists and 17 Senior Geologists at unit levels spread all over the State.

7.4.3 Why we chose the topic

The GoI issued (30 October 2014) revised guidelines superseding all previous guidelines to ensure that the State action is unbiased and without favouritism or nepotism. In the guidelines it was stressed that in the interest of principles of fairness, transparency and non-arbitrariness, the normal or default condition should always be of prior notification of all the areas [whether virgin under Section 11(2) of the Act or previously held under Section 11(4) of the Act] available for mineral concession. If State Governments do not notify such area due to strong and compelling reasons, then such reasons should be clearly recorded. Further, the GoI notified the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (Amended Act) with effect from 12 January 2015 which provided (Section 10(A)) that all applications received prior to the date of commencement of the Amended Act shall become ineligible and that all the mines on Government land would be allotted on the basis of auction only.

However, the Department issued 'Letters of Intent' (LoIs) for 738 mines between 1 November 2014 and 12 January 2015 on preferential basis without any recorded reasons.

The allotments of these mines were of the period for which audit was to be conducted during 2015-16. Meanwhile, the State Government referred the matter to the *Lokayukt* and also constituted (5 October 2015) a separate High Level Committee to look into allotments made between 1 November 2014 and 12 January 2015. The Government, based on the recommendations (16 October 2015) of the committee, cancelled the LoIs issued for 601 mines allotted during the above period. 137 mines allotted on 12 January 2015 were also cancelled as the Amended Act had come into effect from 12 January 2015. In the above backdrop, it was decided to conduct the audit of mining allotments made by the Department during the last three years ending 31 March 2015.

7.4.4 Audit objectives

The objectives of the audit were to ascertain:

- whether the provisions of Act and Rules governing the allotment were adequate to ensure transparent allotment of Mining Leases;
- the degree of compliance made by the Department with reference to the provisions of the Act, Rules, notifications and circulars issued there under;
- whether internal control and monitoring mechanisms were in place and effective to ensure that allotments were made in a fair and transparent manner.

7.4.5 Audit criteria

The audit criteria to achieve the audit objectives were derived from:

- Mines and Minerals (Development and Regulation) Act, 1957;
- Mineral Concession Rules, 1960;
- Rajasthan Minor Mineral Concession Rules, 1986;
- National Mineral Policy, 2008;
- Rajasthan Mineral Policy, 2011;
- Granite Policy, 2002 and
- Marble Policy 2002, notifications and circulars issued by the State Government.

7.4.6 Audit scope and methodology

The audit was conducted during October 2015 to March 2016. There were 49 ME/AME offices, out of which eight offices did not grant any lease during April 2012 to March 2015. To ensure maximum coverage, 12 offices³ which had maximum number of granted leases were selected for audit. These 12 offices granted 1,275 mining leases (79.19 *per cent*) out of 1,610 mining leases granted by the Department during the period under review. Out of these 1,275 mining leases granted by the selected 12 offices, 382 mining leases were selected on risk based approach. Apart from the above in 31 cases the cancelled leases were restored and these were also scrutinised by audit.

In addition, audit scrutinised 958 applications (apart from 382 applications) out of 31,002 applications processed by selected offices to assess whether the applications were processed and disposed in a fair and transparent manner after following the prescribed rules and regulations. The records maintained at DMG office were also test checked. A few cases of mining leases, quarry licences and restoration of cancelled leases have also been commented upon whenever noticed.

7.4.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Mines and Geology Department in providing the necessary information and records for audit. The report has been finalised after considering the views of the Government/Department expressed during Exit Conference held on 26 September 2016 as well as reply received on 6 September 2016.

Audit Findings

7.4.8 Disposal of applications

Rule 22 read with Rule 63A of Mineral Concession Rules, 1960 stipulates that the State Government shall dispose of the application for grant of mining lease (ML) within twelve months from the date of receipt of the application for ML.

³ Ajmer, Amet, Beawar, Bhilwara, Bikaner, Gotan, Jaisalmer, Nagaur, Rajsamand-I, Rajsamand-II, Sojat city and Udaipur.

The Department had provided an online facility for receipt of applications for grant of MLs. The applicants were also required to submit hard-copy of the application within a period of 15 days.

It was noticed that though applications were received online by the Department, their further monitoring was done manually. The status of an application was manually fed into the IT system once the application had reached its logical end *i.e.* granted/rejected/withdrawal. Vital information like the date of rejection or withdrawal of application was not fed into the system. In absence of which, exact year-wise position of pending, rejected and withdrawn applications could not be ascertained. The information was also not furnished by the Department though requisitioned (October 2015) by audit.

The position of the applications as ascertained from the data received from the Department was as follows:

Number of units	49
Number of applications pending as on 31 March 2012	54,974
Number of applications received between 1 April 2012 and 31 March 2015	16,714
Number of mining leases granted between 1 April 2012 and 31 March 2015	1,610
Number of applications rejected between 1 April 2012 and 31 March 2015	55,238
Number of applications withdrawn between 1 April 2012 and 31 March 2015	863
Number of applications pending as on 12 January 2015	13,977

From the above table, it could be seen that only 1,610 MLs were granted out of total 71,688 applications processed. 13,977 outstanding applications were declared ineligible for further processing in terms of notification dated 12 January 2015.

The age-wise analysis of the 13,977 applications pending as on 11 January 2015 was as under:

Applications received prior to March 2005	114
Applications received between 1 April 2005 and 31 March 2010	1,635
Applications received between 1 April 2010 and 31 March 2012	3,398
Applications received between 1 April 2012 and 31 March 2014	4,443
Applications received between 1 April 2014 and 31 March 2015	4,387

It could be seen that 1,749 applications out of 13,977 applications declared ineligible were received prior to 1 April 2010 *i.e.* these were pending for more than five years as against 12 months prescribed in the rules. At ME Bhilwara, it was found that 878 applications for grant of ML/PL for 37 vacant areas were received. However, 242 applications out of these 878 applications were rejected and no action was taken on remaining 636 applications which became ineligible for allotment in view of the Section 10(A) of the Amended Act with effect from 12 January 2015. A review of files revealed that there were no recorded reasons for delay in processing at various stages.

Case Study 1**Mineral:** Steel grade lime stone**ML No.:** 2/2005**Area:** Jaisalmer**Applicant:** Rajasthan State Mines & Minerals Limited (A Government of Rajasthan Enterprise)**Submission of application:** March 2005**Processing of application:** AME, Jaisalmer and DMG took five years to examine application. The DMG directed Superintending Geologist, Jaisalmer in May 2010 to identify the already prospected area and prepare a proposal for de-reservation, which was not done till January 2015.**Status:** Application declared ineligible on 12 January 2015 due to notification of Amended Act.*(Similar delays were noticed in case of Cement grade limestone and Gypsum)*

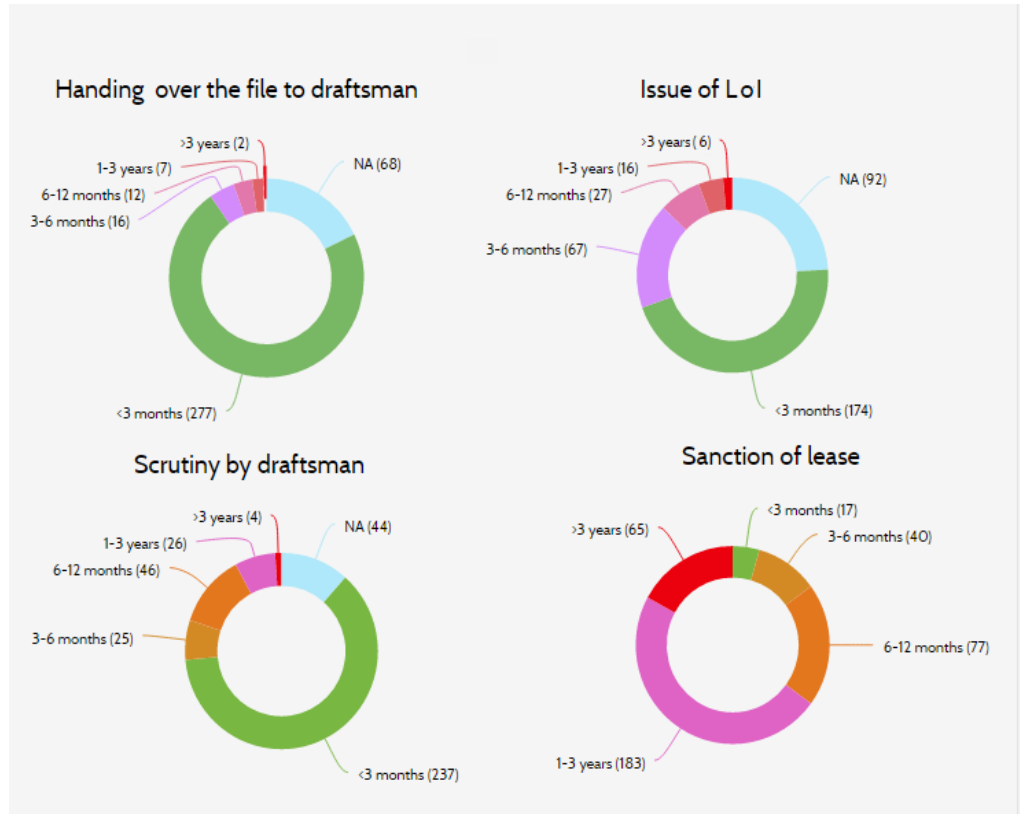
The Government replied (September 2016) that an enquiry committee had been constituted to enquire the reasons for pendency of applications and action against defaulting officers would be taken accordingly. However, during Exit Conference, DMG stated that due to shortage of staff, the applications could not be processed in time. It was further stated that the Department intended to shift to auction instead of the previous system of 'first come first serve' basis.

The reply was not tenable as the audit findings pertained to the system followed by the Department till 31 March 2015 and the Department was accountable and responsible for action taken during that period.

7.4.9 Time taken at various stages in sanction of leases

It was noticed that the Department had not prescribed any reports or returns for monitoring the processing of applications for grant of MLs. As such, the delay in processing of applications at each stage and sanction of leases could not be monitored by the Department.

7.4.9.1 An analysis of the time taken at various stages in handing over the file to draftsman, scrutiny by draftsman, issue of LoI and sanction of leases relating to selected 382 leases out of 1,610 leases granted by the Department during 2012-15 is shown in the donut chart.



7.4.9.2 Scrutiny of selected 382 files pertaining to MLs granted during 2012-15 disclosed that 17 applications⁴ were processed in a short period *i.e.* less than 3 months as against average time of 702 days taken in sanction of lease.

No recorded reasons were found in cases where extraordinary time was taken in processing of applications. Thus, there was arbitrariness in processing of applications besides giving preferential treatment to some applicants.

7.4.10 Non-maintenance of priority and lack of transparency

Section 11(2) of MMDR Act, 1957 provided that where the State Government has not notified in the Official Gazette the area for grant of ML and two or more persons had applied for grant of a ML in respect of any land in such area, the applicant whose application was received earlier shall have a preferential right to be considered for grant of mining lease over the applicant whose application was received later.

It was found that the disposal of the applications received by the concerned ME/AMEs was not in accordance with their date of receipts. A detailed analysis of 382 applications out of 1,610 leases granted disclosed the following position.

- In 315 cases, the applications were not finalised in accordance with their date of receipt *i.e.* 'first come first serve'. The applications that were received at a later date were finalised earlier. Out of these, in 114 cases,

⁴ ME, Beawar (ML no. 16/2013), ME, Bhilwara (ML no. 89/2012, 99/2012, 11/2013 & 38/2013), ME, Sojat city (ML no. 519/2012, 521/2012, 524/2012, 9/2013, 10/2013, 13/2013 & 14/2013), ME, Udaipur (ML no. 117/2014), ME, Bikaner (ML no. 28/2013, 31/2013 & 33/2013) and ME, Amet (ML no. 15/2013).

the priority was broken by the draftsman who was responsible for ascertaining the location and genuineness of the area applied. The delays at other levels could not be ascertained as no file tracking system existed in the Department.

- In four cases⁵, it was found that the experience in mining operations and financial resources on the basis of which leases were granted under Section 11(3) were either not found on record or did not match with the documents produced. In two cases, the experience was claimed to be 35 years and 15 years. In one case, the age of the applicant was 29 years only and in the other case, the experience certificate produced was for two years only. In another two cases, the proof of annual income and financial status was not supported with any document.

The Government replied (September 2016) that detailed reply would be submitted after getting report from the enquiry committee constituted to examine the audit findings. During the Exit Conference, the DMG stated that the cases pointed out by audit would be examined.

Case Study 2

Office: ME Rajsamand-I

Mineral: Quartz and Feldspar

Applicant 'A' (No. 38/2011): Applied in May 2011

Applicant 'B' (No. 74/2011): Applied in September 2011

Mining Lease Allotment: ML granted to Applicant 'B' on 6 December 2012 by ignoring Applicant 'A'.

Subsequently, application of Applicant 'A' was rejected (May 2013).

7.4.11 Non-monitoring of reply to the notices and non-furnishing of documents

7.4.11.1 Allowing indefinite period for attending shortcomings

Rule 26(3) of MCR, 1960 provided that in case of incomplete application, a notice should be served to the applicant which should be responded within 30 days failing which the application would be liable for rejection. It was found that in 277 cases, the applicants did not respond to the notices within the stipulated time. The delay in responding to notices ranged between 1 and 1,967 days. In spite of this, the leases were granted without specifying any reasons.

7.4.11.2 Processing of applications without proper documents

Rule 22 of the MCR, 1960 provided that an affidavit stating that no dues are outstanding shall suffice subject to the condition that the no dues certificate from concerned AME/ME shall be furnished within 90 days of the date of application and the application shall become invalid if the party fails to file the certificate within 90 days. The Rule further provides that an affidavit showing the particulars of mineral-wise areas in the State, which the applicant or any

⁵ ML No. 305/2005, 358/2005, 402/2005 and 482/2005 of ME Bhilwara office.

person jointly with him held should also be furnished along with the application.

It was observed that the ME, Udaipur accepted and processed nine applications⁶ for transfer/grant of leases belonging to one family even though these applications were not accompanied with requisite documents such as no-dues certificate from the Department and an affidavit showing the particulars of areas already held by the applicant or any person jointly with the applicant as required under Rule 22 of the MCR, 1960.

It was further observed that 38 applications at ME Rajsamand-II and one application at ME Bhilwara were not accompanied by identity proof/PAN Card and proof of address. The office issued notice to the applicants for furnishing the documents within 30 days. 15 applicants furnished attested copies of identity proof/PAN Card and proof of address. However, 13 applicants did not furnish identity proof/ PAN Card and proof of address and 11 applicants furnished unattested copies of PAN Card/identity proof. However, these applicants were granted leases without fulfilling the requirement of furnishing of mandatory documents.

The Government replied (September 2016) that Additional Director (Mines), Headquarters had been directed to examine the issues pointed out by audit, fix responsibility against the defaulting officers and submit a factual report. During Exit Conference, the DMG assured to examine the matter.

7.4.12 Improper vetting of the documents

At ME Rajsamand-II, scrutiny of 51 applications disclosed that scrutiny of the applications was not done properly. The Department processed the applications even though these were submitted by persons who were neither the applicants nor the holders of power of attorney. A few deficiencies noticed are mentioned in the following paragraphs.

- Scrutiny of 32 applications revealed that the signatures on application forms and affidavits did not match with the documents furnished such as PAN Cards, driving licenses, etc. In 29 cases, two persons (one person in 14 cases and another person in 15 cases) other than the applicants participated in the joint demarcation of the applied area without any 'power of attorney'.
- It was found that 38 notices were issued for furnishing the documents. Out of these, 31 notices were received by persons other than applicants and replies to 34 notices were given by persons other than the applicant without holding any 'power of attorney'.

Thus, the applications in the above cases were processed on the basis of deficient documents and without proper scrutiny. Even the persons participating on behalf of the applicants in the joint demarcation did not have any legal authority. *The Department may ensure that the entire process is conducted in accordance with rules and regulations.*

⁶ Rupal Associates (158/10), Minal Associates (159/10), Sushila Shyam Mines and Minerals (160/10), Manak Shyam Minerals (161/10), Laxmi Minerals (459/11), Mitra Mines and Minerals (24/11), Kamdhenu Mines and Minerals (184/10), Tanmay Mines and Minerals (20/94) and Shri Shishu Mitra Singhwi (3/06).

Case Study 3

Records of ML No. 77/2012 and 78/2012 disclosed that LoI/sanction letters issued by DMG could not be delivered on the address given by the applicants. DMG office forwarded letters to ME, Rajsamand-II for arranging delivery to the applicants. It was found that the documents were given to a person other than applicant.

Further, it was noticed that the applicant of ML No. 77/2012 had given 'power of attorney' to another person. The 'power of attorney' was given on two separate stamp papers (Under Rajasthan Stamp Act on 16 September 2013 and under West Bengal Stamp Act on 9 October 2013). However, the signature of the applicant on both the documents did not match. Further, the demarcation verification was done on 30 August 2013 wherein the same individual participated as applicant's representative before execution of 'power of attorney'.

The Government replied (September 2016) that the enquiry committee had been directed to conduct an in-depth review of the matter and to close the mines and lodge FIR, in case of irregularities. However, during Exit Conference, DMG agreed that at times documents were not properly scrutinised because of shortage of staff. He assured to examine the cases pointed out by audit.

7.4.13 Irregular allotment of minor mineral leases to select few in tribal areas

The State Government restricted (25 September 1999) grant of mining leases of minor minerals in tribal areas to non-tribal persons. The ban was withdrawn (5 February 2008) till it was re-imposed again *vide* notification dated 3 July 2009. It was noticed that 16 ML applications were received between 22 April 2009 and 1 May 2009 from non-tribal persons. However, no LoI was issued. The State Government directed (17 March 2011) that no new MLs of minor minerals would be sanctioned in tribal areas till a policy decision is taken. It also directed that MLs which had already been issued may not be cancelled and cases wherein LoIs had been issued can be processed with the condition that approval of Government will be sought by DMG before MLs are sanctioned.

It was found that ME, Banswara processed all the cases, LoIs against all the above 16 applicants (14 to a group of company) were issued in March 2012 and subsequently MLs were granted in November 2012. As per the Government directions, these 16 applications were not to be processed further as LoIs had not been issued by 3 July 2009. Thus, grant of MLs in these cases was incorrect and these needed to be declared as null and void.

The Government replied (September 2016) that the matter had been referred to the enquiry committee and based on its report, action would be taken. However, during Exit Conference, DMG stated that LoIs in the above cases had been issued before July 2009. The reply was not tenable as the Department had considered the internal instruction issued to the AME office as LoI which was incorrect. The LoIs were issued only in March 2012.

7.4.14 Transfer of mining lease

7.4.14.1 Irregular restoration and transfer of mining leases

Rule 43(1) of RMMC Rules, 1986 provides that any person aggrieved by any order of the SME, SME (Vigilance), ME (Vigilance), ME or AME shall have the right of appeal to the Director. Rule 43(2) further provides that any person aggrieved by any order passed in appeal under sub-rule (1) or any other order passed by the Director under these rules shall have the right of appeal to the Government.

On scrutiny of records of five MEs⁷, it was found that 31 leases had been cancelled between April 1992 and September 2011 due to non-compliance of notices issued to them or non-payment of Government dues. It was noticed that the erstwhile lessees did not file an appeal against the cancellation orders within the stipulated period of three months. The concerned MEs, however, did not delineate the leased area for further processing and auction of these lease areas.

The erstwhile lessees of these cancelled MLs belatedly appealed for restoration of these leases between 26 June 2006 and 9 March 2015 to the appellate authority. It was noticed that the appellants requested for condoning the delay beyond the three months period due to their poor medical condition (26 cases⁸) and non-service of notice (5 cases) to them, which was accepted by the appellate authority. The concerned AME/ME, however, did not exercise power to file an appeal to the Government against the decision of the appellate authority as provided in RMMC Rules, 1986.

It was also observed that in 14 cases, the original lessee after restoration of ML transferred it to other persons within a period of one month. Scrutiny of records of such cases also disclosed that all the formalities regarding filing of appeal, restoration of mining lease, extension of lease period and transfer of lease, *etc.* had been pursued by the transferee. The above restoration of leases has to be seen in reference to the GoR notification (28 January 2011) vide which the Government land could be granted for mining only through auction or lottery. By transfer of irregularly restored leases, the transferees avoided going through the process of auction or lottery which was required under GoR notification.

The Government stated (September 2016) that SME (Headquarters) had been directed to examine the matter and submit his comments. It was further stated that clarification had also been sought from the Additional Director (Mines).

During the Exit Conference, the DMG stated that the mines had been restored as per the decision of appellate authority.

The fact, however, remains that in these cases, delays much beyond the period of three months were condoned even to the extent of 23 years. The restoration of these leases and their transfers within a month resulted in bypassing the

⁷ Beawar, Bhilwara, Nagaur, Sojat city and Udaipur.

⁸ In 6 cases, it was noticed that same medical practitioner had given illness certificate (for period ranging between 4,704 to 7,550 days) though the MLs were of different erstwhile lessees. The registration number and address of the doctor were not given in the certificate.

prescribed procedure of auction/lottery. *The Government may consider re-examining the cases and cancelling the restoration of leases wherever deviation from rules is found.*

Case Study 4

Office: ME Udaipur

ML No.: 326/1991 of ME Udaipur

Date of cancellation: 16 June 1993

Power of Attorney: 4 December 2013

Date of filing appeal: 26 October 2012

Delay in filing appeal: 19 years and 1 month

Date of decision: 20 December 2013

Date of restoration of lease: 24 December 2013

Date of renewal: 24 December 2013

Date of transfer: 26 December 2013

Grounds of condonation: Illness of appellant.

During scrutiny of records, registration number and address of the doctor were not found mentioned on the illness certificate.

7.4.14.2 Irregular transfer of a Mining Lease to a non-tribal person in tribal area

The Department prohibited (December 2000) grant of new mining leases of major and minor minerals in tribal areas except grant of new mining lease and short term permit of masonry stone to persons belonging to scheduled tribe of that area. However, the Government issued (20 October 2011) an order *vide* which transfer of MLs sanctioned prior to 2000 was allowed.

During scrutiny of records of ME Udaipur, it was found that one ML (No. 59/2006) allotted in June 2007 to a person belonging to scheduled tribe was transferred (5 March 2014) to a person of general category. Scrutiny of file further disclosed that the original applicant had filled in the address of the transferee while applying for the ML and that all the correspondence had been done on that address only. The address proof of the original lessee was not found on record. The process of site inspection and demarcation was also got done by the transferee.

The Government replied (September 2016) that Deputy Legal Advisor had been directed to submit a report on the matter.

7.4.15 Non-cancellation of leases

The GoI *vide* notification dated 10 February 2015 notified 31 major minerals as minor minerals. It was noticed that as on that date, DMG had sanctioned 192 mining leases of major minerals whose execution of agreement was not done. In addition to that, 411 LoIs under major mineral for mineral quartz and feldspar were also pending for sanction.

Further, Rule 31 of the MCR, 1960 provides that the lease agreement should be executed within six months. Otherwise, the sanction may be revoked by the State Government. However, despite lapse of more than six months from the date of sanction or issue of LoIs and non-execution of the agreements in the above cases, the sanctions/ LoIs were not revoked.

The pending LoIs and sanctions as on 10 February 2015 should have been cancelled and processed as per RMMC Rules, 1986.

During Exit Conference, the DMG stated that LoIs issued prior to 12 January 2015 for major minerals were protected under the Amended Act.

The reply is not tenable as the period within which the agreement for these 192 sanctions had to be signed had lapsed under both *i.e.* MCR, 1960 (six months after receipt of sanction) and RMMC Rules, 1986 (three months after receipt of sanction). The 411 LoIs for which the sanction had not been issued were also required to be processed under RMMC Rules, 1986 which provided for auction of leases on Government land.

Case Study 5

During scrutiny of records of ME Ajmer, it was noticed that an applicant was sanctioned (8 September 2014) ML (301/2008) of mineral quartz and feldspar on Government land for an area of 4.0048 hectares.

As per the Rule, the lease deed was required to be executed before 7 March 2015. However, the applicant did not get the lease deed executed during the stipulated period. The Department did not revoke the sanction. Instead they issued (June 2015) a notice to the applicant calling for the Environmental Clearance. By issue of notice, the period for execution of the lease deed was indirectly extended. The applicant executed the lease deed on 19 August 2015.

7.4.16 Improper vetting of Mine Plan

During audit of ME, Beawar, it was noticed that a ML (No. 219/2013) was granted (May 2014) for quartz and feldspar on 4.0005 hectares of Government land. The ML was registered in July 2014. The lessee informed (May 2015) occurrence of granite (minor mineral) in the area and requested to add the mineral to its existing lease under Rule 18(16)⁹ of RMMC Rules, 1986. The same was included (August 2015) in the mining lease. Scrutiny of records disclosed that the Department ignored the availability of granite reserves while approving (March 2014) the mining plan for quartz and feldspar lease as in the mine plan it was clearly indicated that 'gneisses of granitic' was available. In the subsequent mine plan (August 2015), the quantity of granite reserves was shown as 15.36 lakh ton whereas the reserves of quartz and feldspar were shown as only 12,297 ton. Hence, within a period of 17 months, two mine plans were approved with the second one showing substantial quantities of granite. Inclusion of granite in the existing lease of quartz and feldspar obviated the procedure for allotment of minor mineral leases wherein the leases are either sanctioned through lottery or by auction.

⁹ Rule 18(16) of RMMC Rules, 1986 provides that if any minor mineral not specified in the lease is discovered in the leased area, the lessee shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained for such mineral.

The Government stated (September 2016) that the matter had been referred to the enquiry committee. It was also stated that Additional Director (Geology) had been directed to submit a report on the issue.

7.4.17 Irregular issuance of Mining Lease in catchment area

According to Rule 18 (26) of RMMC Rules, 1986, the lessee shall not work or carry on or allowed to be worked at any point within a distance of 45 metres from any reservoir, and distance of 45 metres shall be measured from the outer toe of the bank.

During scrutiny of records of ME, Rajsamand-I, it was found that a joint demarcation report (19 September 2011) of a ML¹⁰ had stated presence of an anicut¹¹ in the lease area. It was also noticed that the Executive Engineer, Irrigation Department, Rajsamand had informed (11 October 2011) the ME about the anicut made by the *gram panchayat*. However, the ME forwarded the ML application to Additional Director (Mines) who sanctioned (9 February 2012) the lease.

7.4.18 Area in which mineral proved but not allotted

During audit of ME, Nagaur, it was found (January 2016) that five blocks¹² having proved reserves of 671.52 million ton of lime stone were notified between April 2012 and February 2013 for allotment of MLs. However, the ME, Nagaur did not invite applications for allotment. Inaction on the part of ME, Nagaur has to be viewed in light of the fact that there was demand for allotment of lime stone mines as 86 applications were pending in the State as on 12 January 2015 which became ineligible due to Amended Act.

Similarly in ME, Bikaner, mineral *Bajri* was available in 946.98 hectares of Government land. However, the area was not delineated. It was also observed that applications had been received in the office for allotment of ML which indicated that there was ample demand of the mineral. The Department failed to delineate and auction the lease and left scope for illegal and unauthorised mining in the area.

7.4.19 Irregular allotment of strip of land to the quarry licence holders

According to Rule 22 (3) of RMMC Rules, 1986, the quarry licence on Government land shall be granted by auction/lottery after the area is delineated, plots suitably numbered and a notification inviting application is published in two daily newspapers. Out of the delineated plots, the committee constituted under sub-rule (3) of Rule 23A shall reserve 50 *per cent* of plots which shall be allotted only by tender and the remaining 50 *per cent* shall be allotted by way of lottery to the categories prescribed as per percentage mentioned against each category.

¹⁰ ML 45/2010 (Jhanjhar *tehsil*, District Rajsamand).

¹¹ Anicut means a small pond which is used to store rain-water.

¹² LS-6, LS-5, 3C, remaining area of 4D and remaining area of ML 3/2007.

Further, VIth proviso of Rule 25 provides that 30 metre wide strip of land shall be kept reserved around the existing boundaries or licences for allotment to adjoining quarry licensees to enhance quarry size for scientific and safe mining. GoI vide notification dated 9 September 2013 made Environmental Clearance (EC) mandatory for quarry licence holders prior to issue of sanctions of quarry licences.

During audit of ME, Bijoliya, it was noticed that the information regarding availability of additional strip of land was not widely circulated by the ME through publication in newspapers as stipulated. As a result, only 147 quarry licence holders (QLH) applied for allotment of strip of land during 15 February 2011 to 30 October 2013. On scrutiny of the files, it was found that:

- In case of 65 applications, no action was taken for allotment of additional strip of land and in two cases, only demarcation was done. In 63 cases (out of total 80 LoIs), LoIs for inclusion of areas in already existing licences were stated to have been issued on or before 9 September 2013.
- In 53 cases, sanctions were issued between 17 September 2013 and 18 October 2013 for additional strip to licence holders against the MoEF notification dated 9 September 2013 which was against the provisions.

During the Exit Conference, the DMG accepted the facts and stated that an enquiry was under process in this regard.

7.4.20 System lapses in allotment through lottery

In pursuance of Mining Policy 2011, Rule 7(1) was inserted (27 January 2011) in RMMC Rules, 1986 which stated that in Government land, the mining lease shall be granted after the area is first delineated, plots suitably numbered and a notification inviting application issued. Out of the delineated plots, the committee constituted under sub-rule (3) of Rule 23A shall reserve 50 *per cent* of plots which shall be allotted only by auction/tender and the remaining 50 *per cent* shall be allotted by way of lottery to defined categories of persons as per percentage mentioned against each category. In the meeting (18 August 2011) of Departmental officials chaired by the Minister of State (MoS) for Mines, a roster was decided for allotment of plots reserved for various categories.

It was noticed that:

A. The MoS in the meeting dated 18 August 2011 had directed the ME/AME offices to delineate and notify at least one block each in their areas by 15 September 2011. The Department identified and delineated 1,329 plots during 2012-15. However, the Department notified only 106 plots out of the 1,329 plots delineated. Despite notification of 106 plots, no plot could be allotted. There were no reasons on record for non-allotment of notified areas.

B. The format for submission of forms for lottery allotments was not prescribed by the DMG. As a result, certain applications were considered incomplete without any recorded reasons. For example, 221 applications for masonry stone/granite received at ME, Sojat city and 48 applications received at ME, Nagaur were rejected without any recorded reasons on the file.

C. The category wise percentage was changed (April 2013) *vide* amendment in Rule 7 of RMMC Rules, 1986. However, the Department did not change the roster. Further, at ME Nagaur, only three plots of masonry stone out of 16 plots to be allotted by way of lottery were reserved for the category of 'SC/ST/OBC/SBC' whereas the roster provided for reservation of four plots under this category. Similarly at ME Beawar, out of five plots of granite mineral available for allotment by lottery, three plots were to be allotted to SC and two plots were to be allotted to ST. However, only one plot was allotted to SC, three plots were allotted to ST and one plot was allotted to SBC.

D. There was no clarity as regards certain categories for allotment of leases through lottery. For example,

- There were no guidelines as to who was to be treated as 'Government servant' under the category 'Government servants who have been permanently disabled while on duty or the dependents of those who have died while in service'. That is, whether only employees/dependents of the State Government were to be considered or even employees/dependents of GoI.
- The category 'Societies of Unemployed youth of Rajasthan' was also not clarified. Scrutiny of five plots allotted under the category 'Societies of Unemployed youth of Rajasthan' revealed that two plots were allotted to the societies which had been constituted after publication of the advertisement. Further, three plots were allotted to the society whose objective was to provide employment to unemployed youth through placement agency.
- No format was prescribed for providing details of previous mining experience under category, 'Other Mines Workers' or 'Manual workers belonging to SC/ST/OBC/ SBC employed in mines'. It was noticed that the applicants under this category had enclosed affidavits or documents claiming to be ex-employees of some mines, the authenticity of which was not verified by the Department to ensure that the applicants had indeed previous mining experience.

E. Three ME offices¹³ accepted more than one application from the same applicants for the same plot. For instance, in ME Ajmer, 14 applicants had given two or more applications for single plot in seven cases. As a result, some applicants applied more than once to enhance their allotment chances through lottery. One applicant who had submitted two applications was even selected and allotted a mining lease.

The Government replied (September 2016) that the matter had been entrusted to the enquiry committee with directions to seek legal opinion wherever required.

¹³ ME Ajmer, Nagaur and Sojat city.

7.4.21 Conclusions and Recommendations

The Department had not issued any guidelines or specified the time period for each stage of processing of applications. As such, the delay in processing of applications at each stage could not be monitored. *To enhance transparency in allotment of mining leases, the Department may take steps for automation and institute better oversight and control to curb arbitrariness in processing of applications at each stage.*

The Department accepted documents without verifying their factual accuracy for grant of mining leases. They processed the applications without proper scrutiny. In some cases signatures on the application forms did not match with the supporting documents furnished by the applicant. *The Department must ensure receipt of the mandatory documents and their factual accuracy before processing the cases for grant of leases.*

The Department also allowed the participation of persons without any legal authority, other than the applicants, in the process for grant of leases which was irregular. *The allotment process needs to be conducted in accordance with the rules and regulations and should be transparent and reliable.*

There were changes in the ownership pattern of mining leases immediately after restoration of cancelled leases. In 31 cases, delays much beyond the stipulated period of three months were condoned and leases restored. Fourteen of such restored leases were transferred within a month. Thus, the prescribed procedure of auction/lottery was bypassed. *The Government may re-examine these cases and cancel the leases wherever deviation from rules is found.*

The format for submission of forms/documents for lottery allotments was not prescribed by the Department. As a result, certain applications were considered incomplete without any recorded reasons. Further, there was no clarity as regards certain categories for allotment of leases through lottery. *The Department needs to prescribe the format for submission of forms/documents for lottery allotments. It needs to bring in clarity as regards eligibility of certain categories for allotment of leases through lottery.*

7.5 Unauthorised excavation/despatch of mineral

Rule 18 (9) (c) of Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 envisages that the lessee or any other person shall not remove or despatch or utilise the minerals from the mines or quarry without *rawanna*¹⁴ duly issued by concerned AME/ME for particular mineral and area. As per item 3 of Schedule I appended to Rule 18 (1) (b) of RMMC Rules, the quantity of limestone¹⁵ excavated is to be calculated by applying conversion factor of 1.4 MT per cubic metre (cum). Further, Rule 48(5) of the RMMC Rules provides that whenever any person, without a lawful authority or in contravention of the terms and conditions of lease, raises and despatches any mineral, the cost of mineral along with royalty shall be recovered. The cost of mineral will be computed as 10 times of the royalty payable at the prevalent rates.

7.5.1 Undue benefit to lease holders by incorrect computation of the mineral excavated from leased areas

During scrutiny of records of the DMG, Udaipur, it was noticed that a Departmental Committee was formed (28 January 2014) by DMG to examine the misuse of *rawannas* by lease holders of Mining Leases (ML) 56/2000 and 178/2009 under the jurisdiction of ME Bikaner for despatch of mineral limestone which was unauthorisedly excavated from village Bhed, *tehsil* Khinwsar, district Nagaur.

The Committee based on its inspection (19 March 2014) reported that the *rawannas* were not misused by the said lease holders as in their returns they had shown despatch of 4.70 lakh MT mineral limestone which was near about the quantity of the mineral which could have been excavated¹⁶ from the mines.

On scrutiny of the Committee's report, it was found that the Committee had worked out the quantity of the excavated mineral by applying a conversion factor of 2.5 per cum instead of 1.4 per cum as provided in the RMMC Rules.

Sl. no.	Mining lease number	Quantity of mineral excavated as per Committee's report (MT)	Quantity of mineral excavated as per Rule (MT)	Quantity of mineral excavated as per assessment order upto 2013-14 (MT)	Mineral despatched by misusing of <i>rawannas</i> (MT) (5-4)
(1)	(2)	(3)	(4)	(5)	(6)
1	56/2000	1,71,293x2.5=4,28,232	1,71,293 x1.4=2,39,810	3,88,884	1,49,074
2	178/2009	44,372x2.5=1,10,930	44,372x1.4=62,121	81,150	19,029
Total		5,39,162	3,01,931	4,70,034	1,68,103

The Committee had, therefore, enhanced the quantity of mineral excavated from the leased areas and justified the use of *rawannas* by these lease holders by applying incorrect conversion factor. Therefore, misuse of *rawannas* for despatch of unauthorised excavated mineral of 1.68 lakh MT out of the leased

¹⁴ *Rawanna* means delivery challan for removal or despatch of mineral from mines.

¹⁵ Limestone means limestone suitable for lime making.

¹⁶ Quantity of mineral excavated was calculated by the committee on the basis of pit measurement.

areas involving cost of ₹ 10.93 crore¹⁷ could not be detected by the Committee.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that if mineral was found in solid form then bulk density factor of 2.5 was applicable and if the mineral was found after excavation, then conversion factor of 1.4 was applicable.

The reply was not tenable as the Rule clearly provides conversion factor of 1.4 for royalty collection and there was no provision in the Rules for application of bulk density factor of 2.5.

7.5.2 Non-raising of demand of cost of unauthorised excavated mineral

During the audit of records of the DMG, Vigilance Wing, it was noticed (February 2016) that three inspections¹⁸ of two quarries¹⁹ were conducted by the officers of the Department. As per the Inspection Reports submitted to DMG, the holder of quarry number 196(B) had unauthorisedly excavated 25,920 MT mineral sandstone (block) and masonry stone from gap strip²⁰ adjoining these two sanctioned quarries. However, the Department neither calculated the recoverable cost of the mineral nor initiated any action for recovery of the amount.

After this was pointed out (February 2016), the ME Jodhpur stated (May 2016) that the recoverable cost of mineral amounting to ₹ 1.14 crore had been worked out (April 2016) and proposal sent (May 2016) to SME Jodhpur for approval of demand.

The matter was pointed out to the Department and reported to the Government (June 2016); their reply is awaited (October 2016).

7.6 Short recovery of royalty

As per Section 9(2) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the Second Schedule of the Act in respect of that mineral. There was no time limit prescribed for finalisation of assessment in the Act/Rules. However, the State Government issued (April 2000) order for calculating royalty on monthly basis, raising of demand and taking action for recovery of the same. In continuation of this, it was also ordered (March 2008) to recover the payable royalty and other payable fees by seventh of every month on a provisional basis²¹. Further, there was no provision in the Act or Rules framed thereunder to allow any deduction on account of moisture content for mineral rock phosphate.

On scrutiny of the records of ME Udaipur, it was noticed (January 2016) that a mining lease (ML no. 1/88), near village Jhamar Kotra, *tehsil* Girwa for

¹⁷ ₹ 10.93 crore (mineral 1,68,103 MT x rate of royalty ₹ 65 per MT x 10).

¹⁸ Date of inspections: 7 November 2013 (Senior Mines Foreman), 9 October 2014 (Senior Mines Foreman and AME) and 26 November 2014 (ME (Vigilance) and SME (Vigilance)).

¹⁹ Quarry number 227 (A) and 196 (B) falling under jurisdiction of ME Jodhpur.

²⁰ Gap area/strip means area adjoining two or more sanctioned leases/quarries.

²¹ Provisional royalty is calculated on the basis of previous month's despatch of mineral.

mineral rock phosphate was in-force since 1 April 1988 in favour of M/s Rajasthan State Mines and Minerals Limited (Company). The royalty was being paid by the Company on the quantity of mineral rock phosphate after deducting moisture content though there was no provision in Act/Rules for such deduction. The amount of royalty payable on the moisture content for the period from 2003-04 to 2012-13 was worked out to ₹ 8.67 crore²² except for the year 2005-06. Assessment of royalty was also not finalised for the period from 2003-04 to 2014-15.

Non-finalisation of assessment resulted in short recovery of royalty of ₹ 8.67 crore. With passage of such a long period, the chances of recovery of the amount will be bleak.

After this was pointed out, the ME issued (January 2016) letter to the lessee for depositing the amount short paid and further stated (January 2016) that assessment of the royalty for the period 2003 to 2015 would be made.

The matter was pointed out to the Department and reported to the Government (June 2016); their reply is awaited (October 2016).

7.7 Non-payment of royalty on associated minerals

As per Section 9(2) of the MMDR Act, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the Second Schedule of the Act in respect of that mineral. Further, as per Rule 69 (iii) of Mineral Concession (MC) Rules, 1960, 'associated minerals' include lead, zinc, copper, gold, cadmium and silver, etc.

During audit of lease records of SME, Ajmer, it was noticed (October 2014 and January 2016) that a lease (ML no. 16/92) was sanctioned and executed in favour of a company (M/s Hindustan Zinc Limited) in an area of 480.45 hectares for 'lead, zinc and associated minerals' for a period of 20 years (28 February 1998 to 27 February 2018).

On scrutiny of assessment files, demand register and other relevant records, it was found (October 2014) that the company had neither disclosed the production of 'associated minerals' nor paid royalty thereof. After this was pointed out (October 2014), the company intimated (July 2015) the ME Ajmer that the royalty of mineral silver and cadmium was being paid. However, the company did not disclose the quantity of minerals despatched, amount of royalty paid thereof and the office to which the royalty was being paid.

It was further noticed (January 2016) that in the approved mining plan (May 2013), the percentage of mineable minerals in the leased area was: lead 1.82 per cent; zinc 11.76 per cent; copper 0.068 per cent; silver 6.37 (PPM) (associated minerals) and iron 7.64 per cent. As per mining plan parameters and ore produced from the leased area during the period September 2012 to March 2015, the estimated excavated quantity of minerals *i.e.* copper, silver

²² We could not calculate the payable royalty on the moisture content for the year 2005-06 since the Company deducted the moisture content from the quantity of mineral despatched but did not mention the quantity of moisture content separately in the returns.

and iron was worked out to 40,474.79 MT on which a royalty of ₹ 1.38 crore²³ was payable. The SME neither issued notice nor demanded royalty amounting to ₹ 1.38 crore on these associated minerals and iron.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that a notice had been issued to Company for depositing the amount and recovery would be intimated.

7.8 Incorrect computation of dead rent

As per Section 9A (1) of the MMDR Act, the holder of a mining lease shall pay to the State Government, every year, dead rent at such rate as may be specified for the time being in the Third Schedule of the Act for all the areas included in the instrument of lease. The Third Schedule was amended from time to time vide Central Government's notifications. As per these notifications issued on 14 October 2004, 13 August 2009 and 1 September 2014, in case of lease granted for precious metals, the rate of dead rent was four times the rate specified for low value minerals *i.e.* ₹ 1,600; ₹ 4,000; ₹ 8,000 per hectare respectively for a year.

During audit of lease records of SME, Ajmer, it was noticed (January 2016) that a lease was sanctioned and executed in favour of M/s Hindustan Zinc Limited (ML no. 16/92) in an area of 480.45 hectares for 'lead, zinc and associated minerals' for a period of 20 years (28 February 1998 to 27 February 2018).

On scrutiny of demand register and other relevant records of the lease, it was found that the dead rent was not revised as per the amendments made in the Third Schedule on 14 October 2004 and thereafter. This resulted in short raising of demand of dead rent amounting to ₹ 21.53 lakh as detailed below:

Sl no.	Period	Rates of dead rent per hectare per annum for precious metals as per Rules (in ₹)	Rates of dead rent per hectare per annum which was recovered (in ₹)	Size of lease area (in hectares)	Dead rent recovered (₹ in lakh)	Dead rent to be recovered as per Rules (₹ in lakh)	Short demand/ recovery of dead rent (₹ in lakh)
1	14/10/2004 to 12/08/2009 (1,764 days)	1,600	1,200	480.45	27.84	37.14	9.30
2	13/08/2009 to 27/02/2010 (199 days)	4,000	3,000	480.45	7.86	10.48	2.62
3	28/02/2010 to 27/02/2012 (2 years)	4,000	3,000	480.45	28.83	38.44	9.61
Total					64.53	86.06	21.53

²³ Royalty on the minerals was worked out on the basis of monthly rates (February 2015) published by Indian Bureau of Mines and ₹ to Dollar exchange rate on 28 February 2015.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that a demand notice was issued after assessment.

7.9 Non-recovery/short recovery of Environment Management Fund

Rule 37T(5) inserted in RMMC Rules, 1986 by Government of Rajasthan through notification dated 19 June 2012 provides that every lessee/licensee of marble, granite and limestone (dimensional stone) of Kota and Jhalawar districts shall deposit a sum of ₹ 10 per ton and lessee/licensee/short term permit holder of other minerals shall deposit ₹ five per ton towards Environment Management Fund (EMF) for the mineral despatched. The EMF is required to be used for carrying out environment protection work as per Environment Management Plan. DMG issued (February 2013) a circular wherein the method²⁴ for calculation of EMF leviable was prescribed. However, these provisions were declared illegal, without jurisdiction and *ultra vires* on 9 April 2015 by the Hon'ble Rajasthan High Court, Jodhpur with directions that the amended rule shall not be implemented any further. However, if a contractor/lessee had collected EMF amount from consumer or lifter of mining material, he was not entitled to retain the said amount and had to deposit the amount in Government exchequer.

A few instances of non-raising/short raising of demand for EMF are mentioned in the following paragraphs:

7.9.1 According to Handbook of Mines and Geology Department, all demands of dead rent, royalty, penalty and other dues are required to be posted in a Demand and Collection Register (DCR) for monitoring the recovery.

On scrutiny of DCR related to brick earth licensees in the office of ME, Bhilwara, it was observed (March 2016) that the demand of EMF amount was not raised against 38 brick earth licensees for the period 19 June 2012 to 31 March 2015. The recoverable EMF worked out to ₹ 23.46 lakh against which only ₹ 3.34 lakh was recovered. EMF of ₹ 20.12 lakh was, therefore, short recovered.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that ₹ 3.13 lakh had been recovered in six cases and action was being taken in the remaining 32 cases.

7.9.2 During the audit of records of ME, Banswara, it was noticed (January 2016) that an excess royalty collection contract²⁵ for the period from 1 April 2012 to 31 March 2014 for an annual contract amount of ₹ 18.09 crore was sanctioned (16 March 2012) and executed (30 March 2012) in favour of M/s Prakash Associates. The contract was for collection of excess royalty²⁶ for mineral 'marble' excavated from leases falling in *tehsils* Banswara, Ghari of

²⁴ Leviable EMF amount: (Annual contract amount of excess royalty/royalty rate of mineral) x rate of EMF per MT.

²⁵ 'Excess Royalty Collection Contract' means a contract for specified mineral(s) and area given to collect royalty in excess of annual dead rent and also to collect other charges as may be specified in the contract, on behalf of the Government from the holder of mining lease(s) under the contract. The contractor shall pay a fixed amount annually to the Government as per terms of the contract.

²⁶ Excess royalty means royalty in excess of annual dead rent.

district Banswara and *tehsil* Aaspur of district Dungarpur. As per instructions issued by Directorate (February 2013), the ME added annual EMF amount of ₹ 93 lakh in the annual contract amount with effect from April 2013. The rate of royalty for mineral marble block and marble *khanda* was ₹ 195 and ₹ 65 per MT respectively.

Scrutiny of excess royalty collection contract files and demand registers revealed that the contractor collected excess royalty on 7.75 lakh MT of mineral marble (block and *khanda*) despatched up to January 2013. The proportion of marble block and marble *khanda* was 91.83 and 8.17 per cent respectively.

The ME while calculating the EMF amount applied royalty rate of ₹ 195 per MT for the whole contract amount instead of applying ₹ 65 per MT for marble *khanda* and ₹ 195 for marble block. This resulted in short calculation of quantity of 1,51,585 MT of mineral despatched and thereby short levy of EMF amounting to ₹ 15.16 lakh as detailed below:

Sl. no.	Type of mineral	Percentage of mineral despatched	Quantity of mineral despatched	Annual amount of EMF to be added (₹ in lakh)	Quantity of mineral calculated by the Department	Amount of EMF added by the Department (₹ in lakh)	Short levy of EMF (₹ in lakh) (7-5)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Block	91.83	8,51,900 MT ²⁷	85.19	9,27,692 MT	92.77	15.16
2	Khanda	8.17	2,27,377 MT ²⁸	22.74			
Total			10,79,277 MT	107.93	9,27,692 MT²⁹	92.77	15.16

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that the contract was awarded for mineral marble and, therefore, EMF was calculated according to the rate of royalty for marble block. The reply was not acceptable as royalty rate for only marble block was considered ignoring the rate of marble *khanda*.

²⁷ Quantity of marble block 8,51,900 MT = ₹ 18,09,00,000 (contract value) X 91.83 per cent = ₹ 16,61,20,470/ ₹ 195 (Royalty rate).

²⁸ Quantity of marble *khanda* 2,27,377 MT = ₹ 18,09,00,000 (contract value) X 8.17 per cent = ₹ 1,47,79,530/ ₹ 65 (Royalty rate).

²⁹ Quantity of mineral marble 9,27,692 MT = contract value ₹ 18,09,00,000/ royalty rate ₹ 195 (Royalty rate of marble block).

7.10 Incorrect revision of contract amount

Rule 32(3) of the RMMC Rules provides that the amount to be paid annually by the excess royalty collection contractor³⁰ to the Government shall be determined in auction or e-auction. Provided that in case of enhancement or reduction in the rate of royalty given in the Schedule-I or permit fee/other charges, the royalty collection contractor shall be liable to pay as per the increased or reduced amount of contract money, security and guarantee amount in proportion to the enhancement or reduction of royalty, as the case may be. The revised contract amount shall be worked out in accordance with the formula³¹ given in the Rule *ibid*.

As per notification dated 5 August 2014, the rate of royalty of masonry stone and marble was enhanced from ₹ 17 per MT to ₹ 23 per MT and from ₹ 195 per MT to ₹ 260 per MT respectively. However, the enhanced rate of royalty of marble was reduced to ₹ 240 per MT on 26 August 2014.

During the scrutiny of files of two contracts for collection of excess royalty on mineral masonry stone, marble and serpentine³² despatched from sanctioned leased areas under the jurisdiction of ME, Udaipur, it was noticed (February 2016) that the revision of annual contract amount of both contracts on enhancement of royalty rates of the minerals was not done in consonance with the above provisions as detailed below:

(₹ in lakh)

Name of the contractors	Name of mineral and revised rate of royalty	Annual amount of excess royalty	Annual excess royalty amount revised by the Department	Amount to be revised as per Rule	Short revision of annual excess royalty (5-4)	Period of short demand	Short recovery of amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
M/s Chamunda Infra. Projects	Masonry stone / ₹ 23 per MT	352.36	476.73	487.06	10.33	5.8.2014 to 31.3.2015 (239 days)	6.76
Shri Nauratan Singh Rajpurohit	Marble and serpentine/ ₹ 260 per MT	263.87	351.82	408.25	56.43	5.8.2014 to 25.8.2014 (21 days)	3.25
	Marble and serpentine/ ₹ 240 per MT		324.76	363.83	39.07	26.8.2014 to 31.3.2015 (218 days)	23.33
Total		616.23	1,153.31	1,259.14	105.83		33.34

This resulted in short raising of demand of excess royalty of ₹ 33.34 lakh for the period from 5 August 2014 to 31 March 2015.

After this was pointed out, the ME, Udaipur, stated (February 2016) that the amount would be recovered and intimated to audit.

³⁰ Excess royalty collection contractor is a contractor authorised to collect the royalty for a certain period on payment of a lump sum amount.

³¹ Revised contract amount = {(existing contract amount (+) total existing dead rent) X new royalty rate /existing royalty rate – total existing dead rent}.

³² Serpentine: a type of marble.

The matter was pointed out to the Department and reported to the Government (June 2016); their reply is awaited (October 2016).

7.11 Short raising of demand of cost of brick earth

As per notification issued on 10 June 1994 under Rule 65A of the RMMC Rules, 1986, the kiln owner shall obtain permission for the brick earth to be used in making bricks. The permission shall be at least for one year and maximum for five years. The royalty on brick earth shall be recovered on the basis of annual metric ton quantity of earth used as per a given formula (150 days x 3.5 MT x number of *ghories*). Further, Rule 48(5) of the *ibid* Rules, 1986 provides that whenever any person raises, without lawful authority, any mineral, he shall be liable to pay cost of the mineral so excavated along with royalty.

During the audit of records of ME, Bharatpur, it was noticed (December 2015) that a brick kiln in *tehsil* Nagar, district Bharatpur was operated by M/s Aman Eent Udyog, Bidgaon. The owner of kiln obtained licence for excavation of 14,175 MT brick earth per year for a period of five years from 23 December 2008 to 22 December 2013. The owner applied (17 December 2013) for a new licence. However, ME Bharatpur took (22 December 2013) the possession of kiln. The application for new licence was turned down in May 2014 due to non-fulfilment of the requirement of application. Meanwhile, Rajasthan State Pollution Control Board (RSPCB) inspected (15 April 2014) the kiln and found that the kiln was in operation. RSPCB intimated (13 June 2014) the ME, Bharatpur to take action. The ME, Bharatpur also inspected (27 June 2014) the kiln and found it under operation. The ME recovered ₹ 1.26 lakh as cost of the brick earth on the basis of actual quantity of bricks found on the spot at the time of inspection.

The amount of recovery made by the ME was incorrect as the kiln was found in operation during two inspections (15 April 2014 and 27 June 2014) which meant that the kiln was in operation for a period of 187 days from 23 December 2013 to 27 June 2014. Hence, the cost amounting to ₹ 13.07 lakh for 7,262 MT³³ of mineral brick earth excavated unauthorisedly during the operating period of kiln was to be recovered. Thus, demand of ₹ 11.81 lakh was short raised.

³³ Proportionate quantity of brick earth (7,262 MT) used during 187 days was calculated on the basis of annual licence issued for 14,175 MT.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that action was being taken for recovery of the amount.



(S. ALOK)

Accountant General

(Economic & Revenue Sector Audit), Rajasthan

JAIPUR,
The 20 JAN 2017

Countersigned



(SHASHI KANT SHARMA)

Comptroller and Auditor General of India

NEW DELHI,
The 24 JAN 2017

**© COMPTROLLER AND
AUDITOR GENERAL OF INDIA**

www.cag.gov.in

<http://www.agraj.cag.gov.in>