



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2018**



**लोकहितार्थ सत्यनिष्ठा**  
**Dedicated to Truth in Public Interest**



**Government of Maharashtra**  
**Report No. 4 of the year 2019**



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## **PREFACE**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2018 has been prepared for submission to the Governor of Maharashtra 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 (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 2017-18 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 2017-18 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

This Report contains 19 paragraphs relating to non/short levy of taxes, duties, interest and penalty, etc., involving ₹ 221.33 crore. Some of the major findings are mentioned below:

### I General

The total revenue receipts of the State during the year 2017-18 were ₹ 2,43,653.56 crore, of which the revenue raised by the State Government was ₹ 1,84,611.43 crore and receipts from Government of India were ₹ 59,042.13 crore. The revenue raised by the State Government constituted 76 *per cent* of the total net receipts of the State. The receipts from Government of India included ₹ 37,219.20 crore on account of the State's share of divisible Union taxes which registered an increase of 10 *per cent* over the previous year and ₹ 21,822.92 crore received as grants-in-aid.

(Paragraph 1.1.1)

### II Taxes on Sales, Trade, etc.

Audit on “Assessment of dealers - Builders/Developers under VAT Act” revealed the following:

- Cross verification of data in respect of 99 Builders and Developers (B&Ds) obtained from the Municipal Corporation of Greater Mumbai with the Goods and Services Tax Department revealed that 53 B&Ds were not registered with the Department. No surveys had been carried out to identify un-registered B&Ds who had crossed the threshold limit for registration.

(Paragraph 2.4.1)

- In one case the deduction on account of cost of land for levy of tax was allowed twice one in 2008-09 (₹ 15.09 crore) and another in 2009-10 (₹ 6.77 crore). This had resulted in short raising of demand of ₹ 2.99 crore.

(Paragraph 2.4.2.1)

- The Department allowed standard deduction of ₹ 15.16 crore on account of labour and service charges instead of ₹ 13.43 crore in four cases. This resulted in grant of excess allowance of standard deduction of ₹ 1.73 crore involving short levy of tax of ₹ 15.47 lakh.

(Paragraph 2.4.3.1)

- Interest for delayed payment of taxes along with returns amounting ₹ 4.08 crore was not levied in 17 cases. Further, interest on dues of tax arising after assessment was recovered short by ₹ 1.64 crore in 12 cases.

(Paragraph 2.4.4)

Audit on “**Preparedness for transition to Goods and Services Tax**” revealed the following:

- The Department had made adequate arrangements for training its staff in order to make them familiar with the provisions of Goods and Services Tax Act and the Goods and Services Tax Network (GSTN). Further, GST campaigns were organised by the Department for making the taxpayers familiar with GST Laws and payment of taxes under the new regime. The Department had also undertaken a review of its organisational structure and cadre of its officers in light of the requirements of GST. Thus, it could be seen that the Department had made good efforts in capacity building both at Departmental and taxpayers level.

**(Paragraphs 2.5.1.1 and 2.5.1.2)**

- Out of 107 Application Programme Interface (API) shared for development by GSTN with the State, 65 APIs have been developed and rolled out. The remaining APIs were under different stages of development.

**(Paragraph 2.5.1.3)**

- The refund module on GSTN was not fully functional and the refund process involved manual intervention. Out of 217 refund cases test checked by audit, in 23 cases final refunds were given within the prescribed period of 60 days, while in the remaining 194 cases the final refunds were granted beyond the prescribed period of 60 days. Refund application numbering 2,069 were pending finalisation as on October 2018.

**(Paragraph 2.5.4)**

- The disposal of assessment cases (15,830) was only five *per cent* of the total cases (2,98,144) selected for assessment during 2018-19 and 2,82,314 assessment cases were pending for finalisation as on September 2018.

**(Paragraph 2.5.5.1)**

- An amount of ₹ 1,07,576.01 crore pertaining to demands under pre-GST Acts was pending for recovery. Out of this, ₹ 8,953.15 crore (eight *per cent*) was free from any disputes and was available for recovery, ₹ 2,100.99 crore (two *per cent*) was pending recovery under Maharashtra Land Revenue Code, 1966, ₹ 47,357.61 crore (44 *per cent*) was locked up in appeals with Departmental authorities and ₹ 4,058.72 crore (3.77 *per cent*) pertained to dealers who were untraceable.

**(Paragraph 2.5.5.2)**

In the case of one dealer the assessing officer had given credit of a payment received from the dealer amounting to ₹ 1.10 crore twice, once as tax and once as interest, which resulted in less raising of demand to that extent.

**(Paragraph 2.6)**

Penalty for late filing of Audit Report in form 704 amounting to ₹ 3.32 crore was not levied in 14 cases.

(Paragraph 2.8)

### III Stamp Duty and Registration Fee

As per recitals of ten documents, consideration of the property (revenue sharing) worked out to ₹ 113.97 crore, on which stamp duty of ₹ 5.42 crore was leviable against which the department levied ₹ 2.59 crore. This resulted in short levy of stamp duty of ₹ 2.83 crore.

(Paragraph 3.4.1)

The renewal clause extending the lease period was not considered for working out the market value for levy of stamp duty in three lease deeds. This resulted in short levy of stamp duty of ₹ 5.20 crore.

(Paragraph 3.5.1)

### IV Land Revenue

In eight cases the unearned income in respect of sale of class-II land was recoverable ₹ 21.72 crore against which ₹ 7.47 crore was recovered. This resulted in short recovery of ₹ 14.25 crore.

(Paragraph 4.3)

Application of incorrect market value resulted in short levy occupancy price of ₹ 1.62 crore.

(Paragraph 4.4)

### V Taxes on Vehicles

Audit on “**Verification of loading restrictions of vehicles at Border Check Posts**” revealed the following:

- There was huge difference (2,68,633) in the number of vehicles (carrying goods beyond the permissible gross laden weight) between the figures furnished by the Department and those furnished by the MBCPNL (through the Transport Commissioner). This resulted in non-recovery of compounding fees/fines of minimum of ₹ 81 crore from overloaded vehicles carrying goods beyond permissible limit.

(Paragraph 5.4.1)

- There were delays ranging from seven to 19 months in issue of service fee notification, as a result of which the BCPs remained idle till the date of notification.

(Paragraph 5.4.2)

Tax amounting to ₹ 96.46 lakh was not recovered from the owners of 159 vehicles for the periods ranging from three to 72 months.

(Paragraph 5.5)

**VI Other Tax and Non-Tax Receipts**

There was short remittance of Education Cess and Employment Guarantee Cess amounting to ₹ 88.24 crore, collected by two Municipal Corporations, into the Government account.

**(Paragraph 6.3)**

Entertainments Duty payable by cable operators aggregating ₹ 1.75 crore was not recovered in case of 228 cable operators.

**(Paragraph 6.6)**

## CHAPTER I

### GENERAL

#### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by Government of Maharashtra during the year 2017-18, the State's share of divisible Union taxes and duties assigned to the State, and the Grants-in-aid received from Government of India (GoI) during the year and the corresponding figures for the preceding four years are mentioned in **Table 1.1.1**.

**Table 1.1.1**

(₹ in crore)						
Sr. No.	-	2013-14	2014-15	2015-16	2016-17	2017-18
1	Revenue raised by the State Government					
	Tax revenue <sup>1</sup>	1,08,597.96	1,15,063.32	1,26,608.10	1,36,616.32	1,67,931.86
	Non-tax revenue <sup>2</sup>	11,351.97	12,580.89	13,423.01	12,709.34	16,679.57 <sup>3</sup>
	<b>Total</b>	<b>1,19,949.93</b>	<b>1,27,644.21</b>	<b>1,40,031.11</b>	<b>1,49,325.66</b>	<b>1,84,611.43</b>
2	Receipts from the Government of India					
	Share of net proceeds of divisible Union Taxes and duties	16,630.43	17,630.03	28,105.95	33,714.90	37,219.20
	Grants-in-aid	13,241.44	20,140.64	16,898.61	21,652.58	21,822.92
	<b>Total</b>	<b>29,871.87</b>	<b>37,770.67</b>	<b>45,004.56</b>	<b>55,367.48</b>	<b>59,042.13</b>
3	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>1,49,821.80</b>	<b>1,65,414.88</b>	<b>1,85,035.67</b>	<b>2,04,693.14</b>	<b>2,43,653.56</b>
4	<b>Percentage of 1 to 3</b>	<b>80</b>	<b>77</b>	<b>76</b>	<b>73</b>	<b>76</b>

Source: Finance Accounts

The above table indicates that during the year 2017-18, the revenue raised by the State Government (₹ 1,84,611.43 crore) was 76 per cent of the total

<sup>1</sup> For details – refer statement no. 14 – Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Maharashtra for the year 2017-18. Figures under the head 0020-Corporation Tax, 0021-Taxes on income other than corporation tax, 0022-Taxes on agricultural income, 0032-Taxes on wealth, 0037-Customs, 0038-Union Excise Duties, 0044-Service Tax–share of net proceeds assigned to State booked in the Finance Accounts under Sector A- “Tax revenue” have been excluded from the revenue raised by the State and included in the Share of net proceeds of divisible Union Taxes and duties in this statement.

<sup>2</sup> The figures are at variance from the Report for the year ended 31 March 2017 as these include gross lottery receipts prior to adjustment of prize money paid therefrom.

<sup>3</sup> There was misclassification of grants-in-aid amounting to ₹ 437.77 crore from the Government of India as receipts under “Non Tax Revenue” for which a note of error has been kept by the Finance Department in the Finance Accounts. Hence, the actual receipts under “Non-Tax Revenue” is ₹ 16,241.80 crore and that under “Grants in aid” is ₹ 22,260.69 crore

revenue receipts against 73 per cent in the preceding year. The balance 24 per cent of the receipts during 2017-18 came from the Government of India.

**1.1.2** The details of the tax revenue raised during the period 2013-14 to 2017-18 are given in **Table 1.1.2**.

**Table 1.1.2**

(₹ in crore)								
Sr. No.	Head of revenue		2013-14	2014-15	2015-16	2016-17	2017-18	Percentage of increase (+)/ decrease (-) in 2017-18 over 2016-17
1	2		3	4	5	6	7	8
1	Taxes on sales, trade etc. (Including Central Sales Tax)	BE <sup>4</sup>	62,422.50	69,089.60	74,616.77	81,437.69	92,838.97	
		RE <sup>4</sup>	63,922.50	69,089.60	74,616.77	81,437.69	55,410.58	
		Actual	62,530.04	67,466.29	69,660.82	81,174.17	54,893.51	
2	Goods and Services Tax	BE					0.00	
		RE					50,976.66	
		Actual					50,063.36	
	<b>Sub-Total</b>					<b>81,174.17</b>	<b>1,04,956.87</b>	29.29
3	Entertainments Duty	BE	557.52	578.32	658.14	730.52	964.97	
		RE	557.53	578.32	658.14	825.99	0.00	
		Actual	735.63	801.67	879.60	960.83	290.43	-69.77
4	Betting tax	BE	51.33	53.76	61.20	67.93	30.51	
		RE	51.33	53.76	61.20	28.78	0.00	
		Actual	22.06	33.34	35.56	31.40	6.49	-79.33
5	Luxury Tax	BE	304.06	315.12	358.61	398.05	531.93	
		RE	304.08	315.12	358.61	501.72	185.83	
		Actual	466.87	448.96	517.21	563.88	257.66	-54.31
6	Sugarcane Purchase Tax	BE	0.00	0.00	0.00	0.00	1.14	
		RE	0.00	0.00	0.00	1.08	0.00	
		Actual	0.00	0.14	0.00	0.86	0.06	-93.02
7	Forest Development	BE	52.81	55.50	63.16	70.11	55.14	
		RE	52.86	55.50	63.16	52.02	56.14	
		Actual	32.67	49.41	46.55	47.81	19.99	-58.19
8	Taxes on Entry of goods into local areas	BE	998.00	1,097.80	1,145.53	1,269.95	330.14	
		RE	1,225.00	1,093.53	1,144.25	1,267.59	1,579.29	
		Actual	1,240.66	581.50	1,573.73	1,867.98	978.43	-47.62
A	<b>Total of Taxes on Sales, Trade, etc. and taxes subsumed in GST (Sr. No. 1 to 8)</b>	<b>BE</b>	<b>64,386.22</b>	<b>71,190.10</b>	<b>76,903.41</b>	<b>83,974.25</b>	<b>94,752.80</b>	
		<b>RE</b>	<b>66,113.30</b>	<b>71,185.83</b>	<b>76,902.13</b>	<b>84,114.87</b>	<b>1,08,208.50</b>	
		<b>Actual</b>	<b>65,027.93</b>	<b>69,381.31</b>	<b>72,713.47</b>	<b>84,646.93</b>	<b>1,06,509.93</b>	<b>25.83</b>
9	State Excise	BE	10,535.00	11,500.00	13,500.00	15,343.86	14,340.01	
		RE	10,535.00	11,500.00	13,699.90	13,600.00	12,500.00	
		Actual	10,101.12	11,397.08	12,469.56	12,287.91	13,449.65	9.45

<sup>4</sup> BE – Budget Estimates, RE – Revised Estimates.



1	2	3	4	5	6	7	8	
10	Stamps and Registration fees	BE	17,403.08	19,426.00	21,000.00	23,547.66	21,000.00	
		RE	18,850.00	19,420.73	21,500.00	20,000.00	23,100.00	
		Actual	18,675.98	19,959.29	21,766.99	21,011.83	26,441.82	25.84
11	Taxes and Duties on Electricity	BE	5,830.00	6,501.00	7,150.00	7,912.58	8,228.48	
		RE	6,107.76	6,873.60	7,650.00	7,912.58	8,500.00	
		Actual	6,083.90	4,350.45	8,506.37	6,669.56	7,344.86	10.13
12	Taxes on Vehicles	BE	4,750.00	5,250.00	5,693.67	6,750.00	7,200.00	
		RE	4,900.00	5,244.17	5,693.67	6,750.00	7,350.00	
		Actual	5,095.92	5,404.97	6,017.19	6,741.21	8,665.38	28.54
13	Land Revenue	BE	1,760.39	1,867.29	3,200.15	3,200.15	3,200.15	
		RE	1,227.77	1,873.29	1,900.19	1,500.55	3,200.01	
		Actual	1,088.85	1,272.38	1,748.31	1,799.39	2,309.86	28.37
14	Others <sup>5</sup>	BE	2,620.66	2,906.04	3,187.49	3,493.03	4,715.13	
		RE	2,640.59	2,910.31	3,188.77	3,352.41	2,120.33	
		Actual	2,524.26	3,297.84	3,386.21	3,459.49	3,210.36	-7.20
<b>B</b>	<b>Total of Taxes not subsumed in GST (Sr. No. 9 to 14)</b>	<b>BE</b>	<b>42,899.13</b>	<b>47,450.33</b>	<b>53,731.31</b>	<b>60,247.28</b>	<b>58,683.77</b>	
		<b>RE</b>	<b>44,261.12</b>	<b>47,822.10</b>	<b>53,632.53</b>	<b>53,115.54</b>	<b>56,770.34</b>	
		<b>Actual</b>	<b>43,570.03</b>	<b>45,682.01</b>	<b>53,894.63</b>	<b>51,969.39</b>	<b>61,421.93</b>	<b>18.19</b>
<b>Total (A+B)</b>	<b>BE</b>	<b>1,07,285.35</b>	<b>1,18,640.43</b>	<b>1,30,634.72</b>	<b>1,44,221.53</b>	<b>1,53,436.57</b>		
	<b>RE</b>	<b>1,10,374.42</b>	<b>1,19,007.93</b>	<b>1,30,534.66</b>	<b>1,37,230.41</b>	<b>1,64,978.84</b>		
	<b>Actual</b>	<b>1,08,597.96</b>	<b>1,15,063.32</b>	<b>1,26,608.10</b>	<b>1,36,616.32</b>	<b>1,67,931.86</b>	<b>22.92</b>	

Analysis of growth in revenue is given as follows-

- The collection under “Taxes on Sales, Trade, etc.”, GST and other taxes subsumed in GST was ₹ 1,06,509.93 crore during 2017-18 as compared to ₹ 84,646.93 crore during 2016-17. There was decrease in receipts under other tax heads (from Sr. No. 3 to 8) which were subsumed in GST with effect from 1 July 2017. The overall growth in revenue of these taxes during 2017-18 was 25.83 *per cent* as compared to the previous year.
- There was increase of 28.54 *per cent* in receipts under the head “Taxes on Vehicles” in 2017-18 as compared to 2016-17. Audit found that there was increase<sup>6</sup> in the number of vehicles registered as well as increase in rates of motor vehicle tax in 2017-18 as compared to the previous year 2016-17.
- The increase of 28 *per cent* under the head “Land Revenue” was stated to be due to a special drive under taken by the Department for recovery of revenues which were pending for collection.

The variation(s) in collection of revenue in respect of other heads of revenue though called for (July 2018) was not intimated by concerned departments.

<sup>5</sup> Includes receipts under the heads “Other taxes on Income and Expenditure” and other Cess Acts, etc.

<sup>6</sup> During 2017-18 number of vehicles registered had increased to 27,05,897 from 23,95,577 in 2016-17. There was also increase in rates of Taxes on Vehicles in 2017-18 by two *per cent*.

**1.1.3** The details of the non-tax revenue raised during the period 2013-14 to 2017-18 are given in **Table 1.1.3**.

**Table 1.1.3**

(₹ in crore)								
Sr. No.	Head of revenue		2013-14	2014-15	2015-16	2016-17	2017-18	Percentage of increase (+)/ decrease(-) in 2017-18 over 2016-17
1	2		3	4	5	6	7	8
1	Interest Receipts	BE	1,338.80	2,973.70	2,973.70	1,122.37	1,178.49	
		RE	3,142.60	2,973.70	2,973.70	2,981.31	3,936.43	
		Actual	3,933.81	3,351.46	3,079.45	3,259.07	4,162.53	27.72
2	Non-ferrous mining and Metallurgical Industries	BE	2,632.82	2,767.00	3,000.00	3,400.00	3,740.00	
		RE	2,517.00	2,767.00	3,095.72	3,250.00	3,200.00	
		Actual	2,141.17	2,335.85	3,064.05	3,104.79	3,556.42	14.55
3	Miscellaneous General Services <sup>7</sup>	BE	393.19	413.97	2,434.42	2,430.15	2,758.44	
		RE	328.37	413.97	634.42	1,428.37	1,159.31	
		Actual	227.85	449.88	477.48	252.99	1,444.75	471.07
4	Power	BE	780.00	850.00	828.00	910.80	750.39	
		RE	1,209.00	850.00	828.00	1,729.24	1,900.00	
		Actual	617.50	523.77	619.98	760.04	79.56	-89.53
5	Major and Medium Irrigation	BE	1,117.97	798.53	938.90	1,132.79	489.89	
		RE	740.46	798.53	938.90	260.24	356.91	
		Actual	496.91	657.93	624.68	309.06	215.39	-30.31
6	Others <sup>8</sup>	BE	5,730.88	5,705.82	10,489.85	11,001.13	11,239.11	
		RE	4,820.13	5,716.50	6,228.04	6,970.82	11,118.27	
		Actual	3,934.73	5,262.00	5,557.47	5,023.39	7,220.92	43.75
<b>Total</b>		<b>BE</b>	<b>11,993.66</b>	<b>13,509.02</b>	<b>20,664.87</b>	<b>19,997.24</b>	<b>20,156.32</b>	
		<b>RE</b>	<b>12,757.56</b>	<b>13,519.70</b>	<b>14,698.78</b>	<b>16,619.98</b>	<b>21,670.92</b>	
		<b>Actual</b>	<b>11,351.97</b>	<b>12,580.89</b>	<b>13,423.01</b>	<b>12,709.34</b>	<b>16,679.57</b>	<b>31.24</b>

Source: Finance Accounts

It would be seen from the above table that,

The actual receipts during the period 2013-14 to 2017-18 have always been less than the revised budget estimates of the respective years. Analysis of collection of revenue is as follows.

**“Interest Receipts”**

The increase in Interest Receipts of ₹ 903.46 crore, from ₹ 3,259.07 crore in 2016-17 to ₹ 4,162.53 crore in 2017-18, was mainly due to more interest realised on investment in respect of the following:

<sup>7</sup> Figures are at variance from the Report for the year ended 31 March 2017 as these include gross lottery receipts prior to adjustment of prize money paid therefrom.

<sup>8</sup> Includes receipts under the heads Other Administrative Services, Dairy Development, Forestry and Wild life, Medical and Public Health, Co-operation, Public Works, Police and other non-tax receipts like Dividends and Elections.

- Interest realised on investment of cash balance, which increased by ₹ 519.02 crore from ₹ 2,214.19 crore in 2016-17 to ₹ 2,733.21 crore in 2017-18.
- Interest on other loans, which increased by ₹ 316.67 crore from ₹ 42.46 crore in 2016-17 to ₹ 359.13 crore in 2017-18.

#### “Miscellaneous General Services”

- The receipts under the head “Miscellaneous General Services” increased by 471 per cent from ₹ 252.99 crore in 2016-17 to ₹ 1,444.75 crore in 2017-18. However, audit noticed that amount(s) aggregating ₹ 410.08 crore were incorrectly shown as the receipts of GoM instead of reduction in expenditure (₹ 269.98 crore), Grants-in-aid received from Government of India (₹ 121.60 crore) and Chief Minister’s Relief Fund (₹ 18.50 crore). Hence, the actual revenue of the state under this head amounted to ₹ 1,034.67 crore. Thus, the actual percentage increase under the head was 309 per cent. This was due to the increase in credit of unclaimed deposits into the Consolidated Fund of GoM.

#### “Major Irrigation” and “Medium Irrigation”

- The decrease of 30 per cent in receipts under the heads “Major Irrigation” and “Medium Irrigation” was mainly due to handing over of the receipts (sale of water for domestic, irrigation and other purposes) on account of these charges to the Irrigation Development Corporations as per GR dated 17 November 2016.

#### “Power”

- The sharp decrease of 90 per cent in receipts under the head “Power” was mainly due to less receipts from the Maharashtra State Electricity Distribution Company Ltd. and Maharashtra State Power Generation Company Ltd. on account of lease rent, water charges, etc. The reasons for less realisation of the receipts were not received from the department.

#### “Others”

- Increase in receipts under the head “Dividends” from ₹ 66.81 crore in 2016-17 to ₹ 502.40 crore was mainly on account of misclassification of grants-in-aid amounting to ₹ 437.77 crore from the Government of India as receipts under the head. A note of error to that extent has been kept by the Finance Department in the Finance Accounts.
- Increase in receipts under the head “Elections” from ₹ 213.05 crore in 2016-17 to ₹ 633.02 crore in 2017-18 was mainly on account of increase in the reimbursement of election expenses from Government of India, which rose from ₹ 191.28 crore in 2016-17 to ₹ 628.81 crore in 2017-18.

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2018 under major heads of revenue amounted to ₹ 1,10,104.38 crore of which ₹ 29,316.33 crore was outstanding for more than five years, as detailed in **Table 1.2**.

**Table 1.2**

(₹ in crore)			
Head of revenue	Total amount outstanding as on 31 March 2018	Amount outstanding for more than five years as on 31 March 2018	Remarks
Taxes on Sales, Trade, etc.	1,08,980.67	28,517.75	Out of total outstanding amount of ₹ 1,08,980.67 crore, recovery of ₹ 2,001.39 crore was covered by Revenue Recovery Certificates, recovery of ₹ 67,430.61 crore was stayed by Supreme Court/High Court/Other Judicial Authorities and Government, recovery of ₹ 4,545.79 crore was outstanding due to dealers being insolvent. The stages at which the remaining amount was outstanding was not intimated.
Taxes and Duties on Electricity	608.63	608.63	All arrears are pending for more than five years. The Department did not furnish the stages at which the recovery is pending.
State Excise Duty	6.02	1.96	Of the outstanding amount of ₹ 6.02 crore, the recovery of ₹ 29.92 lakh was stayed by the appellate authorities. The stage(s) at which the recovery of the remaining was pending amount, was not intimated by the Department.
Stamps and Registration Fees	337.20	134.73	Revenue Recovery certificates have been issued in all cases.
Taxes on vehicles	171.86	53.26	The concerned department did not furnish the stages at which the recovery is pending.
<b>Total</b>	<b>1,10,104.38</b>	<b>29,316.33</b>	

Source: Information furnished by the Departments

It would be seen from the above table that the arrears aggregating ₹ 29,316.33 crore have been outstanding for more than five years. Since with the passage of time the chances of recovery of the amount become remote it would be in the interest of the revenue if the concerned departments are advised to take appropriate steps to reduce the pendency of arrears in a time bound manner, especially those cases which are pending for more than five years.

### 1.3 Arrears in assessments

The details of cases pending at the beginning of the year 2017-18, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalization at the end of the year as furnished by the State Tax Department in respect of various Acts such as, Maharashtra Value Added Tax, Bombay Sales Tax, Motor Spirit Tax, Luxury Tax, Tax on Works Contracts, etc., was as shown below in **Table 1.3**.

**Table 1.3 – Arrears in assessments as on 31 March 2018**

Name of Act	Opening balance	New cases due for assessment during 2017-18	Total cases due for assessment	Cases disposed of during 2017-18	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Maharashtra Value Added Tax	83,135	3,58,506	4,41,641	2,48,151	1,93,490	56
Bombay Sales Tax	1,118	25	1,143	148	995	13
Motor Spirit Tax	31	0	31	17	14	55
Purchase Tax on sugarcane	161	36	197	103	94	52
Entry Tax	0	79	79	79	0	100
Lease Tax	225	0	225	0	225	0
Luxury tax	899	712	1,611	456	1,155	28
Tax on works contracts	3,601	39	3,640	356	3,284	10
<b>Total</b>	<b>89,170</b>	<b>3,59,357</b>	<b>4,48,567</b>	<b>2,49,310</b>	<b>1,99,257</b>	<b>55.58</b>

Source: Information furnished by the Department

It can be seen that the pendency of cases to be assessed rose by 123 *per cent* from 89,170 cases as on 1 April 2017 to 1,99,257 cases as on 31 March 2018. The cases numbering 5,767 pertaining to the Bombay Sales Tax Act and other Allied Acts have remained unassessed as on 31 March 2018.

### 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected under major heads of revenue, cases finalised and additional demands raised as reported by the concerned Departments are given in **Table 1.4**.

**Table 1.4**

(₹ in crore)						
Head of revenue	Number of cases					Additional demand raised with penalty, etc.
	Pending as on 31 March 2017	Detected during 2017-18	Total	Investigation completed	Pending for finalisation as on 31 March 2018	
Taxes on Sales, Trade, etc.	2,193	2,816	5,009	3,287	1,722	3,801.17
State Excise	3	1	4	4	---	2.73
Stamps and Registration fees	7,464	11,287	18,751	10,352	8,399	311.45
Taxes on Vehicles	67	10	77	12	65	0.19
<b>Total</b>	<b>9,727</b>	<b>14,114</b>	<b>23,841</b>	<b>13,655</b>	<b>10,186</b>	<b>4,115.54</b>

Source: Information furnished by the Departments

As seen from the above table the Departments completed investigation in 13,655 cases (57 per cent of total cases) and raised additional demand with penalty etc. of ₹ 4,115.54 crore.

### **1.5 Response of the Government/Departments towards audit**

The Principal Accountant General (Audit)-I, Mumbai (PAG) and the Accountant General (Audit)-II, Nagpur (AG) conduct periodical inspections of the Government departments to test check transactions of the tax and non-tax receipts and verify the maintenance of important accounting and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG/AG within one month from the date of issue of the IRs. The offices of the PAG/AG report serious financial irregularities to the heads of the Department and the Government. Half yearly reports are sent to the Secretaries of the concerned departments in respect of the pending IRs to facilitate the monitoring of audit observations.

Scrutiny of IRs issued up to December 2017 disclosed that 10,294 audit observations involving ₹ 3,406.94 crore relating to 4,357 IRs remained outstanding at the end of June 2018. Details of the same along with the corresponding figures for the preceding two years are mentioned in **Table 1.5**.

Table 1.5

Particulars	June 2016	June 2017	June 2018
Number of IRs pending for settlement	5,385	4,423	4,357
Number of outstanding audit observations	12,650	10,888	10,294
Amount of revenue involved (₹ in crore)	3,967.76	3,164.96	3,406.94

**1.5.1** The department-wise details of the IRs issued up to 31 December 2017 and audit observations outstanding as on 30 June 2018 and the amounts involved are mentioned in **Table 1.5.1**.

Table 1.5.1

(₹ in crore)					
Sr. No.	Name of the Department	Nature of receipts	Number of out-standing IRs	Number of outstanding audit observations	Money value involved
1	2	3	4	5	6
1	Home	State Excise	78	138	4.79
2		Taxes on vehicles	325	1,006	111.53
3		Police Receipts (Non-Tax)	3	3	2.37
4	Revenue and Forest	Land Revenue	584	1,087	896.60
5		Entertainments Duty	318	588	25.25
6		Stamps and registration fees	1,277	2,854	825.47
7		Forest Receipts (Non-Tax)	7	13	18.95
8	Finance	Taxes on Sales, Trade etc.	1,315	3,956	301.50
9		Taxes on Profession, etc.	107	147	2.53
10	Industries, Energy and Labour	Taxes and duties on Electricity	48	82	4.04
11	Urban Development	Education Cess and Employment Guarantee Cess	138	210	1,189.69
12		Maharashtra Tax on Buildings (with larger Residential Premises)	98	134	7.59
13	Housing	Repair Cess	22	32	16.63
14	Water Resources	User Charges (Non-Tax)	34	38	0.00
15	Public Works	Non-Tax Receipts	4	6	0.00
<b>Total</b>			<b>4,357</b>	<b>10,294</b>	<b>3,406.94</b>

The first replies in respect of each IR though required to be received from the concerned Head(s) of Office(s) within one month from the date of issue of the IRs, were not received for 200 IRs issued up to 31 December 2017. The pendency of the IRs due to non-receipt of the replies is indicative of the fact that the Head(s) of Office(s) and the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG/AG in the IRs.

The Government may consider issuing instructions to the concerned Head(s) of the Office(s) for furnishing first replies to the IRs issued by the PAG/AG within the stipulated period of one month and take appropriate steps for settlement of the audit observations raised in these IRs.

### **1.5.2 Departmental Audit Committee Meetings**

The Government had set up Audit Committees during various periods to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the Audit Committee Meetings (ACMs) held during the year 2017-18 and the paragraphs settled are mentioned in **Table 1.5.2**.

**Table 1.5.2**

(₹ in crore)						
Sr. No.	Department	Nature of receipts	Number of meetings held	Number of paras discussed	Number of paras settled	Amount
1	2	3	4	5	6	7
1	Home	Taxes on Vehicles	1	183	31	0.74
2	Revenue and Forests	Stamps and Registration Fees	2	554	411	80.34
3		Land Revenue	2	313	259	113.21
4	Finance	Taxes on Sales, Trade, etc.	3	551	446	44.38
5		Taxes on Professions	1	56	35	0.25
<b>Total</b>			<b>9</b>	<b>1,657</b>	<b>1,182</b>	<b>238.92</b>

Thus, it would be seen from the above that 1,182 paragraphs involving ₹ 238.92 crore were got settled in the Departmental meetings. The Government may advise the concerned departments to increase the frequency of conducting these meetings so that more paragraphs can be discussed in the meetings and taken to their logical ends by way of settlement.

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

The draft audit paragraph(s) proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the PAG/ AG to the Principal Secretaries/Secretaries of the concerned Departments, drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of reply from the concerned departments/Government is indicated at the end of each paragraph included in the Audit Report.

Fifty three draft paragraphs (clubbed into 19 paragraphs) were sent to the Principal Secretaries/Secretaries of the respective departments between May 2018 and March 2019. The Principal Secretaries/ Secretaries of the departments did not send replies to these draft paragraphs and therefore, these were included without the response of the Government.



### 1.5.4 Follow-up on Audit Reports - summarised position

**Position of explanatory memoranda:** According to the instructions issued by the Finance Department, all the departments are required to furnish explanatory memoranda, duly vetted by Audit, to the Maharashtra Legislative Secretariat, in respect of paragraphs included in the Audit Reports, within three months of their being laid on the table of the House. However, explanatory memoranda in respect of 61 Audit Report paragraphs included in Audit Reports from 2010-11 onwards have not been received till date as shown below in Table 1.5.4(A).

**Table 1.5.4(A)**

Department	Audit Report Paragraphs					Total
	2010-11 to 2012-13	2013-14	2014-15	2015-16	2016-17	
Revenue and Forest	7	1	---	12	16	<b>36</b>
Urban Development	---	1	1	---	---	<b>2</b>
Finance	---	---	---	---	10	<b>10</b>
Home	1	1	---	2	7	<b>11</b>
Industry, Energy and Labour	1	---	---	---	---	<b>1</b>
Co-operation	---	---	---	1	---	<b>1</b>
<b>Total</b>	<b>9</b>	<b>3</b>	<b>1</b>	<b>15</b>	<b>33</b>	<b>61</b>

**Position of Action Taken Notes (ATNs):** With a view to ensuring accountability of the executive in respect of all the issues dealt within the Audit Reports, the PAC lays down in each case, the period within which ATNs on its recommendations should be sent. However, ATNs for 300 recommendations included in 14 Reports of the Public Accounts Committee from the year 2007-08 onwards have not been received from the concerned Departments as given in Table 1.5.4(B).

**Table 1.5.4(B)**

Sr. No.	PAC Report No.	Audit Reports discussed	No. of recommendations for which ATNs are awaited
1	2	3	4
1	6 <sup>th</sup> Report of 2007-08	1998-99	31
2	12 <sup>th</sup> Report of 2008-09	2000-01, 2002-03	22
3	5 <sup>th</sup> Report of 2010-11	2003-04	30
4	6 <sup>th</sup> Report of 2010-11	2004-05	28
5	7 <sup>th</sup> Report of 2010-11	2005-06	34
6	15 <sup>th</sup> Report of 2012-13	2006-07	17
7	16 <sup>th</sup> Report of 2012-13	2007-08	15
8	2 <sup>nd</sup> Report of 2015-16	2008-09	1

1	2	3	4
9	9 <sup>th</sup> Report of 2015-16	2010-11	8
10	15 <sup>th</sup> Report of 2015-16	2013-14	20
11	16 <sup>th</sup> Report of 2015-16	2010-11	14
12	26 <sup>th</sup> Report of 2015-16	Standalone Report on "Government Land given on lease"	19
13	33 <sup>rd</sup> Report of 2017-18	2011-12	17
14	37 <sup>th</sup> Report of 2017-18	2012-13	44
<b>Total</b>			<b>300</b>

The Department-wise and Audit Report-wise breakup of the 300 awaited ATNs are given in **Table 1.5.4 (C)**.

**Table 1.5.4 (C)**

Name of the Department	Year of Audit Report (ATNs not received)						Total ATNs not received
	Up to 2009-10	2010-11	2011-12	2012-13	SA GLL	2013-14	
1	2	3	4	5	6	7	8
Revenue and Forests	51	22	13	24	18	15	143
Finance	35	---	---	---	---	5	40
Home	24	---	4	20	---	---	48
Water Resources	16	---	---	---	---	---	16
Industries, Energy and Labour	12	---	---	---	---	---	12
Urban Development	8	---	---	---	1	---	9
Co-operation, Marketing and Textiles	10	---	---	---	---	---	10
Public Health	8	---	---	---	---	---	8
Public Works	4	---	---	---	---	---	4
Medical Education and Drugs	6	---	---	---	---	---	6
Housing	4	---	---	---	---	---	4
<b>Total</b>	<b>178</b>	<b>22</b>	<b>17</b>	<b>44</b>	<b>19</b>	<b>20</b>	<b>300</b>

### **1.6 Analysis of the mechanism for dealing with the issues raised by Audit in the Revenue and Forests Department**

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

The succeeding paragraphs 1.6.1 to 1.6.2 discuss the performance of the Revenue and Forests Department under revenue head- “Stamps and Registration Fees” in respect of cases detected in the course of local audit during the years from 2008-09 to 2017-18 as well as those included in the Audit Reports during the last 10 years, i.e. 2007-08 to 2016-17.

### 1.6.1 Position of Inspection Reports

The summarised position of Inspection Reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2018 are shown in **Table 1.6.1**.

**Table 1.6.1**

(₹ in crore)												
Year	Opening Balance			Additions during the year			Clearance during the year			Closing balance during the year		
	IRs	Para	Money value	IRs	Para	Money value	IRs	Para	Money value	IRs	Para	Money value
2008-09	1,271	1,506	283.47	202	479	94.01	111	401	20.54	1,362	1,584	356.94
2009-10	1,362	1,584	356.94	226	558	35.41	60	272	7.01	1,528	1,870	385.34
2010-11	1,528	1,870	385.34	219	534	13.82	82	271	16.87	1,665	2,133	382.29
2011-12	1,665	2,133	382.29	165	481	145.96	69	413	103.20	1,761	2,201	425.05
2012-13	1,761	2,201	425.05	181	507	194.31	197	798	34.63	1,745	1,910	584.73
2013-14	1,745	1,910	584.73	190	372	91.19	169	519	117.17	1,766	1,763	558.75
2014-15	1,766	1,763	558.75	216	716	139.44	83	296	9.18	1,899	2,183	689.01
2015-16	1,899	2,183	689.01	200	583	6,479.96	39	185	5.96	2,060	2,581	7,163.01
2016-17	2,060	2,581	7,163.01	221	545	117.18	178	705	6,386.05	2,103	2,421	894.14
2017-18	2,103	2,421	894.14	164	442	94.84	211	712	91.80	2,056	2,151	897.18

The Government had set up Audit Committees (during various periods) to monitor and expedite the progress of clearance of IRs and paragraphs in the IRs. The outstanding paras are also pursued through periodic references to the concerned offices and also through field parties which visit these offices for audit in the subsequent years. Regular meetings apart from Audit Committee Meetings are also held with heads of the offices for discussion of those issues wherein the departmental views do not concur with the audit observations.

The number of IRs, paragraphs and the amount pending settlement during the last 10 years has shown an increasing trend, with an amount of ₹ 897.18 crore pending settlement in 2,151 paragraphs contained in 2,056 IRs.

The Department may continue its efforts in making use of its machinery created for settlement of the outstanding audit observations so that the outstanding IRs, paragraphs and the amounts are considerably reduced.

### 1.6.2 Position of recovery of accepted cases in Audit Reports

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table 1.6.2**.

**Table 1.6.2**

(₹ 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 up to 31/03/2017
1	2	3	4	5	6
2007-08	4	145.10	4	145.10	0.11
2008-09	6	3.39	6	3.39	0.12
2009-10	6	4.97	6	4.97	0.02
2010-11	7	5.18	7	5.18	0.41
2011-12	12	14.58	12	14.58	1.46
2012-13	8	5.13	8	5.13	1.83
2013-14	8	6.66	8	6.66	0.54
2014-15	9	27.68	9	27.68	6.80
2015-16	8	44.57	8	44.57	0.00
2016-17	7	16.20	7	16.20	0.00
<b>Total</b>	<b>75</b>	<b>273.46</b>	<b>75</b>	<b>273.46</b>	<b>11.29</b>

The above table indicates that the recovery was only four *per cent* of the total accepted cases during the last ten years. The Government may instruct the concerned Department to make more efforts for recovery of the amounts at least in those cases which have been accepted by the Department. These may be considered to be recovered as arrears of land revenue.

## **1.7 Audit Planning**

The auditee unit under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in Government revenues and tax administration i.e. budget speech, 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, features of the tax administration, audit coverage and its impact during past five years, etc.

Out of 2,116 auditable units, 559 units were planned for audit during 2017-18 and against which 557 units were audited during the year. In addition to this, one Performance Audit was conducted during the year to ascertain the efficiency and efficacy of the tax administration in realisation of the revenues.

## 1.8 Results of audit

### Position of local audit conducted during the year

Test check of the records of 557 units of Maharashtra Value Added Tax, State Excise, Taxes on Vehicles, Stamps and Registration Fees, Land Revenue and other tax and non-tax receipts conducted during the year 2017-18 revealed under assessments/short levy/loss of revenue aggregating to ₹ 496.01 crore in 2,363 observations. During the course of the year, the concerned Departments accepted under assessment and other deficiencies of ₹ 53.73 crore involved in 1,525 observations which were pointed out in audit during 2017-18 and earlier years. The departments recovered ₹ 50.73 crore in 1,476 observations during 2017-18, pertaining to audit findings of 2017-18 and of previous years. In addition to this, four departments also intimated recovery of ₹ 4.28 crore by way of explanatory memoranda in respect of nine paragraphs of Audit Reports 2011-12 and 2012-13.

### Coverage of this Report

This Report contains 19 paragraphs. The total financial impact of the paragraphs is ₹ 221.33 crore. The departments have accepted observations in 13 paragraphs involving ₹ 23.17 crore. The departments have recovered ₹ 5.44 crore up to August 2019 which was in addition to the recoveries made through local audit Inspection Reports during the year 2017-18.

Thus, the total recoveries made at the instance of audit during the year aggregated ₹ 60.41 crore. These are discussed in Chapters II to VI.

## CHAPTER II

### TAXES ON SALES, TRADE, ETC.

#### 2.1 Tax administration

Levy and collection of Value Added Tax (VAT) receipts is governed by the Maharashtra Value Added Tax Act, 2002 (MVAT Act), Maharashtra Value Added Tax Rules, 2005 (MVAT Rules), notifications and instructions issued by the Government from time to time.

The Sales Tax Department renamed as Goods and Services Tax Department (GST) from 01 July 2017 functions under the administrative control of the Additional Chief Secretary, Finance Department (ACS FD) at the Government level. The Commissioner of State Tax, Maharashtra State (CST) heads the Department and is assisted by a Special Commissioner of State Tax/Additional Commissioners/Joint Commissioners (JCs)/Deputy Commissioners (DCs)/Assistant Commissioners (ACs) and State Tax Officers (STOs) at various levels. There were 13 divisions dealing with registration, assessment and collection of the taxes in the Department.

The MVAT Act came into force with effect from 1 April 2005. Prior to the introduction of the MVAT Act, the assessment, levy and collection of Sales Tax was governed by the Bombay Sales Tax Act, 1959 (BST Act) which was repealed with effect from 1 April 2005. With effect from 1 July 2017, tax payable on sales and services of all goods (except petroleum products and alcoholic drinks) is governed by the Maharashtra Goods and Services Tax Act, 2017. Taxation of petroleum and alcoholic products still continues to be governed under the MVAT Act.

#### 2.2 Internal Audit

The Department has an Internal Audit wing (IAW) headed by the Joint Commissioner of State Tax (Internal Audit).

Information regarding position of cases selected for internal audit and actually audited as furnished by the Department is mentioned in **Table 2.2**.

**Table 2.2**

Year	No. of cases selected for audit by IAW	No. of cases audited by IAW	Audit observations raised By IAW	Audit observations settled till date	Audit observations pending as on 31 March of the year
2013-14	16,695	18,628	5,808	4,982	826
2014-15	13,140	17,209	5,028	3,856	1,172
2015-16	15,660	17,086	4,312	2,808	1,504
2016-17	15,055	18,197	4,185	1,550	2,635
2017-18	17,350	25,673	5,288	3,215	2,073
<b>Total</b>	<b>77,900</b>	<b>96,793</b>	<b>24,621</b>	<b>16,411</b>	<b>8,210</b>

Source: Information furnished by the Department

During the last five years, the number of cases actually audited have exceeded the number of cases planned to be audited. The Department has settled 67 per cent of the observations raised by IAW.

### 2.3 Results of audit

There are 351 auditable units in the Goods and Services Tax Department, out of these, audit selected 204 units for test check wherein 39,793 assessments were finalised. Out of these, audit test checked 37,615 assessments (approx. 95 per cent) during the year 2017-18 and noticed irregularities/omissions in 1,101 cases (2.93 per cent of the selected sample), relating to non/short levy of tax/interest/penalty, irregular/excess grant of set-off of tax, non-submission of declaration forms, etc. involving amount of ₹ 21.34 crore.

Audit pointed out some of the similar omissions in earlier years also, but not only do these irregularities persist but also remain undetected till the next audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly categorized as follows-

Table 2.3

(₹ in crore)			
Sr. No.	Category	No. of observations	Amount
1	Audit on "Assessment of dealers-Builders/Developers under VAT Act"	1	9.82
2	Audit on "Preparedness for transition to Goods and Services Tax"	1	0.00
3	Non/short levy of tax	122	6.08
4	Incorrect grant/excess set-off of tax	107	0.20
5	Non/short levy of interest/penalty	319	3.52
6	Non-forfeiture of excess collection of tax	11	0.03
7	Other irregularities like non submission of declaration forms, computation errors etc.	540	1.69
<b>Total</b>		<b>1,101</b>	<b>21.34</b>

- The Department accepted underassessment and other deficiencies of ₹ 4.45 crore in 122 observations which were pointed out during 2017-18 and in earlier years.
- The Department also recovered an amount of ₹ 2.16 crore during 2017-18. Of these, an amount of ₹ 2.02 crore pertained to observations pointed out in earlier years.

A few illustrative cases involving ₹ 15.01 crore including paragraphs on "Assessment of dealers - Builders/Developers under VAT Act" and "Preparedness for transition to Goods and Services Tax" are discussed in the succeeding paragraphs.

## **2.4 Audit on “Assessment of dealers - Builders/Developers under VAT Act”**

### **Introduction**

Maharashtra Value Added Tax Act, 2002 (MVAT Act) and the Maharashtra Value Added Tax Rules, 2005 (MVAT Rules) framed there under governed the levy and collection of Value Added Tax (VAT) on the sale of goods made by Builders and Developers with effect from 20 June 2006.

The transfer of property involved in the execution of works contract (including an agreement for carrying out for cash or deferred payment) in the form of goods or in some other form, the building, construction, manufacture, processing, fabrication, erection, installation fitting out, improvement, modification, etc., was defined as Sale under Section 2(24) of the MVAT Act (amended by a legislative amendment dated 20 June 2006). Thus, the transactions carried out by the Builders and Developers (B&Ds) in the form of sale of flats etc. were liable to be taxed with effect from that date.

The Builders and Developers challenged (2007) the constitutional validity of the amendment before the Bombay High Court. But the amendment was upheld by the Bombay High Court on 10 April 2012 and later by the Supreme Court of India on August 2012. The Apex court while pronouncing the judgment (in favour of the Government on August 2012) had however, stayed coercive recovery of tax, interest and penalty and had directed the petitioners (B&Ds) to pay tax under MVAT Act on or before 31 October 2012. The B&Ds started filing the returns from the said date (31 October 2012) and the Department started finalising the assessments of Builders and Developers (B&Ds) from 2014-15 onwards.

### **Procedure of Assessment of B&Ds**

Rule 58 of MVAT Rules determines the sale price and purchase price of sale by transfer of property, in the form of goods or otherwise, involved in the execution of a works contract. Liability of tax payable by the B&Ds on under-construction property is assessed after allowing the following deductions from the sale value of the property.

1. Cost of land determined as per the provision of Rule 58(1A) of MVAT Rules in accordance with the annual statement of rates. The cost of land shall be the same, as the value of land for stamp duty purposes as applicable on the 1<sup>st</sup> January of the year of registration of agreement to sale.
2. Amounts paid to sub-contractors provided the sub-contractors are liable for tax on their turnover.
3. Cost of labour and services relating to the said works including service tax collected separately and service charges etc. or standard deduction @ 30 *per cent*, as per the provision of Rule 58(1) of MVAT Rules.

The value of the goods at the time of transfer is worked out after allowing the aforesaid deductions from the total agreement value of the property and tax is levied at the rates prescribed in the MVAT Act. The dealer is also eligible to claim Input Tax Credit on the material consumed in the contract such as, cement, steel, bricks, etc.



The dealer could opt for composition scheme and pay tax at a flat rate of one *per cent* on the agreement value also called sale value with effect from 01 April 2010. However, the dealer who had opted for composition scheme was neither eligible for any deductions from his sale turnover nor was he entitled to Input Tax Credit (ITC) on the purchase(s) made by him. Prior to 01 April 2010, the rate of tax was five *per cent*, with retention of ITC claim up to four *per cent*.

### Audit objective

Audit was conducted to ascertain whether-

- all Builders and Developers that had crossed the threshold limit<sup>1</sup> for registration in the state were identified and registered with the Department, and
- a proper mechanism existed in the Department for monitoring the assessment, levy and collection of taxes payable by the Builders and Developers.

### Scope and methodology of audit

The audit of assessment cases of Builders and Developers (B&Ds) was conducted from 3 January 2018 to 30 June 2018. Eight divisions<sup>2</sup> out of the 13 divisions of the Department were selected by audit for detailed scrutiny. The divisions were selected on the basis of maximum tax revenue receipts and covered 97.42 *per cent* of total tax receipts from B&Ds during 2014-15 to 2017-18.

The Department had finalised 5,787 assessment cases of 3,335 B&Ds during 2014-15 to 2017-18. Of these, 2,458 assessment cases of 2,057 B&Ds were selected for detailed scrutiny. The Department produced 1,231 assessment cases (50.08 *per cent*) of 870 B&Ds for audit scrutiny. Audit noticed discrepancies in 142 assessment cases involving 99 B&Ds, which was 11.54 *per cent* of the test checked cases produced for audit scrutiny.

Goods and Services Tax (GST) was introduced with effect from 1 July 2017 and the Department shifted to new electronic SAP system. The function of the Maharashtra Vikrikar Automation System (MAHAVIKAS) was stopped from April 2018. The MAHAVIKAS data for the period under audit was not made available audit, as such the cross verification of the manual records with MAHAVIKAS data could not be carried out.

### Audit findings

Audit scrutiny of 1,231 assessment cases of 870 B&Ds revealed discrepancies in 142 assessment cases of 99 B&Ds. Of these, short realisation of revenue of ₹ 9.82 crore was found in 62 assessment cases of 46 B&Ds. These are mentioned in the succeeding paragraphs.

<sup>1</sup> The threshold turnover for registration of a Builder & Developer (B&D) as a dealer was ₹ five lakh up to 25 June 2014 and thereafter was ₹ 10 lakh.

<sup>2</sup> Aurangabad, Kolhapur, Mumbai, Nashik, Pune, Raigad, Thane City and Thane Rural.

### **2.4.1 Registration of B&Ds**

As per the MVAT Act, every dealer whose sales turnover crossed the threshold limit (monetary limit) defined in the Act should be registered under the Act. Under section 3(4) of the MVAT Act, the threshold turnover for registration of a Builder & Developer (B&D) as a dealer was ₹ five lakh up to 25 June 2014 and thereafter was ₹ 10 lakh. Under Section 66 of the MVAT Act, the Department was also required to conduct a survey for identification of the unregistered dealers whose sales turnover had crossed the threshold limit. The Commissioner in his Trade Circular dated 6 August 2012 issued under the MVAT Act directed that all the B&Ds should register themselves up to 15 October 2012 and make payment of the tax up to 30 October 2012. During the course of audit it was found that the Department had registered only those B&Ds who had voluntarily come forward for registration.

Audit called for the details of the B&Ds who had completed their construction works projects in the Municipal Corporation of Greater Mumbai<sup>3</sup>. The Corporation furnished a list of the B&Ds who had completed their projects but did not furnish their sales turnover. As per the list, 99 B&Ds had completed their projects in the district of Greater Mumbai.

Cross verification of the details with the records in Sales Tax Department<sup>4</sup> revealed that 53 B&Ds out of these 99 B&Ds were not registered with the Department. The Department had, at no time, made any effort to find out the turnover of each such dealer to bring him under tax net. The Corporation also did not intimate the reason(s) for allotting the works to these unregistered dealers. Audit noticed that the Department had not conducted any surveys either by way of inspections or by cross verification of the data with other departments/corporations etc. for identification and registration of the B&Ds.

Since the transactions of the B&Ds are usually high valued, the Department should have ensured their eligibility for registration by conducting surveys at regular intervals to prevent the possible loss of revenue to the Government.

The fact was communicated to the Department in August 2018; their reply has not been received (October 2019).

### **2.4.2 Verification of deduction on account of cost of land**

**2.4.2.1** As per provision of Rule 58(1A) of MVAT Rules, while determining the sale price of goods transferred under a construction contract, which the land/ interest in land, underlying the immovable property is to be conveyed along with immovable property, the B&D is eligible for deduction of value of land from the total agreement value. The cost of the land is determined in accordance with the guidelines appended to the Annual Statement of Rates prepared under the provisions of the Bombay Stamp Rules 1995.

It was observed in 14 B&D cases that the assessing officers allowed deduction of ₹ 77.59 crore on account of cost of land. There was nothing on record to indicate that the assessing officers had verified the correctness of the claims.

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<sup>3</sup> The Corporation was responsible for issue of "Completion Certificate/Occupancy Certificate" to the construction projects completed by the B&Ds in its jurisdictional area.

<sup>4</sup> Renamed as Goods and Services Tax Department from 01 July 2017.

In one case the assessing officer allowed deduction on account of cost of land twice, i.e. ₹ 15.09 crore during 2008-09 and ₹ 6.77 crore during 2009-10. The basis on which it was allowed was not found on record.

On this being brought to notice, the assessing officer concerned rechecked the facts and rectified (November 2018) the mistakes. It allowed deduction of ₹ 3.71 crore on account of cost of land instead of ₹ 21.86 crore and raised demand of ₹ 2.99 crore.

**It is recommended that the Department may be advised to keep a record of the documents checked for allowing the deductions and ensure that deduction allowed to a dealer are correct.**

#### **2.4.2.2 Verification of payments of tax into the Government treasury deduction under sub-contract:**

Audit found in six B&D cases that the assessing officers allowed deductions amounting to ₹ 81.62 crore to the principal contractors on account of the payments made by sub-contractors on production of Form 407 and 408 in accordance with Section 45 of MVAT Act. However, in none of these cases, cross verification for actual payment of tax with the treasury records was ensured. It could not also be checked by audit on MAHAVIKAS as the system was not functioning. The Department may develop a system of cross verification of the payments made by the sub-contractors.

The matter was brought to the notice of the Department, their reply has not been received.

#### **2.4.3 Allowance of excess standard deduction**

**2.4.3.1** As per the provisions of Rule 58(1) of MVAT Rules, while determining the sale price of goods transferred in a works contract, deductions for labour and service charges for the execution of works, amounts paid by way of price for sub-contract to subcontractors, hire charges for machinery and tools, cost of consumables such as electricity, water fuel, etc., cost of establishment relating to supply of labour and services and profit thereon, are allowed as per actual expenses. Further as per proviso thereunder, if the contractor has not maintained accounts, a lump sum standard deduction is allowed, which is @ 30 per cent in case of construction contracts.

The turnover of four dealers for five periods<sup>5</sup> was ₹ 44.74 crore. As per the assessment orders (the dealers had not maintained the accounts for claiming the deductions) they were entitled to lump sum standard deduction of ₹ 13.43 crore against which deduction ₹ 15.16 crore was allowed. This resulted in grant of excess allowance of standard deduction of ₹ 1.73 crore involving short levy of tax of ₹ 15.47 lakh.

On this being brought to notice, the assessing officers concerned intimated that in two cases the observations had been forwarded to the appellate authorities for taking the irregularity into cognizance at the time of deciding the appeals. Reply in the remaining cases has not been received.

<sup>5</sup> 2009-10, 2010-11, 2007-08, (2007-08 and 2008-09).

**2.4.3.2** As per Rule 58(1) and 58(1A) cost of land and the amount paid to the sub-contractor are deducted from the agreement value (Gross Turn Over) for working out the contract price (net taxable sales) of a contract. Standard deduction @ 30 per cent is admissible<sup>6</sup> on contract price (Net taxable sales) of a contract.

In one case, it was noticed that a dealer claimed deductions aggregating to ₹ 53.71 crore on account of sub-contracts (₹ 31.39 crore), standard deduction @ 30 per cent (₹ 13.29 crore) and land cost (₹ 9.03 crore) respectively, in his Audit Report (Form 704) for the year 2008-09. The dealer had claimed standard deduction before the deduction of cost of land from the Gross Turn Over which was contrary to the recitals of the Note below Rule 58(1) of the MVAT Rules. This resulted in the understatement of the taxable turnover of ₹ 2.71 crore and consequent short levy of tax of ₹ 22 lakh as follows -

(₹ in crore)		
Particulars	Allowed by department	Admissible under the Act
Gross turnover of sales	75.71	75.71
Deductions: Sub-contract	31.39	31.39
Standard deduction allowed 30% of ₹ 44.32 crore (GTO of sales of ₹ 75.71 crore – payment made to sub-contractor ₹ 31.39 crore)	13.29	-
Land Cost	9.03	9.03
Standard deduction admissible 30% of ₹ 35.29 crore (GTO of sales of ₹ 75.71 - payment made to sub-contractor ₹ 31.39 crore - cost of land ₹ 9.03 crore)	-	10.58
Net Taxable sales	21.99	24.70
Tax	1.67	1.89
Short levy of tax	0.22 crore	

This mistake resulted in short levy of ₹ 22 lakh for the year 2008-09. On this being brought to notice, the assessing authority accepted the audit observation and stated that the case for the period 2008-09 has been taken up for review.

We also noticed that the dealer had been assessed for the year 2009-10, wherein he had claimed standard deduction before deducting land cost. This omission was pointed out to the Department. However, the Department stated that the assessment for the year 2009-10 had been cancelled and the remarks of audit will be considered at the time of re-assessment.

It is recommended that the Department may consider revising all such cases in the interests of revenue.

<sup>6</sup> As per Note below Rule 58(1) of the MVAT Rules, the percentage of standard deduction shall be applied after deducting (i) the cost of land determined under Rule 58(1A), and (ii) the value of sub contract(s) on which tax has been paid by the subcontractor(s).

## 2.4.4 Non/short levy of interest

**2.4.4.1 Interest on delayed payment of taxes:** As per Section 30(2) of the MVAT Act, a registered dealer who has failed to pay the tax within the specified time, shall be liable to pay by way of simple interest, in addition to the amount of such tax, a sum calculated at the prescribed rate on the amount of such tax for each month or part thereof after the last date by which he should have paid such tax.

We noticed in 17 cases that the dealers had paid taxes along with returns for various periods from 2007-08 to 2011-12 with delays ranging from one to 98 months. However, the concerned assessing officers either did not levy the interest or levied it short. The non/short levy of interest worked out to ₹ 4.08 crore under Section 30(2).

On this being brought to notice, the Department accepted the short levy in three cases and raised additional demand of ₹ 14.33 lakh against which an amount of ₹ 1.55 lakh was recovered in one case. Reply in the remaining cases has not been received.

**2.4.4.2 Interest on assessed dues:** As per Section 30(3) of MVAT Act, any registered dealer, in whose case any tax remained unpaid up to one month after the end of the period of assessment, shall be liable to pay by way of simple interest, a sum calculated at the prescribed rate on the amount of such tax for each month or part thereof, from the date following the last date of the period covered by an order of assessment, till the date of the order of assessment.

We noticed in 12 cases that the dealers were assessed to tax dues amounting to ₹ 5.57 crore in respect of various assessment periods from 2006-07 to 2013-14. The assessments had been carried out 48 to 122 months after the end of the assessment periods. The interest leviable in these cases amounted to ₹ 8.31 crore. The concerned assessing officers incorrectly worked out the interest due to arithmetical mistakes etc. and levied interest amounting to ₹ 6.68 crore. The omission resulted in short levy of interest by ₹ 1.64 crore.

On this being brought to notice, the Department accepted the short levy in two cases and raised additional demand of ₹ 2.52 lakh in these cases, against which an amount of ₹ 2.05 lakh was recovered in one case. Reply in the balance cases has not been received.

### Case study

#### **Non/short realisation of interest in an assessment of a dealer is discussed as follows:-**

It was observed that assessment for the period 2009-10 was selected for the dealer by the Department. Scrutiny of records revealed that while finalising the assessments (September 2017) for the period 2009-10 the assessing officer has taken into account the tax dues paid by the dealer for the years 2006-07 to 2008-09 in October 2012 and June 2013. These assessment periods (2006-07 to 2008-09) were not selected for finalising the assessment of these years but were selected to check the tax paid by the dealer for the year 2009-10.

Audit found the dealer had not paid the tax regularly along with his returns for the above periods, as such, he was liable to pay interest of ₹ 51.44 lakh under section 30(2) of the MVAT Act against which the Assessing officer incorrectly worked out ₹ 3.73 lakh. Thus, demand of ₹ 47.71 lakh was raised short.

After this being pointed out (October 2018) the assessing authority (AA) stated (October 2018) that since assessment were not initiated for the periods 2006-07, 2007-08 and 2008-09, the question of levy of interest did not arise.

The reply of the AA was not correct since the AA had finalised the assessment for the year 2008-09 after taking into account the tax dues of the earlier periods. A refund of ₹ 0.68 lakh was allowed for the year 2008-09 and adjusted against the dues of 2009-10. Had the interest been worked out correctly the refund amount would have been reduced to that extent.

The reply of the AA further indicates the need for finalisation of the assessments of all these periods in a sequential year wise order so that the tax dues payable by B&Ds dealers are worked out correctly.

#### **Interest payable under section 30(3) of the Act**

The dealer was also liable to pay interest under section 30(3) of the Act from the date of filing the return to the date of payment of tax (to be worked out at the time of completing the assessments for the respective periods). Since the assessments were not finalised, the exact amount of interest payable by the dealer could not be worked out by audit, however it was found the dealer was liable to pay interest of ₹ 52.02 lakh up to the September 2017<sup>7</sup>.

The above fact reveal that since the sale of flats in each project is spread over a number of years, the assessments of each B&Ds should be taken up in a chronological year wise order to ensure correct levy and collection of tax.

**It is recommended that the Government may advise the Department to complete the assessment of each B&Ds in a chronological year wise order so that there are no gaps in completing the assessments.**

#### **2.4.5 Non levy/short levy of penalty on delayed submission of Audit Reports**

As per Section 61(1) of the MVAT Act, 2002 every dealer liable to pay tax, shall get his accounts in respect of such year audited by a Chartered Accountant within the prescribed period from the end of that year and submit the report of audit within 10 months of the year to which report relates, failing which, under Section 61(2) the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to one tenth *per cent* (0.1 *percent*) of the total sales.

We observed in 20 cases of 15 dealers that the dealers had not filed the Audit Reports within the stipulated period, however, the Department had either not levied the penalty or had levied it short. This resulted in non/short realisation of penalty amounting to ₹ 47.69 lakh.

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<sup>7</sup> The month of finalisation of assessment for the year 2009-10.

After this was brought to notice, the Department recovered ₹ 0.28 lakh in two cases. In another case involving penalty of ₹ 18.74 lakh orders to recover the penalty were issued. Replies in the remaining cases have not been received.

#### **2.4.6 Levy of tax on consideration not covered under composition**

The B&Ds were assessed in regular taxation up to 2009-10, either based on the agreements executed during that particular year or based on actual receipts made during that year in respect of sales up to that year. From 2010-11 onwards as per Section 42(3)A of MVAT Act, they could opt for composition tax @ one *per cent* on the total agreement cost or market value, whichever is higher in that year.

We observed in two cases in Kolhapur and Raigad Divisions that, the B&Ds were assessed up to 2009-10, considering the GTO of sales, based on the actual receipts made during that year on sale of flats up to that particular year, regardless of the total agreement costs executed in that year. During 2010-11, the GTO of sales was considered based on the total agreement costs executed in that year on which composition tax @ one *per cent* was levied.

However, the receipts relating to the agreements executed prior to 2010-11 (for which composition rates were not applicable) was not worked out. As such the correctness of the tax levied could not be ascertained.

We brought the matter to the notice of the Department, their reply has not been received.

#### **2.4.7 Short determination of GTO of sales**

**2.4.7.1** It was observed that a B&D who was also dealing in sale and purchase of cement, had filed (May 2016) an affidavit stating that he had not carried out any sale or purchase activity, except for resale of cement during 2006-07 and 2008-09. The assessing officer concerned accepted the contention of the dealer and determined (October 2016) the GTO of sales and purchases of both these periods as nil. However as per the P&L Accounts of these years the dealer had made the sale of cement valued at ₹ 1.56 crore which was not taken into account for levy of tax by the assessing Authority. This resulted in short levy of tax of ₹ 19.47 lakh. Further interest was also leviable as per the provisions of the MVAT Act.

On this being brought to notice, the assessing officer accepted the audit observation and stated that the case was submitted for review in the light of audit remarks. Further progress in the matter was awaited.

**2.4.7.2** As per Section 42(3)A of MVAT Act, with effect from 1 April 2010, a dealer can opt for composition tax @ one *per cent* on the total agreement cost or market value, whichever is higher.

Audit found in one case that the agreement value of 19 flats was ₹ 4.03 crore and market value was ₹ 11.07 crore. However the assessing officer levied tax of ₹ 4.03 lakh, i.e. @ one *per cent* on agreement value instead of market value, which was higher. This resulted in short levy of tax of ₹ 7.04 lakh.

We brought the matter to the notice of the Department, reply has not been received.

#### **2.4.8 Conclusion and Recommendations**

The Department has not conducted surveys to ensure registration of all the builders and developers. Audit noticed that there was lack of sharing of information between the GST Department and other departments and corporations. Out of 99 B&Ds contractors who had obtained completion certificates in respect of their projects in the Municipal Corporation of Greater Mumbai, 53 dealers were found unregistered with the GST department. The Department had, at no time, made any effort to find out the turnover of each such dealer to bring him under tax net. No effort was made to register the dealers either on collateral basis or on the basis of cross verification of records was made with other departments like IGR, local bodies, Income Tax Department to bring the B&D dealers under tax net whose turnover had exceeded the threshold limit.

- **The Department may conduct surveys of B&Ds in the State, identify URDs and bring them into the tax net. The Department may ensure collection of data of B&Ds from other Departments, Corporations and Local Bodies and make use of it in the registration of these dealers.**

The deductions like cost of land, standard deduction, stage-wise deduction, etc., were being allowed without proper verification.

- **Deduction may be allowed only after proper verification of records, certificates from appropriate authorities, returns and previous Assessment orders passed by the assessing authorities.**



## 2.5 Audit on “Preparedness for transition to Goods and Services Tax”

### Introduction

Goods and Services Tax (GST) was introduced with effect from 1 July 2017. GST<sup>8</sup> is being levied on intra-State supply of goods or services (*except alcohol for human consumption and five specified petroleum products*<sup>9</sup>) separately but concurrently by the Union (CGST) and the States (SGST)/Union territories (UTGST). Further, Integrated GST (IGST) is being levied on inter-State supply of goods or services (including imports) and the Parliament has exclusive power to levy IGST. Prior to implementation of GST, VAT was leviable on intra-State sale of goods in the series of sales by successive dealers as per Maharashtra Value Added Tax (MVAT) Act, 2002 and Central Sale Tax (CST) on sale of goods in the course of inter-State trade or commerce as per CST Act, 1956. The State Government was empowered to regulate the provisions of MVAT Act whereas provisions relating to GST were being regulated by Centre and State on the recommendation of Goods and Services Tax Council (GSTC) which was constituted with representation from Centre and all the States to recommend on the matters related to GST.

Maharashtra Goods and Services Tax Act, 2017 was passed by the State Legislature and published in the Gazette on 15 June 2017. With the implementation of GST in Maharashtra, Value Added Tax and Central Sales Tax levied on sale of goods except crude oil, high speed diesel, motor spirit (Petrol), aviation turbine fuel, natural gas and alcoholic liquor for human consumption; and Entertainments Duty on various classes of entertainments levied by the State, were replaced by GST. Octroi and Local Bodies Tax levied by Urban Local Bodies were also abolished.

The following Acts were repealed on introduction of Maharashtra Goods and Services Tax Act, 2017:

- The Maharashtra Betting Tax Act, 1925
- The Maharashtra Purchase Tax on Sugarcane Act, 1962
- The Maharashtra Advertisements Tax Act, 1967
- The Maharashtra Forest Development (Tax on Sale of Forest Produce by Government or Forest Development Corporation) Act, 1983
- The Maharashtra Tax on Luxuries Act, 1987
- The Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987
- The Maharashtra Tax on Entry of Goods into Local Areas Act, 2002
- The Maharashtra Tax on Lotteries Act, 2006

At the end of January 2019, 10,88,458 taxpayers had been allotted to the Maharashtra GST Department.

<sup>8</sup> Central GST: CGST and State/Union Territory GST: SGST /UTGST.

<sup>9</sup> Petroleum products: crude, high speed diesel, petrol, aviation turbine fuel and natural gas.

### **Organisational Set-up**

Maharashtra GST Department, under the Finance Department of the Government of Maharashtra, is headed by a Commissioner of State Tax who is assisted in his functioning by one Special Commissioner, nine Additional Commissioners and 72 Joint Commissioners. There are 280 audit unit offices headed by Deputy Commissioners. The State is divided into 13 divisions for tax purpose activities each headed by Additional Divisional Commissioner.

### **Audit Objectives**

Audit seeks to determine the preparedness of Maharashtra GST Department to meet the challenges of implementation of GST in relation to:

- Development of IT systems for performing various statutory functions
- Capacity Building
- Migration of existing taxpayers to GST
- Refunds under GST
- Disposal of legacy issues

### **Audit Criteria**

- The Central Goods and Services Tax Act, 2017
- The Maharashtra Goods and Services Tax Act, 2017
- The Integrated Goods and Services Tax, 2017
- The Central Goods and Services Tax Rules, 2017
- The Maharashtra Goods and Services Tax Rules, 2017
- Guidelines/ Instructions/ Circulars/ Orders issued by the Department.

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

The Audit on “Preparedness for transition to Goods and Services Tax” was conducted from April 2018 to October 2018 and was limited only to the Maharashtra GST Department. Audit covered the office of Commissioner of State Tax along with field offices situated in Mumbai. Records of 14 offices out of 127 offices in Mumbai were scrutinized.

### Trend of revenue

The trend of revenue during the last five years is shown in the following table:

(₹ in crore)					
Year	Receipts under pre-GST taxes	Receipt under SGST*	Receipts under Entertain-ments Duty, Luxury Tax, Betting Tax etc. subsumed in GST	Total receipts under pre-GST taxes and GST	Increase in percentage
2013-14	62,530.04	-	2,497.89	65,027.93	-
2014-15	67,466.29	-	1,915.02	69,381.31	6.69
2015-16	69,660.82	-	3,052.65	71,713.47	3.36
2016-17	81,174.17	-	3,472.76	84,646.93	18.03
2017-18	54,893.51	50,063.36	1,553.06	1,06,509.93	25.83

\*including advance apportionment of IGST of ₹ 2,648.00 crore and apportionment of IGST of ₹ 1,486.37 crore by transfer of IGST to SGST.

In addition to the above, the share of net proceeds of taxes received by the State on account of Central Goods and Services Tax (CGST) and Integrated Goods and Services Tax (IGST) was ₹ 522.44 crore and ₹ 3,754.16 crore respectively, and compensation of loss of revenue arising out of implementation of GST received from the Central Government was ₹ 1,488.00 crore.

Thus, the total receipts during 2017-18 on account of “Tax on Sale Trade, etc. receipts under entertainments Duty, Luxury Tax, Betting Tax etc. subsumed in GST” (₹ 56,446.57 crore) and GST (₹ 55,827.96 crore) including State’s share in Union taxes and compensation were ₹ 1,12,274.53 crore.

### 2.5.1 IT preparedness and capacity building efforts by the Department

#### 2.5.1.1 Training to Staff

The Department had made arrangements for training the staff, in order to make them familiar with various provisions of the Goods and Services Taxes. Training was arranged to be imparted to 119 officers for tax laws and 170 officers for Goods and Service Tax Network (GSTN) by the National Academy of Custom, Indirect Tax and Narcotics (NACIN). These 289 officers (called master trainers) trained 5,030 officials in dealing with GST laws and 5,830 officials<sup>10</sup> for dealing with the Goods and Services Tax Network.

It was found that 498 GST campaigns were organised by the Department for making the taxpayers familiar with the GST laws and payment of taxes under the new regime. These taxpayers dealt in various commodities and services like Garment, Steel, Construction, and Retail Food industries etc. Thus, it would be seen that the Department had made good efforts in capacity building both at Departmental and taxpayers levels.

It is recommended that these exercises may continue to educate the stakeholders about the GST laws.

<sup>10</sup> These included some of the tax officials that were trained in GST laws also.

### 2.5.1.2 Administrative Restructuring

The Government decided (June 2018) on restructuring of the GST Department and constituted a committee under the chairmanship of a retired IAS officer, for suggesting recommendations on 19 terms of references. These terms of references *inter alia*, included

- quantification of the present workload and assessing the further growth potential,
- deciding allocation of assessment and adjudication, appeal functions among different cadre of officers,
- revision of Manual of Procedures as per the new law and fixing the staff strength of divisional and regional offices,
- merging and demerging of different functions, nature of function and strength of vigilance branch etc.

The committee submitted its report to the Government on 30 November 2018. The Department intimated (January 2019) that recommendations of the Reorganization Committee were under consideration at the Government level and the change(s) will take place in accordance with the recommendations by issuing necessary orders.

Report on the action taken in this regard has not been received (October 2019).

### 2.5.1.3 IT preparedness

The Goods and Services Tax Network (GSTN) has been set up by the Government of India primarily to provide IT infrastructure and services to the Central and State Governments, taxpayers and other stakeholders for implementation of GST. Maharashtra being a Model I State is developing its own back-end system for the performance of statutory functions under GST. GSTN is developing the Common Portal. It also releases the Application Programme Interface (APIs) for different modules to act as interface for data exchange which is then further developed, tested and rolled out by the State in accordance with the requirement of its back-end system.

M/s NIIT Technologies Ltd (M/s NIIT) is employed as System Integrator for implementation of total solution for e-governance in the Department. Since the State is a Model I State, APIs are required to be developed by M/s NIIT. The details of APIs shared by GSTN, tested, developed and rolled out by the Maharashtra GST Department up to October 2018 are as under:

Module	Total APIs received for development	APIs developed and rolled-out	Development in progress as on October 2018
Registration	46	42	4
Return	22	8	13
Payment	5	2	3
Ledger	5	3	2
Recovery	2	0	2
Refund	11	5	6
Others	16	4	12
<b>Total</b>	<b>107</b>	<b>65</b>	<b>42</b>

The details of 42 APIs at the development stage are given in **Appendix I**.

The modules relate to important provisions of the GST law like Tax Deduction at Source (TDS), Tax Collection at Source (TCS) and Inward Supply, their development would enhance the efficiency and efficacy of the department in collection of the taxes.

### 2.5.2 Migration of existing taxpayers

As per Rule 24 of Maharashtra GST Rules, 2017, every person registered under any existing law and having a PAN shall enroll on common portal by validating his e-mail address as well as mobile number. Such person shall be granted registration on a provisional basis. Every person who has been granted provisional registration shall submit an application along with the information and document specified in the application on common portal. A certificate of registration shall be made available to the registered person electronically if the information and the particulars furnished in the application are found to be correct and complete.

The details of the dealers registered under the MVAT Act and completed migration to GST are given in the following table:

Total number of dealers under MVAT Act as on 30 June 2017	Total number of provisional ID granted	Number of dealers primary enrolled	Completed migration
7,78,463	7,78,463 (100 per cent)	7,10,604 (91 per cent)	7,04,758 (90.53 per cent)

After the allocation of the provisional IDs, the dealers had to authenticate the same for obtaining the GST TIN. Since the threshold turnover limit under GST is ₹ 20 lakh whereas under the MVAT Act it was ₹ 10 lakh, registration under GST for dealers having turnover limit up to ₹ 20 lakh was voluntary.

It would be seen from the above table that 90.53 per cent of the existing dealers completed the migration process and finally registered under GST. However 5,846 out of 7,10,604 primary enrolled dealers were not migrated to the GSTN. Thereafter, the Department launched a special campaign for migration of the non-migrated dealers from 6 to 18 August 2018, as a result of which, a further 2,307 dealers were recommended for migration to GST. The reasons for not migrating the remaining 3,539 dealers was not intimated to audit.

Audit checked (October 2018) VAT/ CST returns of the 50 dealers who had not migrated to GST and noticed that these dealers were either not filing returns or were showing nil or small turnover (below ₹ 20 lakh) during the period 2016-17 (prior to implementation of GST). Thus, these dealers did not require registration under the GST, Act.

### 2.5.3 Allocation of taxpayers between Central and State

**2.5.3.1 Existing registered taxpayers of Sales Tax Department and Central Excise Department:** As per recommendation of GST Council, 90 per cent of existing registered taxpayers having turnover up to ₹ 1.5 crore and 50 per cent of existing registered taxpayers having turnover of more than

₹ 1.5 crore were allotted to the State. Accordingly, the State was allotted the jurisdiction of 6,80,987 taxpayers out of existing 8,52,297 registered taxpayers as detailed below:

Under jurisdiction of	Existing registered taxpayers		
	Turnover above ₹ 1.5 crore	Turnover below ₹ 1.5 crore	Total
State	1,07,592	5,73,395	6,80,987
Centre	1,07,596	63,714	1,71,310
<b>Total</b>	<b>2,15,188</b>	<b>6,37,109</b>	<b>8,52,297</b>

**2.5.3.2 New Taxpayers:** Jurisdiction of newly registered taxpayers is being allotted to the State and Centre by GST portal electronically during submission of application for registration by the taxpayers. The newly registered tax payers are divided between Centre and State in 1:1 ratio. A total of 4,83,830 newly registered dealers have been allocated (20 March, 2019) to the State.

#### **2.5.4 Refunds under GST**

The provisions for grant of refund of taxes are stipulated in Section 54 of the Maharashtra GST Act, 2017 and Section 54 of the Central GST Act 2017.

For claiming refund of SGST, CGST and IGST on goods and services (other than on goods exported out of India for which refunds are processed by the Customs Department), a dealer has to file online refund claim in Form GST RFD-01A. Since the refund module on GSTN is not yet fully functional, the registered tax payer has to manually submit the acknowledgment of online-filing to the concerned desk officer. If the refund claim is found to be in order, provisional refund amounting to 90 *per cent* is sanctioned within seven to 14 days after the receipt of online acknowledgement. The balance 10 *per cent* is refunded after due verification of records within 60 working days from the grant of provisional refund.

The details of the refund claims received and sanctioned/rejected as under till the end of October 2018 is as under:

(₹ in crore)								
Year	Refund claims Received	Amount of claims	Provisional Refund orders		Final Refund order		Pending Applications (Up to October 2018)	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount
2017-18	4,564	1,723.77	3,326	1,522.99	1,066	128.88 <sup>11</sup>	172	71.90
2018-19 <sup>12</sup>	18,121	3,620.89	11,053	2370.31	5,171	209.00 <sup>13</sup>	1,897	1,041.58

**Source-Information furnished by the department**

<sup>11</sup> including rejected amount of ₹ 52.06 crore.

<sup>12</sup> April 2018 to October 2018.

<sup>13</sup> including rejected amount of ₹ 209 crore.

Thus, it would be seen from the above 2,069 applications for grant of refunds involving ₹ 1,113.48 crore were pending finalisation.

It was observed during the audit that due to non-availability of the refund module at that time, export details as well as inward supply details were verified by calling for the details from the refund claimant. Details of the export furnished by the dealer were then verified by going on the website of ICEGATE (website of Indian Customs) to check whether shipping bills and invoice value as per the Custom Department are matched which was being shown in GSTR-1 on which refunds are being claimed. Similarly for the inward supply, GSTR-1 of the supplier was checked as to ascertain whether he is showing sale to the refund claimant.

Audit checked 217 refund claims and it was observed that though the provisional refunds were given in time, the final refunds were delayed by more than 60 days in respect of 194 cases while in the remaining 23 cases refund was allowed within 60 days from the date of granting provisional returns.

The GSTN was primarily responsible for providing front end systems for performance of statutory functions under GST. Returns in GSTR-2<sup>14</sup> and Refund Module were not made operational by GSTN. Hence, refund process involved manual intervention. Thus, the Government of Maharashtra was hamstrung in implementing the provisions of GST as it had limited role in these matters.

The above facts indicate that there is a need for making the refund module on GSTN functional so that refunds are made to the registered tax payers in a timely manner.

## 2.5.5 Legacy Issues

### 2.5.5.1 Pending Assessments

Section 23(2) of Maharashtra Value Added Tax Act, 2002 stipulates the time period of four years for the assessment of dealers filing returns. In respect of assessment cases remanded back by the appeal, fresh assessment orders are to be made within 24 months from the date of cases remanded back.

As per information furnished (November 2018) by the Department, 2,82,314 cases up to the assessments periods 2017-18 were pending for assessment/Issue Based Audits (IBA) as on September 2018 as follows-

<sup>14</sup> GSTR-2: (a) Invoice wise details of all inter-State and intra-State supplies received from the registered persons or unregistered persons, (b) Import of goods and services made and (c) Debit and credit notes, if any, received from supplier.

**Year-wise breakup of pending assessments**

<b>Year</b>	<b>Cases selected for assessment/IBA in 2018-19</b>	<b>Cases assessed up to September 2018</b>	<b>No. of cases pending assessments/IBA as on September 2018*</b>
2005-06 to 2013-14	1,36,207	10,392	1,25,815
2014-15	72,872	2,752	70,120
2015-16	86,427	2,562	83,865
2016-17	2,262	105	2,157
2017-18	376	19	357
<b>Total</b>	<b>2,98,144</b>	<b>15,830</b>	<b>2,82,314</b>

\* Proceedings in cases older than four years are live and they are not time-barred.

Source: information furnished by the Department KKPI.

As would be seen from the above, the percentage of disposal of cases during 2018-19 up to September 2018 was only five *per cent*. In addition to above the department notified (May 2019) 75,138 cases for the assessment pertaining to the 2016-17 for comprehensive assessment/IBA. For the assessment period 2017-18, the total number of cases to be taken up for comprehensive assessment/IBA are yet to be selected by the Department.

**Steps taken for finalisation of the assessments;**

The department notified a scheme in February 2018 for selection of cases for assessment having probable revenue earnings above ₹ one<sup>15</sup> lakh and withdrawal of cases having probable revenue earnings below ₹ one<sup>15</sup> lakh from assessment proceedings. The Commissioner was required to publish a list of cases that would not require detailed scrutiny in accordance with the parameters mentioned in the scheme. Based on the above parameters, 3,693 cases<sup>16</sup> pertaining to the periods from 2012-13 to 2015-16 were withdrawn by the Department in March 2019.

The Department notified (May 2019) 75,138 cases for assessment for the period 2016-17. These are in addition to the existing cases pending for assessment. Thus, the number of cases pending assessment will increase to that extent and in addition, the assessments under the MGST Act are also required to be made.

As would be seen from the above the number of cases selected for assessments was increasing from year to year but the pace of their finalisation was very low with the result that there would be more accumulation of the arrears in assessments. The Department needs to chalk out an action plan for early finalisation of MVAT assessments in a time bound manner.

**2.5.5.2 Pendency of recoveries**

As per the information furnished by the Department, an amount of ₹ 1,07,576.01 crore in was in arrears as on December 2018 on account of various causes such as pendency in various Tribunals and Courts, dealers not traceable, property not available, etc., which are as follows-

<sup>15</sup> Increased to ₹ 2.5 lakh from October 2018.

<sup>16</sup> Division-wise withdrawal list was published (March 2019).



(₹ in crore)				
Sr. No.	Stage of recovery of arrears	Amount involved		
		BST	VAT	Total
1	2	3	4	5
1	Department Appeal	2,737.92	44,619.70	47,357.61
2	Tribunal	1,367.89	19,328.92	20,696.81
3	High Court/ Supreme Court	715.68	4,952.73	5,668.40
4	Official liquidator/ DRT	632.45	3,574.69	4,207.15
5	RRC	420.18	1,680.81	2,100.99
6	Cases under BIFR	639.54	1,756.21	2,395.75
7	Dealer not traceable	1,479.73	2,578.99	4,058.72
8	Property not available	168.20	886.24	1,054.45
9	Other reasons like due date not over, installment payment, stay order, etc.	441.73	10,641.25	11,082.98
10	Arrears available for recovery	1,076.98	7,876.17	8,953.15
<b>Total</b>		<b>9,680.30</b>	<b>97,895.71</b>	<b>1,07,576.01</b>

Source: Information furnished by the Department.

It would be seen from the above that

- An amount of ₹ 8,953.15 crore (eight *per cent* of the total arrears) was recoverable as on December 2018. The amounts in these cases are to be recovered by the assessing officers.
- An amount of ₹ 2,100.99 crore (two *per cent* of the total arrears) was pending recovery under Maharashtra Land Revenue Code, 1966. The Department has been empowered to recover the arrears as arrears of land revenue under the MLR Code.

When this was pointed out, the Department intimated (October 2019) that out of ₹ 8,953.15 crore, ₹ 4,040.03 crore (45 *per cent*) have been recovered from 01 January 2019 to 31 March 2019. Further, it was intimated that out of ₹ 2,100.99 crore pertaining to Revenue Recovery Certificates (RRC), recovery of ₹ 9.40 crore (0.45 *per cent*) was made from 01 January 2019 to 31 March 2019 and recovery of remaining dues was in progress.

Since the above amounts are free from any dispute, the Department may take immediate action for their recovery, as with the passage of time, possibility of recovery may become remote.

- Major portion of the revenue ₹ 47,357.61 crore (44 *per cent* of the total arrears) is locked up in appeals with Departmental authorities. As such, the Department may be advised to chalk out an action plan for early finalisation of the appeal cases.
- An amount of ₹ 4,058.72 crore (3.77 *per cent* of the total arrears) was recoverable from the dealers who were untraceable.

### **Steps taken for settlement of arrears:-**

The Government of Maharashtra has brought an ordinance date 06 March 2019 to provide for settlement of arrears of tax, interest, penalty etc. payable or imposed under various Acts administered by the GST Department. The ordinance provides for concession by way of waiver of amounts under dispute in respect of tax, interest and penalty.

### **2.5.6 Conclusion**

The Government/ Department was prompt in its preparedness for implementation of GST. Audit also noticed that frequent changes were made in the rules since 1 July 2017 on recommendations of GST Council by the State Government which have resulted in non-implementation of many of the procedures laid down in SGST Act.

The GSTN was primarily responsible for providing front end systems for performance of statutory functions under GST. Return in form GSTR-2 and Refund Module were not made operational. Hence, refund process involved manual intervention. Out of 217 refund claims test checked, audit noticed that final refunds were delayed by more than 60 days in respect of 194 cases from the date of granting provisional returns. Thus, the Government of Maharashtra was hamstrung in implementing the provisions of GST as it had limited role in these matters.

The number of cases selected for assessments was increasing from year to year but the pace of their finalisation was very low with the result there would be more accumulation of the arrears in assessments. The Department needs to chalk out an action plan for early finalisation of MVT assessments in a time bound manner.

An amount of ₹ 8,953.15 crore (eight *per cent* of the total arrears) was recoverable as on December 2018. The amounts in these cases are to be recovered by the assessing officers. In addition ₹ 2,100.99 crore (two *per cent* of the total arrears) was pending recovery under Maharashtra Land Revenue Code, 1966. The Department has been empowered to recover the arrears as arrears of land revenue under the MLR Code. These amounts are free from any dispute, the Department needs to take immediate action for their recovery, as with the passage of time, possibility of recovery may become remote.

A major portion of the revenue ₹ 47,357.61 crore (44 *per cent* of the total arrears) was stated to be locked up in appeals with Departmental authorities. As such, the Department needs to chalk out an action plan for early finalisation of the appeal cases and take these cases to their logical end.

An amount of ₹ 4,058.72 crore (3.77 *per cent* of the total arrears) was recoverable from the dealers who were untraceable. The Departments need to trace out the dealers in the interest of revenue collection.

### Other audit observations

Though the procedures for assessments under the Maharashtra Value Added Tax, 2002 (MVAT Act) and the Central Sales Tax Act, 1956 (CST Act) are well laid out, the assessing officers are required to exercise due diligence while assessing the cases and there should be zero tolerance towards any errors/omissions on their part. Our scrutiny of the 37,615 assessment records out of 39,793 records finalised in 204 units of the Sales Tax Department revealed 1,099 cases of non-observance of provisions of Acts/Rules, short levy of tax, irregular grant of set-off, etc. A few interesting cases are mentioned in the succeeding paragraphs. These cases are pointed out in audit each year, but not only do these irregularities persist, they also remain undetected till we conduct audit. There is need for the Government to improve the internal control system including strengthening of internal audit.

### 2.6 Erroneous allowance of dual credit

According to Section 30(2) of the MVAT Act, 2002, a registered dealer who fails to pay the tax as per his returns within the specified time, is liable to pay by way of simple interest, a sum calculated at the prescribed rate on the amount of such tax for each month or part thereof after the last date by which he should have paid such tax.

During scrutiny (December 2017) of assessment records in the office of Dy. Commissioner of Sales Tax, E-002, LTU, Palghar, audit noticed that a manufacturer of automobile parts paid VAT of ₹ 13.85 crore including interest of ₹ 1.10 crore under Section 30(2) of the Act for the year 2012-13. The assessing officer while finalising the assessment (March 2017) allowed the entire payment of ₹ 13.85 crore as tax credit and determined interest of ₹ 3.04 crore for delayed payment of tax. While working out the interest payable by the dealer he again allowed credit of interest of ₹ 1.10 crore and demanded interest of ₹ 1.94 crore in the assessment order. Thus, the amount of ₹ 1.10 crore was credited twice (for tax and for interest). This resulted in less raising of demand of ₹ 1.10 crore.

This was brought to the notice of the Department in December 2017 and the Government in September 2018; their reply has not been received (October 2019).

### 2.7 Short levy of tax due to incorrect determination of sales turnover

As per Rule 57(1) of Maharashtra Value Added Tax Rules, 2005 (MVAT Rules), a registered dealer may, in respect of any sales effected by him on which sales tax is payable by him and where he has not separately collected any amount by way of sales tax, deduct from the sale price of the goods a sum calculated in accordance with the formula<sup>17</sup> under the Rule.

During scrutiny (September 2017) of assessment records in the office of the Dy. Commissioner of Sales Tax, Large Taxpayer Unit E-617, Pune Division,

<sup>17</sup> Amount of deduction=SP x [R/100+R] - where R = the rate of tax applicable to the sale of goods and SP= the sale price of the goods.

it was observed that turnover of a works contract dealer was ₹ 112.74 crore inclusive of tax element for the assessment period 2012-13.

The dealer had purchased goods taxable at the rate of 12.5 per cent and five per cent in the ratio of 67.5 per cent and 32.5 per cent respectively. Based on this ratio, the turnover of the dealer for the goods taxable at 12.5 per cent was ₹ 69.17 crore and that taxable at five per cent was ₹ 33.26 crore. The dealer was thus liable to pay tax of ₹ 10.31 crore. However, the AA incorrectly worked out his sales turnover of goods taxable at 12.5 per cent as ₹ 67.68 crore and that taxable at five per cent as ₹ 34.86 crore and raised the tax demand of ₹ 10.20 crore. This mistake resulting in short raising of demand of ₹ 11 lakh.

We brought the matter to the notice of the department and to the Government in July 2018; their reply has not been received (October 2019).

## **2.8 Non-levy of penalty for late filing of Audit Report**

As per provisions of Section 61(1) of the Maharashtra Value Added Tax Act, 2002 read with Rules 65 and 66 of the Maharashtra Value Added Tax Rules, 2005, every dealer having a turnover over ₹ 60 lakh, shall get his accounts in respect of such year audited by a Chartered Accountant within the prescribed period from the end of the year and submit the report of audit (in Form 704) within ten months (nine months and fifteen days vide notification dated 21 November 2012) of the year to which the report relates. Under Section 61(2) of the said Act, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to one tenth per cent of the total sales, for failure to file the audit report.

Scrutiny of records in 11 offices<sup>18</sup> between April 2017 and January 2018, revealed that 14 dealers had submitted/uploaded the reports of audit in Form 704 after the due date/extended date prescribed by the Commissioner from time to time. However, the assessing officers had not issued show cause notice for levy of penalty as prescribed under the Act. Thus, penalty leviable in these cases amounting to ₹ 3.32 crore could not be levied. A few illustrations are as follows:

**Table 2.8**

(₹ in lakh)						
Sr. No.	Name of dealer	Assessment Period Date of assessment	Due/extended date of filing F-704	Actual date of filing F-704	GTO of sales	Penalty leviable under Section 61(2)
1	Dealer A	2012-13 10/03/2017	15/01/2014	29/05/2015	2,22,701.68	222.70
2	Dealer B	2012-13 20/03/2017	15/01/2014	07/02/2014	11,767.38	11.76
3	Dealer C	2011-12 19/12/2015	15/01/2013	15/01/2015	24,346.15	24.35

<sup>18</sup> DCST LTU – E-003 Aurangabad; E-630, E-641 Mazgaon; E-002 Palghar; E-003 Thane; DCST BA- E-006, E-007 Kolhapur; E-811, E-812 Mazgaon; E-008 Nashik; E-808, Pune.

The matter was brought to the notice of the Department and to the Government in May 2017 and February 2018. The Department accepted the audit observation in three cases and raised additional demand of ₹ 2.31 crore.

The matter regarding the action taken in the remaining cases and status of recovery was brought to the notice of the Department and the Government in March 2019; their reply has not been received (October 2019).

**2.9 Non/short levy of interest under Section 30(2) of the Maharashtra Value Added Tax Act, 2002**

Under the provisions of Section 30(2) of Maharashtra Value Added Tax Act, 2002, a registered dealer who fails to pay the tax according to the return within the time specified by or under the Act, shall be liable to pay by way of simple interest, in addition to the amount of such tax, a sum calculated at the prescribed rate on the amount of such tax, for each month or part thereof, after the last day by which he should have paid such tax.

Scrutiny of records in 10 offices<sup>19</sup> revealed that 10 dealers assessed between March 2016 and March 2017 for the periods from 2010-11 to 2012-13 had delayed payment of taxes ranging from one to 58 months. Since the dealers had not paid the taxes along with their returns, they were liable to pay interest for the period of default. However, the concerned assessing officers either did not levy the interest or levied it short, resulting in non/short levy of interest aggregating to ₹ 66.27 lakh. A few illustrative cases are as follows:

(₹ in lakh)							
Sr. No.	Name of the Dealer	Assessment Period Date of assessment	Amount of tax paid with delay	Delay in months	Interest leviable	Interest levied	Difference (6-7)
1	2	3	4	5	6	7	8
1	Dealer A.	2012-13 28/02/17	1,076.53	01 to 42 months	61.10	52.16	8.94
2	Dealer B	2010-11 07/11/16	8.29	15 months	1.64	0.00	1.64
3	Dealer C	2011-12 11/11/16	93.33	29 to 45 months	41.62	29.35	12.27
4	Dealer D	2012-13 30/03/17	66.27	01 to 09 months	4.82	0.00	4.82
5	Dealer E	2011-12 31/01/17	191.46	06 to 27 months	27.83	25.43	2.40

We brought the matter to the notice of the Department (May 2017 and April 2018) and the Government in September 2018 and March 2019; their reply has not been received (October 2019).

<sup>19</sup> DCST LTU – E-003, Aurangabad; E-608, E-620, E-641 Mazgaon; E-003 Nashik; DCST (Inv.) – E-005, Mazgaon; DCST BA – E-812, E-816 Mumbai, E-008 Nashik; E-808, Pune.

## CHAPTER III

### STAMP DUTY AND REGISTRATION FEE

#### 3.1 Tax Administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899 (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Maharashtra and are administered at the Government level by the Principal Secretary, Revenue Department. The Inspector General of Registration (IGR) is the head of the Stamp duty & Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by Additional Controller of Stamps, Mumbai (ACOS), eight Deputy Inspector General (DIGs), six Collector of Stamps (COS) at Mumbai and Mumbai Sub-urban District, 34 Joint District Registrar and 504 Sub-Registrar at District and Taluka levels.

#### 3.2 Internal audit

The details of audit conducted by the internal audit wings of IGR are as detailed in **Table 3.2**.

**Table 3.2**

Year	No. Of units			Audit observations		
	Planned	Audited	Unaudited	Raised	Settled up to 31/03/2018	Pending as on 31/03/2017
2013-14	72	38	34	207	53	154
2014-15	72	14	58	55	12	43
2015-16	72	11	61	115	15	100
2016-17	72	57	15	415	30	385
2017-18	72	209	0	1,296	94	1,202
<b>Total</b>	<b>360</b>	<b>329</b>	<b>31</b>	<b>2,088</b>	<b>204</b>	<b>1,884</b>

Source: Information furnished by the Department

Thus, the facts indicate that:

- During the year 2013-14 to 2017-18, audit was carried out in 329 offices whereas it was planned for 360 units. Thus only 91 *per cent* of the units were covered against the units planned for internal audit.
- Only 10 *per cent* of the audit observations raised by the internal audit were settled.

### 3.3 Result of audit

There are 541 auditable units in the Registration and Stamps Department, out of these, audit selected 139 units for test check wherein 13,55,596 instruments were registered during 2017-18. Out of these, 59,597 instruments (approx. 4.40 *per cent*) were selected for test check. During scrutiny, audit noticed short/non-realization of SD and RF of ₹ 90.18 crore in 484 instruments (approx. 0.81 *per cent* of sampled cases). These were pointed out to the concerned assessing authorities through 403 audit observations. These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years. Not only do these irregularities persist, but they also remain undetected till next audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed broadly fall under the following categories.

(₹ in lakh)			
Sr. No.	Category	No. of observations	Amount
1	Short levy of SD and RF	24	468.24
2	Incorrect exemption of SD and RF	14	162.37
3	Misclassification of documents	10	126.26
4	Undervaluation of property	320	7,865.39
5	Other irregularities	35	396.00
<b>Total</b>		<b>403</b>	<b>9,018.26</b>

During the year 2017–18, the Department accepted and recovered underassessment and other deficiencies of ₹ 15.60 crore pertaining to 285 cases, of which 23 cases involving ₹ 0.55 crore were pointed out during the year 2017-18 and the rest in the earlier years.

In one case entire amount of ₹ 1.08 crore on account of stamp duty and registration fee was recovered after being pointed out to the Government in March 2019.

A few observations involving short realisation of revenue of ₹ 14.95 crore on account of stamp duty and registration fee are mentioned in the following paragraphs.

## Audit observations

During scrutiny of records of the various registration offices, we noticed several cases of non-compliance of the provisions of the Maharashtra Stamp Act (MS Act), 1958 and Government notifications and instructions and other cases such as short levy of stamp duty, undervaluation of property, incorrect application of section of MS Act, irregular grant of rebates which are mentioned in the succeeding paragraphs in this chapter. A few cases involving ₹ 14.95 crore are discussed in the succeeding paragraphs. These cases are illustrative only as these are based on a test check of records.

### 3.4 Short levy of stamp duty due to undervaluation of property

Cases of short levy of stamp duty due to not considering the sharing of revenue or constructed area specified in the document, not working out the market value as per Annual Statement of Rates (ASR) and incorrect consideration of market value are elaborated below:

#### 3.4.1 Revenue sharing

As per para 684 of Maharashtra Registration Manual (MRM), Part-II, where the developer offers to allot residential/non-residential components to the owner in lieu of the development right, the value of the residential/non-residential components should be calculated according to the prevailing rates prescribed in the statistics on the day of execution of the agreement and the duty and fees should be levied on the greater of the two values *viz.* the value of the consideration component or the market value of the property. On such instruments, stamp duty is leviable under provision contained in Article 5 (g-a) (i) of MS Act. Further, as per Article 5 (g-a) (i) of MS Act, if immovable property is given to a developer for development, construction, sale or transfer then stamp duty is leviable on conveyance<sup>1</sup> under Article 25 (b) of the said Act.

Further, as per instruction 33 of Annual Statement of Rates (ASR) for the year 2015 where the developer offers to share revenue from sale of residential/ non-residential units to the owner in lieu of the development right, the value of the residential/non-residential components should be calculated according to the prevailing rates prescribed in the ASR and the consideration for the purpose of levy of stamp duty would be 85 *per cent* of owner's share. This ratio was effective from 01 January 2015 onwards. Thus, up to 2015, the consideration for the purpose of levy of stamp duty would be 100 *per cent* of owner's share and from 2015 onwards it was 85 *per cent* of owner's share. A few irregularities noticed during the course of audit are as follows-

**3.4.1.1** In four<sup>2</sup> Sub Registrars Offices, in five cases, the development agreements were executed (2013-14) between 'owners' and 'developers' for development of land. The Department levied stamp duty of ₹ 1.15 crore on

<sup>1</sup> Conveyance means a conveyance on sale by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, *inter vivos*, and which is not otherwise specifically provided for by Schedule-I.

<sup>2</sup> Joint Sub Registrar, Haveli-VI, Pune; Joint Sub Registrar, Haveli-VIII, Pune; Joint Sub Registrar, Haveli-XVII, Pune and Joint Sub Registrar, Lonavala, Pune.



market value/consideration of ₹ 19.31 crore. The basis on which consideration/market value was worked out by the Department was not found on record.

Audit observed (February 2016 and December 2016) that as per recital of these five agreements, the owners and developers had agreed to develop the properties on the basis of revenue sharing<sup>3</sup> on percentage<sup>4</sup> basis. The owner share as per revenue sharing agreement worked out to ₹ 62.54 crore. Thus, the consideration of the property in terms of revenue sharing was ₹ 62.54 crore on which stamp duty of ₹ 3.14 crore should have been levied against ₹ 1.15 crore levied by the Department. This resulted in short levy of stamp duty of ₹ 1.99 crore.

The department accepted the audit observations in all the five cases between September 2016 and October 2018 and in one case, the IGR, Pune intimated (October 2018) that an amount of ₹ 18.33 lakh including fine was recovered against ₹ 14.29 lakh pointed out by audit. Report on recovery in the remaining cases has not been received (October 2019).

**3.4.1.2** Scrutiny of instruments in offices of four<sup>5</sup> Sub Registrars, revealed (August 2016 and March 2017) that in four cases, the development agreements were executed (2015) between 'owners' and 'developers' for development of land. The Department levied stamp duty of ₹ 1.28 crore on market value/consideration of ₹ 25.21 crore. The basis on which consideration/market value was worked out by the Department was not found on record.

It was observed that as per recital of the agreement(s), the owners and developers had agreed to develop the properties on the basis of revenue sharing on certain percentage<sup>6</sup>. The consideration of the property in terms of revenue sharing worked out to ₹ 42.40 crore involving stamp duty of ₹ 1.92 crore. Thus, there was short levy of stamp duty of ₹ 64 lakh.

The IGR, Pune accepted the audit observations and stated (October 2018) that an amount of ₹ 31.93 lakh was recovered in two cases while in the two remaining cases, report on recovery has not been received.

**3.4.1.3** Scrutiny of instruments in office of the Sub Registrar, Maval, Pune revealed (February 2017) that a development agreement was executed (April 2014) between land owners and developer for development of land admeasuring 13,266 sqm bearing *gat* number 138 and 150 situated at *mouza* Kanhe (influence area), taluka Maval, district Pune for a consideration of ₹ 66 lakh. The Department had worked out the market value of the land at ₹ 3.58 crore and levied a stamp duty of ₹ 16.31 lakh. The details of calculation of market value were not available on record.

Audit observed (February 2017) from the recital of the document that in lieu of development rights, the developer had agreed to provide the constructed area of 5,306.40 sqm (i.e. 40 *per cent* of total constructed area of 13,266 sqm)

<sup>3</sup> Revenue realized from selling of constructed units in open market.

<sup>4</sup> Ranged between 50:50 and 80:20.

<sup>5</sup> Joint Sub Registrar, Parbhani; Joint Sub Registrar, Haveli-XXII, Pune; Joint Sub Registrar, Haveli-XXIII, Pune and Joint Sub Registrar, Haveli-XXVI, Pune.

<sup>6</sup> Ranged between 40:60 to 50:50.

along with a refundable deposit of ₹ 66 lakh. In addition to above, the developer also agreed to give a cash consideration of ₹ 3.10 crore to the owners. The market value of the property was ₹ 9.03 crore<sup>7</sup> instead of ₹ 3.58 crore worked out by the department. Thus, stamp duty leviable at the rate of four *per cent* was ₹ 36.12 lakh instead of ₹ 16.31 lakh. This had resulted in short levy of stamp duty of ₹ 19.81 lakh<sup>8</sup>.

The IGR, Pune accepted the audit contention (September 2018) and ordered for recovery.

The above cases were reported to the Government and the department between April and June 2018. The department intimated the acceptance of all the ten cases and recovery of ₹ 50.26 lakh in three cases.

### **3.4.2 Sharing of constructed area**

As per instruction 32 of ASR, in case of development agreement the market value shall be derived by calculating owner's share (cost of constructed area plus interest at the rate of ten *per cent* on security deposit) and developer's share and higher of these should be considered as market value. A few irregularities noticed during the course of audit are as follows-

**3.4.2.1** Scrutiny of instruments in office of the Joint Sub Registrar, Lonavala, Pune revealed (June 2017) that a development agreement was executed (January 2016) between owners and developer for development of land admeasuring 57,900 sqm bearing Survey No.389 (old Survey No.646) situated at *mouza* Talegaon Dabhade, taluka Maval, Pune for a consideration of ₹ 10 crore. The Department calculated the market value of the land at ₹ 10.49 crore, which was higher than the consideration and levied stamp duty of ₹ 52.44 lakh.

Audit observed (June 2017) that, as per terms of the agreement, the developer had agreed to give constructed area of 32,527.88 sqm to the owners and security deposit of ₹ seven crore for a construction period of seven years.

The market value of the construction area measuring 32,527.88 sqm was ₹ 50.09 crore<sup>9</sup> and the interest on security deposit of ₹ seven crore amounted to ₹ 4.90 crore. Thus, the owners' consideration worked out at ₹ 54.99 crore on which stamp duty at the rate of four *per cent* of ₹ 2.20 crore was leviable. This resulted in short levy of stamp duty of ₹ 1.68 crore<sup>10</sup>.

The Joint Sub Registrar, Lonavala had accepted (June 2017) the fact.

**3.4.2.2** In another case in the office of the Joint Sub Registrar, Lonavala, Pune an agreement was executed (February 2016) between owners and developer through its partners for development of land admeasuring 16,000 sqm bearing *gat* No. 204 situated at village Gahunje, taluka Maval, Pune for a consideration of ₹ three crore. The Department had worked out the market

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<sup>7</sup> (Cost of construction - ₹ 5.73 crore) + (Interest on security deposit - ₹ 19.80 lakh ) + (cash consideration - ₹ 3.10 crore).

<sup>8</sup> (Stamp duty leviable - ₹ 36.12 lakh) – (Stamp duty levied - ₹ 16.31 lakh).

<sup>9</sup> at the rates prescribed in ASR of 2015 which owners would get in lieu of land.

<sup>10</sup> (Stamp duty leviable - ₹ 2.20 crore) – (Stamp duty levied - ₹ 52.44 lakh).

value of the land at ₹ 2.87 crore. As the consideration value was higher, the stamp duty of ₹ 15 lakh was levied on it.

Audit observed (June 2017) that, as per clause D-1 of the development agreement, the developer had agreed to give constructed area of 9,293.68 sqm to owners, in lieu of consideration for land. The market value of construction area was ₹ 14.31 crore on which stamp duty at the rate of four *per cent* amounting to ₹ 57.25 lakh was leviable. This resulted in short levy of stamp duty of ₹ 42.25 lakh<sup>11</sup>.

The Joint Sub Registrar, Lonavala had accepted (June 2017) the fact.

**3.4.2.3** Scrutiny of instruments in office of the Joint Sub Registrar-IV, Haveli, Pune revealed (February 2016) that a Re-development Agreement was executed (September 2014) between society owner, consenter (12 flat owners of the society called members) and Developer for redevelopment of plot admeasuring 1,011.71 sqm (construction of 937.91 sqm) with existing 12 residential flats bearing new plot no.464 (old survey no. 546/A) of *mouza* Gultekadi within the limits of Pune Municipal Corporation, Pune for a consideration of ₹ 2.39 crore.

As per document, the construction cost including parking as worked out by the Department amounted to ₹ 1.56 crore on which stamp duty of ₹ 11.99 lakh was levied. Audit observed (February 2016) from the recital of the Re-development Agreement that the developer had agreed to give total constructed area of 1,484.15 sqm (existing area of 937.91 sqm valued at ₹ 1.14 crore and additional area<sup>12</sup> of 546.24 sqm valued at ₹ 2.76 crore) along with other amenities<sup>13</sup> valued at ₹ 68.96 lakh to the society members. Thus, the consideration amount worked out to ₹ 4.59 crore on which stamp duty of ₹ 22.94 lakh was leviable. This had resulted in short levy of stamp duty of ₹ 10.95 lakh<sup>14</sup>.

The Joint District Registrar & Collector of Stamps, Pune (City) has accepted (October 2016) the contention of audit.

**3.4.2.4** Scrutiny of instruments in office of the Joint Sub Registrar, Haveli-XXI, Pune revealed (April 2015) that a development agreement was executed (September 2013) between owners and developer and consenting party (Members of 18 flat owners) for redevelopment of land admeasuring 1,142 sqm. There were 18 flats (981.30 sqm flat area + 173.75 sqm terrace area) on this piece of land.

The Department valued the property at ₹ 2.24 crore on which stamp duty of ₹ 11.20 lakh was levied. The Department also mentioned the consideration for transaction at ₹ 1.94 crore for which no details were available and there was nothing on records to indicate whether stamp duty was levied on it.

<sup>11</sup> (Stamp leviable - ₹ 57.25 lakh) – (Stamp duty levied - ₹ 15 lakh).

<sup>12</sup> Additional carpet area - 306.24 sqm; terrace - 90 sqm and car parking - 150 sqm.

<sup>13</sup> Rent for 21 months - ₹ 47.76 lakh, Shifting charges - ₹ 1.20 lakh and Corpus fund to society - ₹ 20 lakh.

<sup>14</sup> (Stamp duty leviable - ₹ 22.94 lakh) - (Stamp duty actually levied - ₹ 11.99 lakh).

Audit observed (April 2015) that as per terms of agreement, the value of property amounted to ₹ 5.48 crore<sup>15</sup> on which stamp duty of ₹ 27.41 lakh was leviable. This resulted in short levy of stamp duty of ₹ 16.21 lakh.

The IGR, Pune accepted (October 2018) for recovery of ₹ 15.13 lakh on the basis of revised calculation.

The above cases were reported to the Government and the Department between April and June 2018. The Department intimated the acceptance of all the four cases. A report on recovery has not been received (October 2019).

### **3.4.3 Incorrect consideration of market value of property**

The consideration for the purpose of levy of stamp duty and registration fees on an instrument brought for registration shall be the amount mentioned in the instrument or the market value of the property determined in accordance with the instructions and rates contained in the ASR prescribed for that year whichever is higher. As per instruction 16 (b) of the ASR 2016, the market value of the open land shall be calculated slab wise<sup>16</sup> for the purpose of levy of stamp duty and registration fee. A few irregularities noticed during the course of audit are as follows-

**3.4.3.1** Scrutiny of instruments in office of the Joint Sub Registrar-VI, Vasai revealed (April 2017) that a sale deed was executed (December 2016) between owners and purchaser for a land admeasuring 50,600 sqm bearing Survey No.89 (*hissa* No.A) and 5,950 sqm bearing Survey No.60 (*hissa* No. 1) situated at *mouza* Bapane, taluka Vasai, District Palghar within the limits of Vasai Virar Municipal Corporation. The market value and consideration of the transaction was shown in the deed as ₹ 45 lakh. The Department levied stamp duty of ₹ 2.70 lakh accordingly. However, the details of valuation of property done by the Department were not available with the documents.

Audit observed (April 2017) that as per ASR for the year 2016, the rate of open land for Survey No. 60 (classified under the Zone No. 27.17) was ₹ 4,620 per sqm and for Survey No. 89 (classified under Zone No. 27.21) the rate of open land was ₹ 2,370 per sqm. Considering this rate and by applying instruction 16 (b) of the ASR 2016, the market value of the said property should have been calculated to ₹ 9.81 crore on which stamp duty of ₹ 58.87 lakh was leviable. Thus, incorrect consideration of market value of the property had resulted in short levy of stamp duty of ₹ 56.17 lakh<sup>17</sup>.

The IGR, Pune accepted (October 2018) for recovery of ₹ 56.17 lakh.

**3.4.3.2** Scrutiny of instruments in office of the Joint Sub Registrar, Haveli-IX, Pune revealed (July 2014) that a sale deed was executed (August 2013) between vendor and purchaser for a land admeasuring 3.26 acre (*i.e.* 13,192.63 sqm) together with structure standing thereon bearing

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<sup>15</sup> Market value of land = ₹ 1.41 crore; cost of additional area = ₹ 2.37 crore, cost of terrace = ₹ 55.75 lakh; rent compensation = ₹ 60.48 lakh; shifting expenses and cost of parking area = ₹ 54.21 lakh.

<sup>16</sup> Upto 500 sqm – 100 *per cent* of rate of open land; 500 to 2,000 sqm – 90 *per cent* of rate of open land; 2,001 to 4,000 sqm – 80 *per cent* of rate of open land; 4,001 to 10,000 sqm – 70 *per cent* of rate of open land and above 10,000 sqm – 60 *per cent* of rate of open land.

<sup>17</sup> (Stamp duty leviable - ₹ 58.87 lakh) – (Stamp duty levied - ₹ 2.70 lakh).

City Survey No.30, situated at *mouza* Mangalwar Peth within the limits of Pune Municipal Corporation, Pune for a consideration of ₹ six crore. The Department had worked out the market value of the property of ₹ 8.16 crore and levied stamp duty of ₹ 48.97 lakh. The details of calculation of market value of the property determined by the Department were not found on record.

Audit observed (July 2014) that as per ASR 2013, the rate of open land for Survey No. 30 (classified under the Zone No. 8/146) was ₹ 17,550 per sqm. Considering this rate and by applying instruction 16 (b) of the ASR 2013, the market value of the said property should have been calculated to ₹ 16.78 crore on which stamp duty of ₹ one crore was leviable. Thus, there was under valuation of property which resulted in short levy of stamp duty by ₹ 51.76 lakh<sup>18</sup>.

The Joint District Registrar & Collector of Stamps, Pune (City) had accepted (September 2016) the fact.

**3.4.3.3** Scrutiny of instruments in office of the Joint Sub Registrar, Haveli-II, Pune revealed (February 2016) that a sale deed was executed (December 2013) between vendors, purchaser and consenting parties for a land admeasuring 25,000 sqm situated at survey number 48, Village Hadapsar, Taluka Haveli within the limits of Pune Municipal Corporation, Pune for a consideration of ₹ 13.78 crore. The Department had worked out the market value of the property of ₹ 13.91 crore which was higher than consideration and stamp duty of ₹ 84 lakh was levied. The details of calculation of market value of the property determined by the Department were not found on record.

Audit observed (February 2016) that the land of 2.50 hectare was under Zone No 30/466 of ASR 2013 and rate of ₹ 11,500 per sqm was prescribed for this land. Considering this rate and by applying instruction 16 (b) of the ASR 2013, the market value of the said property should have been calculated at ₹ 27.11 crore on which stamp duty of ₹ 1.63 crore was leviable. Thus, consideration of incorrect market value of the land has resulted in short levy of stamp duty of ₹ 78.70 lakh<sup>19</sup>.

The IGR, Pune accepted (October 2018) for recovery of ₹ 30.88 lakh out of ₹ 78.70 lakh. The reasons for accepting only ₹ 30.88 lakh out of ₹ 78.70 lakh were not intimated.

**3.4.3.4** Scrutiny of instruments in office of the Joint Sub Registrar, Haveli-II, Pune revealed (January 2015) that a lease deed was executed (July 2013) between the lessor and lessee for renewal of lease of land admeasuring 4,088 sqm at Wanowrie Bazar, Poona Cantonment area within the limit of Pune Municipal Corporation, Pune for a lease period of 30 years. The Department had worked out the market value of ₹ 1.59 crore and levied stamp duty of ₹ 5.75 lakh. The details of calculation of market value of the property determined by the Department were not found on record.

Audit observed (January 2015) that, as per ASR 2013 the property was classified under zone 36/535, wherein the rate for open land was

<sup>18</sup> (Stamp duty leviable - ₹ 100.73 lakh) – (Stamp duty levied - ₹ 48.97 lakh).

<sup>19</sup> (Stamp duty leviable - ₹ 1.63 crore) - (Stamp duty levied - ₹ 84 lakh).

₹ 26,950 per sqm. Accordingly, the market value as per ASR was worked out to ₹ 11.01 crore. As the lease period was exceeding 29 years the market value of property for levy of stamp duty should have been considered as ₹ 9.92 crore (90 per cent ₹ 11.02 crore) on which stamp duty of ₹ 49.57 lakh was leviable. Thus, incorrect consideration of market value has resulted in short levy of stamp duty of ₹ 43.82 lakh<sup>20</sup>.

The IGR, Pune accepted (October 2018) for recovery of ₹ 43.84 lakh.

**3.4.3.5** Scrutiny of instruments in office of the Joint Sub Registrar, Haveli-II, Pune revealed (February 2016) that a Transfer Deed was executed (December 2014) between Transferor No.1, Transferor No.2 and Transferee for a land admeasuring 7.01 hectare<sup>21</sup> (i.e. 70,134 sqm) situated at *mouza* Charholi, taluka Haveli, District Pune within the limits of Pimpri Chinchwad Municipal Corporation for a consideration of ₹ 61.54 lakh. The Department had worked out the market value of the property of ₹ 17.50 crore which was higher than consideration and stamp duty at the rate of six per cent of ₹ 1.05 crore was levied on market value. The details of calculation of market value of the property determined by the Department were not found on record.

Audit observed (February 2016) that the land of 7.01 hectare was under Zone No 23/1 of ASR 2014 and rate of ₹ 4,880 per sqm was prescribed for this land. Considering this rate and by applying instruction 16 (b) of the ASR 2014, the market value of the said property should have been calculated at ₹ 24.90 crore on which stamp duty of ₹ 1.49 crore was leviable. Thus, consideration of incorrect market value of the land has resulted in short levy of stamp duty of ₹ 44 lakh<sup>22</sup>.

The IGR, Pune stated (October 2018) that an amount of ₹ 44.40 lakh was recovered (October 2018).

**3.4.3.6** Scrutiny of instruments in office of the Sub Registrar-II, Aurangabad revealed (May 2015) that an Agreement to Assign was executed (July 2014) for MIDC's Plot No. P-78 admeasuring 9,886.75 sqm along with shed/structure admeasuring 4,934 sqm situated at MIDC Chikalhana Industrial Area within the limit of Aurangabad Municipal Corporation, Aurangabad for a consideration of ₹ 8.60 crore. The Department had worked out the market value of the property at ₹ 10.60 crore which was higher than the consideration and levied stamp duty at the rate of five per cent of ₹ 53 lakh. The details of calculation of market value of the property determined by the Department were not found on record.

Audit observed (May 2015) that the property was under Zone No. 10.166 C of ASR 2014 and rate of industrial area land ₹ 12,000 per sqm and construction rate as stated by IGR, Pune was ₹ 7,000 per sqm prescribed for this property. Considering these rates, the market value of property should have been calculated at ₹ 15.32 crore on which stamp duty at the rate of five per cent

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<sup>20</sup> (Stamp duty leviable ₹ 49.57 lakh) – (Stamp duty levied ₹ 5.75 lakh).

<sup>21</sup> 1.60 hectare (Survey No. 127/2), 5,550 sqm (Survey No.131/1), 5,950 sqm (Survey No.131/2), 8,934 sqm (Survey No.145/2), 1.75 hectare (Survey No.297/2) and 1.62 hectare (Survey No.298/1).

<sup>22</sup> (Stamp duty leviable - ₹ 1.49 crore) - (Stamp duty levied - ₹ 1.05 crore).

₹ 76.58 lakh was leviable. Thus, incorrect consideration of market value of the property resulted in short levy of ₹ 23.58 lakh<sup>23</sup>.

The IGR, Pune stated (September 2018) that an amount of ₹ 23.59 lakh was recovered (March 2017).

The above cases were reported to the Government and the Department between April and June 2018. The Department intimated the acceptance of all cases and recovery of ₹ 67.99 lakh in two cases. The status of recovery in the remaining cases was not intimated (October 2019).

### **3.5 Short levy of stamp duty due to non-consideration of the renewal clause as part of 'lease deed' for calculation of market value**

As per Article 36 (iii) and (iv) of the MS Act, 1958, in case of lease where period of lease is up to 10 years with a renewal clause contingent or otherwise, stamp duty is leviable on 25 per cent of market value of the property, if lease is for exceeding ten years and up to 29 years then stamp duty is leviable on 50 per cent of market value of the property and in case where lease period exceeds 29 years the stamp duty is leviable on 90 per cent of market value of the property. Further, as per Explanation-II, the renewal period, if specifically mentioned, shall be treated as part of the present lease. Instruction number 16(b) of ASR, the valuation of open land should be calculated as per the slabs prescribed in the instruction. A few irregularities noticed during the course of audit are as follows-

**3.5.1** Scrutiny of instruments in two<sup>24</sup> Joint Sub Registrar offices of Tahsil Haveli, District Pune revealed (January and March 2017) that lease deeds three cases were executed (June, August and December 2015) between the lessor and lessee for lease of property for an initial period ranging from 9 years 6 month and 11 days to 10 years along with an option of renewal of lease for additional period ranging from one year to nine years. The Department had worked out market value of ₹ 415.91 crore and levied stamp duty at the rate of five per cent amounting to ₹ 5.20 crore<sup>25</sup>.

Audit observed (January and March 2017) that in these three cases the recitals of the lease deeds indicated that the initial period of lease was extendable for further period ranging from one to nine years. The extended period was as part of the lease deed and was required to be considered for the purpose of levy of stamp duty. Accordingly, the stamp duty payable was ₹ 10.40 crore being 50 per cent of the consideration of ₹ 415.91 crore against ₹ 5.20 crore levied by the department. This has resulted in short levy of stamp duty of ₹ 5.20 crore<sup>26</sup>.

<sup>23</sup> (Stamp duty leviable - ₹ 76.58 lakh) – (Stamp duty levied - ₹ 53 lakh).

<sup>24</sup> Joint Sub Registrar Haveli –VIII and Haveli – XXIII.

<sup>25</sup> 25 per cent of ₹ 415.91 crore = ₹ 103.98 crore considering the period of lease for 10 years.

<sup>26</sup> (₹ Five per cent of (50 per cent of ₹ 415.91 crore ₹ 207.96 crore) = ₹ 10.40 crore ) – (₹ 5.20 crore stamp duty already paid) considering the period of lease for more than 10 years.

The IGR, Pune accepted the audit observation and recovered (September 2018) the amount of ₹ 2.18 crore in one case. Action taken in recovery of the amounts in the remaining cases has not been received.

**3.5.2** Scrutiny of instruments in office of the Joint Sub Registrar, Haveli- VI, Pune revealed (December 2016) that a lease deed was executed (August 2014) between lessor and lessee for leasing a property<sup>27</sup> situated at village Undri (Influence area), Taluka Haveli, Pune for the period of 15 years. The Department had worked out market value of property at ₹ 6.99 crore and levied stamp duty of ₹ 27.97 lakh. The details of calculation of market value of the property determined by the Department were not found on record.

Audit observed (December 2016) that, as per clause 2 of document the initial period of lease was 15 years with an option of renewal of lease for additional period of 15 years. As such the Department should have considered the option for renewal of lease as part of present lease, which came to a cumulative total of more than 29 years; therefore the stamp duty at the rate of four *per cent* ₹ 63.02 lakh was leviable on 90 *per cent* of market value of the property *i.e.* ₹ 15.76 crore (90 *per cent* of ₹ 17.51 crore). Thus, undervaluation of market value of the property has resulted in short levy of stamp duty of ₹ 35.05 lakh<sup>28</sup>.

The IGR, Pune recovered (August 2019) an amount of ₹ 35.05 lakh.

The above cases were reported to the Government and the department between April and June 2018. The department intimated the acceptance of all the four cases and recovery of ₹ 2.53 crore in two cases.

### **3.6 Short levy of stamp duty due to misclassification**

Scrutiny of instruments in office of the Joint Sub Registrar-II, Haveli, Pune revealed (February 2016) that a supplementary development agreement was executed (September 2014) between Developer and Owner for development of land admeasuring areas 9,460.44 sqm bearing final plot no.2/B under Survey No.134 situated at Parvati within the jurisdiction of Pune Municipal Corporation for a consideration of ₹ 8.59 crore. The Department had worked out market value of ₹ 6.58 crore and levied stamp duty of ₹ 51.52 lakh. The details of calculation of market value of the land determined by the Department were not found on record.

As per the recital of the development agreement (September 2014) (henceforth called as supplementary agreement) the developer had executed a development agreement in August 2005 (henceforth called the Original agreement) for the development of same piece of land. As per the original agreement the developer had agreed for development of the piece of land on consideration of ₹ seven crore consisting of cash payment of ₹ 6.20 crore and in form of construction area of 929.02 sqm for ₹ 80 lakh.

The recital of the Supplementary Agreement indicated that the owner had agreed to transfer the property to the developer in lieu of constructed areas of

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<sup>27</sup> admeasuring about 11,600 sqm and building constructed thereon admeasuring about 72,208 sqft bearing Survey No. 60.

<sup>28</sup> (stamp duty leviable - ₹ 63.02 lakh) – (stamp duty actually levied - ₹ 27.97 lakh).



1,871.36 sqm valued at ₹ 12.53 crore and ₹ 13.64 crore in cash including ₹ 6.20 crore agreed in the original agreement. Thus, the total consideration of the property amounted to ₹ 26.17 crore consisting of cash ₹ 13.64<sup>29</sup> and constructed areas valued at ₹ 12.53 crore. Since the entire property was transferred to the developer for consideration in the form of cash and in the form of construction, the document should have been classified as conveyance deed on which a stamp duty of ₹ 1.57 crore<sup>30</sup> was leviable instead of ₹ 58.52 lakh<sup>31</sup> levied by the Department. Thus, misclassification of document by Department had resulted in short levy of stamp duty of ₹ 98.51 lakh<sup>32</sup>.

The Joint District Registrar & Collector of Stamps, Pune (City) accepted (October 2016) the fact.

The above observation was brought to the notice of Government (May 2018). Reply thereto was awaited (October 2019).

### **3.7 Incorrect grant of benefit under Section 4 of the Maharashtra Stamp Act (MS Act)**

As per Section 4 of the MS Act, 1958, where in the case of any development agreement, sale, lease, mortgage or settlement, several instruments are employed for completing the transaction, the principle instrument only shall be chargeable with the duty prescribed in Schedule-I for the conveyance, development agreement, lease, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one hundred rupees instead of the duty (if any) prescribed for it in that Schedule. Provided that, the duty chargeable on the instrument, so determined shall be the highest duty, which would be chargeable in respect of any of the said instruments employed.

Scrutiny of instruments in office of the Joint Sub Registrar, Haveli-XIV, Pune revealed (September 2016) that a development agreement was executed (September 2014) between owner and developer to develop a land admeasuring 3,000 sqm bearing survey no. 188, *hissa* No 1/3, *mouza* Ravet, Taluka Haveli, District Pune within the limits of Pune Municipal Corporation, Pune for a consideration of ₹ 3.25 crore on which stamp duty of ₹ 16.25 lakh was levied. Thereafter, the owners decided to sell out the property to the developer. A sale deed was executed (June 2015) between owner and developer for the same consideration amount of ₹ 3.25 crore on which stamp duty of ₹ 500 and registration fee of ₹ 100 was levied by grant of benefit under section 4 of MS Act.

The development agreement and sale deed were two different documents covered under different articles namely Article 5 and 25 of the schedule I of the MS Act 1958. The recitals of the deeds indicated that these were executed for two different purposes at two different dates, one was for development purposes and another was for transfer of property, as such development agreement was not principal document of sale deed. Therefore, the executant

<sup>29</sup> ₹ 6.20 crore in earlier document + ₹ 7.44 crore in this document.

<sup>30</sup> Six *per cent* of ₹ 26.17 crore (₹ 157.03 lakh).

<sup>31</sup> ₹ seven lakh levied on original agreement and ₹ 51.52 lakh on the supplementary agreement.

<sup>32</sup> (stamp duty leviable - ₹ 157.03 lakh) – (stamp duty actually levied - ₹ 58.52 lakh).

was not entitled to the benefit of the exemption. This resulted in short levy of stamp duty ₹ 23.37 lakh<sup>33</sup> and registration fee ₹ 29,900<sup>34</sup>.

The IGR, Pune accepted (September 2018) the audit observation for recovery. The above observation was brought to the notice of Government (June 2018). Reply thereto was awaited (October 2019).

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<sup>33</sup> six per cent x ₹ 3,89,55,000 (Market value)= ₹ 23.37 lakh (Stamp duty leviable – ₹ 23,37,300) - (Stamp duty levied - ₹ 500)

<sup>34</sup> (Registration fee leviable - ₹ 30,000) – (Registration fee levied - ₹ 100)

## CHAPTER IV

### LAND REVENUE

#### 4.1 Tax Administration

The administration of Land Revenue Department vests with the Principal Secretary, Revenue Department. For the purpose of administration, the State has been divided into six divisions and each division is headed by the Divisional Commissioner who is assisted by District Collectors. There are 36 District Collectors, 121 revenue sub divisions, 358 Tahsils headed by the Tahsildar. The Revenue Inspector and Village Officers (*Talathi*) are responsible at the grass root level for collecting the land revenue and dues recoverable as arrears of land revenue.

#### 4.2 Result of audit

There are 890 auditable units in the Land Revenue Department, out of these, audit selected 95 units for test check wherein 7,784 cases of Non – Agriculture Assessment (NAA), Zilla Parishad cess (ZP), Village Panchayat cess (VP), occupancy price, lease rent, encroachment and permission of extraction of minor minerals were finalized. Out of these, 6,763 cases (approx. 86.88 *per cent*) were selected for test check. During scrutiny, audit noticed short/non levy of NAA, ZP/VP cess, occupancy price, lease rent, unearned income *etc.* of ₹ 197.73 crore in 518 cases (approx. 7.65 *per cent* of sampled cases). These were pointed out to the concerned assessing authorities through 304 audit observations. These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed broadly fall under the following categories.

(₹ in lakh)			
Sr. No.	Category	No. of observations	Amount
1	Non levy/Short levy of measurement fees, <i>sanad</i> fee, license fee <i>etc.</i>	78	14,240.18
2	Non levy/Short levy of fine, non – auction/Short recovery of surface rent on account of sand ghats, royalty <i>etc.</i>	68	336.86
3	Non levy/Short levy/incorrect levy of Non – Agriculture assessment (NAA), ZP/VP cess and conversion tax	34	875.80
4	Non levy/Short levy of occupancy price, lease rent, unearned income <i>etc.</i>	17	954.13
5	Others	107	3,365.57
<b>Total</b>		<b>304</b>	<b>19,772.54</b>

During the year 2017–18, the Department accepted and recovered underassessment and other deficiencies of ₹ 17.57 crore pertaining to 499 cases, of which three cases involving ₹ 0.33 lakh were pointed out during 2017-18 and the rest during earlier years.

In one case, entire amount of ₹ 91.40 lakh on account of occupancy price was recovered after being pointed out by audit in March 2017.

A few observations involving ₹ 16.59 crore are mentioned in the following paragraphs.

### **4.3 Short recovery of unearned income**

As per Revenue and Forest Department (R&FD) resolution (September 1983) permission to sell agriculture land held as class-II occupant<sup>1</sup> for agriculture purpose shall be granted subject to payment of 50 *per cent* of net unearned income<sup>2</sup> and 75 *per cent* of unearned income in case of sale of agriculture land for non-agriculture purpose respectively. The R&FD clarified (September 2006) that in case of transfer of class-II land, if the market value so determined is less than the price realised by way of sale, the unearned income shall be determined on the sale price. Further, as per instruction 29 of ASR, if Government land situated in rural area is allotted for non-agriculture purpose, market value shall be determined at 50 *per cent* of non-agriculture rates prescribed in the ASR for that zone.

**4.3.1** Scrutiny of records of two offices<sup>3</sup> revealed (May & June 2016) that, in three cases of Class-II land held on new tenure, the Divisional Commissioner<sup>4</sup> had accorded (September 2014 & March 2015) sale permission to land holder for sale of land admeasuring 6.63 hectare to purchasers for agriculture purpose. The Department had recovered unearned income of ₹ 0.28 crore. The details of calculation of unearned income and market value of land were not available on record.

Audit observed (May & June 2016) that in these cases, land was sold (April 2013 & November 2014) by the land holders to the purchasers for agriculture purpose at a consideration of ₹ 1.67 crore. Thus, unearned income of ₹ 0.84 crore (i.e. 50 per cent of ₹ 1.67 crore) was recoverable against ₹ 0.28 crore recovered by the Department. This resulted short levy of unearned income of ₹ 0.56 crore.

On this being pointed out (May & June 2016), the Department intimated (November 2018) recovery of ₹ 11.87 lakh in one case of Solapur district. In other case (Palghar district), the Additional Chief Secretary, Revenue Department, Mantralaya, Mumbai stated (April 2019) that agreement to sale was executed in April 2013 for sale of land for non-agriculture purpose and sale deed was executed in May 2015 for agricultural purpose after obtaining

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<sup>1</sup> Class-II Occupants shall consist of persons who hold unalienated land in perpetuity subject to restrictions on the right to transfer.

<sup>2</sup> Unearned income means the difference between current market value or the price realised by way of sale whichever is higher and the occupancy price paid at the time of allotment plus cost of improvement.

<sup>3</sup> Collector, Solapur and Tahsildar, Palghar, District Palghar.

<sup>4</sup> Pune and Konkan Division.

required permission from Revenue authorities and thus, an amount of ₹ 6.25 lakh and ₹ 6.05 lakh was recovered (April 2015) on account of unearned income in the above cases. The reply of the department is not acceptable as the agreement to sale (April 2013) was for the consideration of ₹ 57 lakh and ₹ 55.20 lakh respectively and do not mention about the agriculture/Non-agriculture purpose. However, the sale-deed was executed (May 2015) for the consideration of ₹ 12 lakh each. The clarification on the reduction of amount of consideration in sale deed was sought (May 2019) from the Additional Chief Secretary, Revenue Department, Mantralaya, Mumbai. Reply thereto was awaited (October 2019).

**4.3.2** Scrutiny of records of two offices<sup>5</sup> revealed (March 2014, July 2016 and September 2016) that, in five cases of Class-II land held on new tenure, the Divisional Commissioner, Pune had accorded<sup>6</sup> sale permission to land holders for sale of land admeasuring 13.58 hectare for non-agriculture purpose. The Department had recovered<sup>7</sup> unearned income of ₹ 7.19 crore. The details of calculation of unearned income and market value of land were not available on record.

Audit observed<sup>8</sup> that in these five cases, the land was sold (April 2007, October 2007, April 2008, September 2012 and June 2016) by the land holder to a purchaser for non-agriculture purpose at the consideration of ₹ 27.85 crore. The unearned income of ₹ 20.88 crore<sup>9</sup> was recoverable from the land holder. However, the Department recovered ₹ 7.19 crore against the unearned income. This has resulted short levy of unearned income of ₹ 13.69 crore.

The Tahsildar, Pune (City) stated (September 2017) that in one case amount of ₹ 37.97 lakh was recovered (September 2017) and in other two cases notices were issued to the concerned. The dates of issue of notices were not furnished. Further action taken in recovering the amount has also not been received (October 2019).

The above observations were brought to the notice of the Department (between January 2018 and March 2018) and Government (between May 2018 and June 2018); their reply has not been received (October 2019).

#### **4.4 Short levy of occupancy price due to application of incorrect rates**

As per Government of Maharashtra (GoM), Revenue & Forest Department (R&FD) resolution (May 2006), while allotting Government land on occupancy or on lease basis, valuation of such land should be determined as per rates prescribed in Annual Statement of Rates (ASR) as on date on which order is passed for allotment of Government land.

<sup>5</sup> Collector, Pune (two cases) and Tahsildar Pune (three cases).

<sup>6</sup> May 2007, August 2007, April 2008, June 2012 and December 2015.

<sup>7</sup> June 2012, January 2016, August 2017, September 2017 and October 2017.

<sup>8</sup> March 2014, July 2016 and September 2016.

<sup>9</sup> 75 per cent of ₹ 27.85 crore.

**4.4.1** Scrutiny of records in the Office of the Tahsildar, Junnar District, Pune revealed (May 2016) that in three cases<sup>10</sup> the District Collector, Pune (December 2013) had sanctioned and allotted Government land in Taluka Junnar, District Pune to MSEDCL for erecting of electricity substations. The department collected occupancy price of ₹ 25.23 lakh<sup>11</sup>. The details of calculation of market value/occupancy price for land were not available on record.

Audit observed that the market value of the pieces of the land as per the rates prescribed in ASR 2013 and instructions contained in G.R. (April 2008) was ₹ 63.48 lakh. Accordingly, occupancy price of ₹ 63.48 lakh was recoverable instead of ₹ 25.23 lakh collected by the Department. This resulted in short levy of occupancy price of ₹ 38.25 lakh<sup>12</sup>.

After this was pointed out (May 2016) the Tahsildar, Junnar stated (May 2016) that the recovery will be made and reported to audit after due scrutiny of the matter.

**4.4.2** Scrutiny of records in Office of the Tahsildar, Baramati, District Pune revealed (January 2018) that the District Collector, Pune sanctioned (December 2013) and allotted Government land admeasuring 6,000 sqm bearing *gat* number 11/1, Zone No. 4.3.1 situated at *mouza* Baramati, Tahsil Baramati, Pune to MSEDCL for erecting of electricity substations by levying occupancy price of ₹ 35.10 lakh. The details of calculation of market value/occupancy price for land were not available on record.

Audit observed that the rate of ₹ 2,950 per sqm was applicable to the above land (*gat* number 11/1, Zone No. 4.3.1) in terms of ASR 2013 and applying this rate and slabs as mentioned in the GR (April 2008) the market value of the land worked out to ₹ 1.59 crore. Thus, occupancy price of ₹ 1.59 crore should have been recovered. The under valuation of the market value of land had resulted in short levy of occupancy price of ₹ 1.24 crore<sup>13</sup>.

In reply Tahsildar, Baramati stated (January 2018) that after due verification of facts, final compliance would be furnished.

The above observations were brought to the notice of the Department (January 2018 and March 2018) and Government (April and June 2018); their reply has not been received (October 2019).

#### **4.5 Short recovery of *nazarana***

As per Government of Maharashtra (GoM), Revenue and Forest Department (R&FD) Circular (July 2002), if the Class-II land is converted into Class-I

<sup>10</sup> (a) land admeasuring 0.80 hectare (*i.e.* 8,000 sqm) bearing *gat* number 735/1 under zone no. 4 situated at *mouza* Khodad (b) land admeasuring 7,190 sqm bearing survey number 1/37 under zone no.1 situated at *mouza* Pimpalwandi and (c) land admeasuring 1.65 hectare (*i.e.* 16,500 sqm) bearing *gat* number 383 under zone no.3 situated at *mouza* Khanapur.

<sup>11</sup> ₹ 15.30 lakh + ₹ 5.31 lakh + ₹ 4.62 lakh.

<sup>12</sup> ₹ 8.50 lakh + ₹ 7.16 lakh + ₹ 22.59 lakh.

<sup>13</sup> (occupancy price to be levied ₹ 1.59 crore) – (occupancy price levied ₹ 35.10 lakh).

land for non-agriculture purpose, then the *nazarana*<sup>14</sup> amount equivalent to 50 per cent of market value of the land should be recovered from the applicant.

Scrutiny of records in office of the Sub-Divisional Officer (SDO), Haveli, Pune revealed (July 2015) that SDO passed an order between August 2013 and January 2014 to grant permission for conversion of class-II land to non-agriculture purpose in 10 cases. The *nazarana* amount of ₹ 2.87 crore was levied and recovered.

Audit observed (July 2015) that the out of total 6,181 sqm land in these 10 cases, SDO had recovered *nazarana* amount on 5,032 sqm of land, by excluding the land demarcated for road and other purpose. The SDO should have recovered the *nazarana* amount on total 6,181 sqm of land permitted for conversion. The market value of total 6,181 sqm of land was worked out to ₹ 7.17 crore on which *nazarana* amount of ₹ 3.59 crore was recoverable. Thus, there was short recovery of *nazarana* amount of ₹ 71.68 lakh<sup>15</sup>.

The SDO accepted the facts and stated that notices for recovery have been issued in all these cases and an amount of ₹ 5.68 lakh was recovered (April 2018) in two cases.

The above observation was brought to the notice of the Department (March 2018) and Government (June 2018); their reply has not been received (October 2019).

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<sup>14</sup> *Nazarana* is an amount recoverable from the Class-II land holder who wish to transfer Class-II land from agricultural use to non-agricultural use or from one non-agricultural use to another non-agricultural use.

<sup>15</sup> (*Nazarana* leviable - ₹ 3.59 crore ) – (*Nazarana* levied - ₹ 2.87 crore).

## CHAPTER V

### TAXES ON VEHICLES

#### 5.1 Tax administration

Levy and collection of taxes and other receipts under the Motor Vehicles sector are regulated by the Central Motor Vehicles Act, 1988, the Maharashtra Motor Vehicle Tax Act, 1958, the Maharashtra Motor Vehicles Transportation of Passengers Act, 1958, and the Rules made there under. These Acts and Rules are implemented by the Transport Commissioner under the overall control of the Principal Secretary (Transport) to the Government in Home Department, assisted by an Additional Commissioner, a Joint Commissioner, Deputy Commissioners and Regional and Deputy Transport Officers. The motor vehicles receipts mainly comprise taxes on motor vehicles and taxes on goods and passengers.

#### 5.2 Internal Audit

Each Regional Transport Office is having an internal audit wing headed by an Accounts Officer. Information regarding position of units planned to be taken up for audit and actually audited is given in **Table 5.2**.

**Table 5.2**

Year	No. of units planned	No. of units audited	Audit observations raised	Audit observations settled till 31/03/2018	Pending observations as on 31/03/2018
2013-14	112	150	507	265	242
2014-15	184	196	762	240	522
2015-16	170	389	565	252	313
2016-17	118	474	720	278	442
2017-18	124	121	231	85	146
<b>Total</b>	<b>708</b>	<b>1,330</b>	<b>2,783</b>	<b>1,120</b>	<b>1,665</b>

**Source: Information furnished by the Department**

During the last five years, the number of units actually audited have exceeded the number of units planned to be audited. The Department has settled 40 *per cent* of the observations raised by the internal audit wing.



### 5.3 Results of audit

There are 50 Transport Districts in the State of Maharashtra headed by RTOs/DRTOs and 3,02,17,111 vehicles are registered therewith. There are 51 auditable units including 50 implementing units in the Transport Department. Out of these, 30 units were selected where approximately 2,33,34,697 vehicles were registered. Out of these, 14,54,115 vehicles (approx. six *per cent*) were selected for test check. Audit noticed 1,593 cases (approx. 0.11 *per cent* of the sampled cases) in 216 observations involving ₹ 3.07 crore of non/short payment of tax, penalty, interest and compounding fees, and other miscellaneous irregularities. These cases are illustrative and are based on a test check by us. Audit has pointed out some of the similar omissions in earlier years, but not only these irregularities persist, they also remain undetected till next audit is conducted. There is a need for the Government to improve the internal control system including strengthening the internal audit so that recurrence of such cases can be avoided. Irregularities noticed during the year can be broadly categorized as follows.

**Table 5.3**

(₹ in crore)			
Sr. No.	Category	No. of observations	Amount
1	Audit on “Verification of loading restrictions of vehicles at Border Check Posts”	1	81.00
2	Non/short levy of tax	140	3.01
3	Miscellaneous	75	0.06
<b>Total</b>		<b>216</b>	<b>84.07</b>

The Department accepted underassessment and other irregularities of ₹ 2.16 crore in 336 observations (1,115 cases) out of which 26 observations (95 cases) involving ₹ 10.03 lakh were pointed out in audit during 2017-18 and the rest in earlier years. The Department intimated recovery of the entire amount.

In addition to this, the Department also intimated recovery of ₹ 4.18 lakh by way of explanatory memoranda during the year in respect of one paragraph pertaining to Audit Report 2011-12.

A few illustrative cases involving ₹ 81.96 crore including a paragraph on “Verification of loading restrictions of vehicles at Border Check Posts” are discussed in the succeeding paragraphs.

## **5.4 Audit on “Verification of loading restrictions of vehicles at Border Check Posts”**

### **Introduction**

As per Section 113(3) of the Motor Vehicles Act, 1988 no person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer:(a) the unladen weight of which exceeds the unladen weight specified in the certificate of registration of the vehicle, or (b) the laden weight of which exceeds the gross vehicle weight specified in the certificate of registration. Further, as per the amended notification dated 7 January 2016, tolerance up to five *per cent* in the Gross Vehicle Weight and safe axle weight as specified was permitted to be allowed for the purpose of driving the vehicles for the compliance to Section 113(3) of the MVT Act.

The Government of Maharashtra (March 2009) entered into an agreement with a company named Maharashtra Border Check Posts Network Limited (MBCPNL) to construct and operate modernised/computerised 22<sup>1</sup> Border Check Posts (BCP), and transfer the same to the Government after completion of concession period of 24 years and six months. The Government of Maharashtra appointed Maharashtra State Road Development Corporation Limited (MSRDC) as the Project Implementing Agency (PIA) for the project. All goods vehicles entering the BCP are required to pass through the weighbridge for determining the Gross Vehicle Weight (GVW) of the vehicles. The vehicles weighing within permissible limits were permitted to exit the BCP. If any vehicle was found to be overloaded, the same was handed over to the staff of the Transport Department, who in turn levied and recovered the compounding fee at the prescribed rate for contravention of provision of the Motor Vehicle Act, 1988. Thereafter, an “Offloading note” was issued in respect of the vehicle which was then handed over along with the vehicle to the agency operating the BCP. The agency offloads the excess weight, recovers the offloading charges and then permits the vehicle to exit the BCP.

Further, Section 194 of the Act stipulates that whosoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of provision of Section 113 shall be punishable with minimum fine of two thousand rupees and an additional amount as notified by Government of Maharashtra from time to time in exercise of power conferred under Section 200 of the Act, either before or after the institution of the prosecution, be compounded by the competent authority.

**Receipts from BCPs:-**The details of revenue collected on account of various taxes, permit fees, Environment tax, penalty, etc. and the number of vehicles checked at the 22 BCPs during the period 2014-15 to 2017-18 are shown in the following table:

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<sup>1</sup> Originally 22 BCPs were to be computerised. Two more BCPs were added in March 2016.

**Table - Vehicles checked and overloaded vehicles detected**

Year	Number of motor vehicles checked at BCP	Number of overloaded motor vehicles detected and fined	Percentage of overloaded vehicles against the total motor vehicles checked	Revenue collected at BCPs on account of tax, fees, penalty, etc. (₹ in crore)
2014-15	1,24,35,450	16,99,314	13.67	226.68
2015-16	1,16,66,835	14,84,951	12.73	273.13
2016-17	82,76,494	14,19,335	17.15	255.97
2017-18	1,04,85,579	11,69,197	11.15	283.47

Source: Motor Vehicle Department website and information furnished by the Transport Department.  
Note: Taxes on temporary permits on goods vehicles were also recovered at the BCPs.

We test checked the records of five<sup>2</sup> out of 22 BCPs and noticed a few deficiencies including non-compliance of provisions of Section 113(3) and the notifications issued thereunder as detailed in following paragraphs.

### 5.4.1 Vehicles carrying goods exceeding permissible carrying capacity

**5.4.1.1** A data centre and IT infrastructure was maintained by Maharashtra Border Check Posts Network Limited (MBCPNL) for online checking, verification and detection of the overloaded vehicles. However, there was no mechanism for sharing the same with the Transport Department. The Transport Department maintained the records of border check posts manually.

Audit collected the data of the vehicles carrying goods in excess of the permissible gross vehicle weight (GVW) limit fixed by the Government from the four<sup>3</sup> test checked BCPs from the Transport Department. This data was compared with the data maintained by MBCPNL (called by audit through the Transport Department). It was found that that MBCPNL had detected 3,67,641 overloaded vehicles against the department levied penalty and compounding fee only on 99,408 vehicles. Year wise break is as follows-

**Table 5.4.1.1**

Name of BCP	2014-15		2015-16		2016-17		2017-18	
	Number of overloaded vehicles							
	As per BCP	As per Transport Department	As per BCP	As per Transport Department	As per BCP	As per Transport Department	As per BCP	As per Transport Department
Achhad	80,307	8,820	59,116	4,647	54,425	15,724	22,757	10,338
Hadakhed	26,966	5,459	14,664	2,495	16,247	4,416	12,135	2,708
Navapur	17,250	7,874	11,223	NA	10,964	5,045	6,580	3,075
Omerga	10,764	8,982	11,097	7,273	7,008	7,049	6,138	5,503
<b>Total</b>	<b>1,35,287</b>	<b>31,135</b>	<b>96,100</b>	<b>14,415</b>	<b>88,644</b>	<b>32,234</b>	<b>47,610</b>	<b>21,624</b>
<b>Total no. of overloaded vehicles detected as per BCP</b>								<b>3,67,641</b>
<b>No. of overloaded vehicles on which action was taken by the RTOs</b>								<b>99,408</b>
<b>No. of overloaded vehicles on which action not taken by RTO</b>								<b>2,68,633</b>

Source: - Figures at BCPs are provided by MBCPNL and at Transport Department by respective RTOs.

<sup>2</sup> Achhad, Hadakhed, Kagal, Navapur and Omerga.

<sup>3</sup> Achhad (up to December 2017), Hadakhed, Navapur and Omerga.

Thus, it would be seen from the above that there was huge difference (2,68,633) in the number of vehicles (carrying goods beyond the permissible gross laden weight) between the figures furnished by the Department and those furnished by the MBCPNL (through the Transport Commissioner). No system for reconciliation of the figures and monitoring mechanism existed for ensuring correctness of the data maintained either by the MBCPNL or maintained manually by the Transport Department. Thus, compounding fees/fines were not recovered in respect of 73 per cent of the overloaded vehicles carrying goods beyond the permissible limit of gross laden weight.

These vehicles were allowed to ply on the roads in contravention of the provisions of the Motor Vehicle Act, thereby endangering road and public safety. In this process Government had foregone revenue involving a money value of ₹ 81 crore (based on minimum applicable rates) due to non-levy of penalty and compounding fees.

The issue regarding the huge difference was discussed (May 2018) with the Transport Commissioner, with reference to a few selected months viz. September 2016, December 2016 and March 2017. He stated that the issue would be examined in detail. However, further progress in the matter has not been received (October 2019).

#### **5.4.1.2 Variation in the data of offloaded overloaded vehicles**

During the course of local audit of RTO Dhule in January 2018, the information regarding number of vehicles offloaded during 2016-17 in Hadakhed and Navapur BCPs was furnished to audit. Audit noticed variation between two set of figures furnished by MBCPNL and the Transport Department as mentioned in the following Table 5.4.1.2 below-

**Table 5.4.1.2- Information regarding number of vehicles offloaded in Hadakhed and Navapur BCPs in 2016-17**

<b>Name of the BCP</b>	<b>Number of overloaded vehicles detected as per MBCPNL</b>	<b>No of overloaded vehicles offloaded as per Transport Department</b>	<b>Number of overloaded vehicles offloaded as per MBCPNL</b>
Hadakhed	16,247	4,416	5,023
Navapur	10,964	5,045	4,071

**Source: Information furnished by RTO, Dhule**

In respect of the remaining BCPs, the MBCPNL stated that the data cannot be furnished as the bifurcation of the data was not available with them.

The mismatch in the data regarding overloaded vehicles as per the BCPs and those found overloaded as per the RTO records indicate that the Department needs to strengthen its internal control mechanism to ensure correctness of the data.

#### **5.4.2 Delays in operationalisation of BCPs**

As per provision of Article 9.2 of the Concession Agreement “A project shall be deemed to be complete and open to traffic only when the completion certificate is issued by the Engineer-in-charge in accordance with the provision of Article 9.3”. Further, as per provision of Article 4.1(b) of the

agreement, the Government of Maharashtra has to publish the service fee Notification (indicating the charges leviable for services such as weighing, unloading, loading, parking etc. of vehicles) after issue of Provisional Completion Certificate (PCC) by Engineer in Charge, approved/nominated by MSRDC.

As per the information made available to audit in respect of 18 BCPs out of 24 operational BCPs, there were delays ranging from seven months to 19 months after the issue of PCC by the Engineer-in-charge in the operationalisation of 14 BCPs. The details are shown in the **Table 5.4.2** below-

**Table 5.4.2- Delays in operationalisation of BCPs**

Sr. No.	Name of BCP	PCC date	Date of sending the case to GoM.	Service fee notification date	User fee collection date	Delays in operationalisation of BCP (in months)
1	Mandrup	14/12/2012	NA	01/06/2013	01/08/2013	8
2	Saoner	14/12/2012	17/08/2013	22/10/2013	28/10/2013	10
3	Bori	31/05/2013	NA	02/01/2014	04/01/2014	7
4	Warud	27/09/2013	04/03/2014	25/04/2014	30/04/2014	7
5	Omerga	27/09/2013	04/03/2014	25/04/2014	27/04/2014	7
6	Kharpi	27/12/2013	20/08/2014	01/08/2015	05/08/2015	19
7	Biloli	28/02/2014	NA	01/08/2015	05/08/2015	17
8	Purnad	20/08/2014	NA	01/08/2015	07/08/2015	11
9	Deori	20/08/2014	25/08/2014	01/08/2015	07/08/2015	11
10	Borgaon	30/08/2015	29/01/2016	25/01/2017	27/01/2017	17
11	Akkalkuwa	09/11/2015	08/02/2016	25/01/2017	27/01/2017	15
12	Shinoli	10/11/2015	08/02/2016	25/01/2017	30/01/2017	15
13	Rajura	18/10/2016	18/01/2017	01/03/2018	04/03/2018	16
14	Kelwad	18/10/2016	18/01/2017	01/03/2018	12/03/2018	16

**Source: Information furnished by the MSRDC**

Thus, it would be seen from above that there has been a delay of seven to 19 months in issue of service fee notification. The BCPs have remained idle till the date of issue of notification. The MSRDC had, brought (between September 2013 and February 2017) to the notice of the GoM that “there was vast gap between date of issuing of Provisional Completion Certificate and the date of issuing of notification”. Thus, the facility of using the modern tools of the check post got delayed. During this period the checking was done manually and the possibility of leakage of revenue could not be ruled out.

The matter was brought to the notice of the Government (June 2018). No reply has been received.

### 5.4.3 Non-operationalisation of Border Check Post at Kagal

The modernisation work of BCP Kagal in Kolhapur district started in March 2015 and was incomplete till June 2018. During this period, the BCP was managed manually by the Transport Department officials. Audit noticed that there was steep fall in detection of overloaded vehicles passing through the check post during the years as shown in the following table:

**Table 5.4.3-Detection of vehicles with irregularities at Kagal BCP**

<b>Year</b>	<b>No of MVs checked during the year by the Transport Department</b>	<b>No. of vehicles detected with irregularities</b>	<b>No. of vehicles found overloaded</b>
2014-15	2,96,783	97,346	798
2015-16	2,98,751	91,312	203
2016-17	2,92,119	81,624	36
2017-18	2,34,718	62,152	18

Source: Information furnished by the RTO Kolhapur

The Department stated that the existing check post was away from the modernised check post. There was no weighing mechanism at the existing BCP to detect the overladen vehicles. The RTO Kolhapur stated that there was an alternative route (bypass) on both sides of the check post, therefore, overloaded vehicles avoided passing through BCP Kagal. Due to these factors the number of vehicles found overloaded came down drastically from 798 in 2014-15 to 18 in 2017-18.

RTO, Kolhapur further stated that the modernised check post was not made operational due to non-completion of work of approach roads. The service road from both side of the BCP (In and Out) were not completed by MBCPNL, resulting in the BCP remaining non-operational since 2017. The operation of Mobile Check Post (MCP) could have prevented the evasion of tax on the bypass routes. But MCP, as discussed in the succeeding paragraph, was not made operational.

The above facts indicate that there is a need for take necessary steps for making the modernised check post operational. The matter was brought to the notice of the Department (June 2018).

#### **5.4.4 Non utilisation of Mobile Check Post**

As per the provision of Article 14.2 of the Concession Agreement, MBCPNL will have to carry out the work of Mobile Check Point(s) near the check posts on any bypass road near the project site to check if there are any leakages to the commercial traffic brought to the notice by the GOM or the MBCPNL at any time during the concession period.

Test check of records revealed that, MBCPNL had conducted ( June 2017) “User Acceptance Test” (UAT) of the features and functions of the Mobile Check Post in the presence of the officials of the Transport Department and the RTO Thane. It was stated therein that the demonstrated Check Post was tested as per technical specifications and requirements. MBCPNL requested (July 2017) the Department to commence the operation of the Mobile Check Post to check the illegal movement on the bypass route. The same was not utilised by the Department. The Department stated that it was seeking clarification from the Government for levy of user charges for Mobile Check Post. The Transport Department had not taken any follow up action on the clarification sought. (June 2018).

Due to non-utilisation of Mobile Check Post, the basic purpose to plug the leakages of commercial traffic through bypass routes was not ensured by the Department.

Matter was brought to the notice of the Government (June 2018); their reply has not been received.

### Conclusion

Maharashtra Border Check Posts Network Limited (MBCPNL) had maintained a data centre and IT infrastructure for online checking, verification and detection of the vehicles carrying load beyond the permissible limits. However, this information was not electronically shared with the Transport Department. The Transport Department to whom the overloaded vehicles were handed over by the MBCPNL maintained the records of these vehicles manually and levied penalty and compounding fee. The number of overloaded vehicles as per data furnished MBCPNL was 3,67,641 but action for levy of penalty and compounding fee was taken only against 99,408 overloaded vehicles by the Transport Department. Thus, no action was taken on 73 per cent of the vehicles carrying goods beyond the permissible limits.

The plying of vehicles on the roads in contravention of the provisions of the Motor Vehicle Act, not only endangered the road and public safety but also deprived the Government of, what could have been earned by way of penalty and compounding fee.

- **It is recommended that the department may consider monitoring the levy and collection of fines from the overloaded vehicles by sharing and reconciling the data with MBCPNL at regular intervals.**

There were delays ranging from seven to 19 months in issue of service fee notification by the Government. During this period the checking was done manually and the possibility of leakage of revenue could not be ruled out.

The modernisation work of BCP Kagal in Kolhapur district started in March 2015 and was incomplete till June 2018. There was steep fall in detection of the overloaded vehicles (from 789 in 2014-15 to 18 in 2017-18) during this period. This was due to plying of vehicles through alternate routes, absence of weighing mechanism and mobile check posts.

- **It is recommended that the department may consider early operation of the check posts and ensure availability of the tools necessary for weighing and detecting the vehicles carrying loads in excess of the permissible limit.**

### **Other audit observations**

Though the procedures for levy and collection, Maharashtra Motor Vehicle Tax Act and related Acts and Rules are well laid out, the departmental officers are required to exercise due diligence in their duties and there should be zero tolerance towards any errors/omissions on their part. Our scrutiny of records finalised in 30 offices of the Motor Vehicles Department revealed 1,593 cases of non-observance of provisions of Acts/Rules, short levy of tax, etc. A few interesting cases are mentioned in the succeeding paragraph in this Chapter. Cases similar to these have been pointed out in previous years also. However, not only do the irregularities persist but they also remain undetected till we conduct next audit. There is a need for the Government to improve the internal control system including strengthening of internal audit.

### **5.5 Non-recovery of Motor Vehicle Tax**

According to the provisions of the Maharashtra Motor Vehicle Tax Act, 1958, tax is leviable on vehicles used or kept for use in the State of Maharashtra, at prescribed rates in accordance with the weight, area or seating capacity of the vehicle. The tax is payable in advance for annual, quarterly and less than quarterly periods as specified in Section 4 of the Act. The Regional Transport Offices (RTOs) maintain the details of recoveries made from the vehicle owners, issue of demand notices, etc. in the VAHAN system. In case the tax is not paid in time, interest at the rate of two *per cent* per month on the unpaid amount is recoverable from the vehicle owners under Section 8A of the Act. Further, as per provisions of Section 12 of the Act, arrears of tax and interest are recoverable as arrears of land revenue.

The tax is payable through net banking gateways to the VAHAN system. Alternatively the tax can be paid by cash at the designated counters in the RTO offices which are reflected in the VAHAN system. However, in some instances tax is recovered in cash by enforcement authorities in remote areas, for which manual receipts are issued. These receipts are subsequently updated in the VAHAN system.

The earlier version of VAHAN was connected to the Government Receipt Accounting system and any payments made through GRAS were reflected in the VAHAN system. However, the current version of VAHAN namely, VAHAN 4.0 (implemented with effect from July 2016) does not have any connectivity with GRAS.

During test check of nine offices<sup>4</sup> between April 2017 and January 2018, we noticed from the VAHAN system that the tax in respect of various types of vehicles amounting to ₹ 96.46 lakh was not recovered from the owners of 159 vehicles for periods ranging from three months to 72 months between March 2011 and June 2018 as given in the following table.

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<sup>4</sup> Regional Transport Officers – Dhule, Kolhapur, Mumbai (East), Mumbai (West) and Nashik; Deputy Regional Transport Officers – Pen, Ratnagiri, Solapur and Vashi.



(₹ in lakh)				
Type of Vehicle	Tax levied on basis of		No. of cases	Amount
Equipment fitted vehicles	Registered Weight	Unladen	62	16.06
Camper Vans	Floor Area		8	14.38
Transport Series Vehicles (Goods)	Registered Weight	Laden	13	5.01
Transport Series Vehicles (Buses)	Passenger Capacity		76	61.01
<b>Total</b>			<b>159</b>	<b>96.46</b>

It was seen that the VAHAN system had not been reviewed periodically and the demand notices had not been issued by the RTOs.

On this being brought to notice between May 2017 and February 2018, the Department accepted the observations and intimated (May 2018) recovery of ₹ 33.42 lakh in respect of 66 cases. Out of this, an amount of ₹ 8.54 lakh in 15 cases had been already been recovered before but the entries in this regard were not made in VAHAN. However, these entries have been updated after being pointed out by audit. Report on recovery in the remaining cases has not been received.

The matter was brought to the notice of the Department in June and September 2018; their reply has not been received (October 2019).

## CHAPTER VI

### OTHER TAX AND NON-TAX RECEIPTS

#### 6.1 Tax administration

This chapter consists of receipts from State Excise, Entertainments Duty, State Education Cess and Employment Guarantee Cess, etc. The administration is governed by Acts and Rules framed separately for each tax head.

#### 6.2 Results of audit

In 2017-18, test check of the records of 89 units out of 283 auditable units relating to State Excise, Entertainments Duty, Taxes and Duties on Electricity, State Education Cess and Employment Guarantee Cess, Profession Tax, Repair Cess, etc., showed short levy of licence fees, entertainments duty and other irregularities amounting to ₹ 102.70 crore in 340 observations, which fall under the following categories as indicated in **Table 6.2**.

**Table 6.2**

Sr. No.	Category	No. of observations	Amount (₹ in crore)
1	Short/non levy and collection of Licence Fees and Excise Duties	117	3.26
2	Non/short realisation of Entertainments Duty	125	6.86
3	Non/short recovery of State Education Cess and Employment Guarantee Cess	17	88.60
4	Non/short recovery of Taxes and Duties on Electricity, Repair Cess, Maharashtra Tax on Buildings (with Larger Residential Premises), Profession Tax, etc.	81	3.98
<b>Total</b>		<b>340</b>	<b>102.70</b>

Individual results of some major tax receipts are given as follows:

#### Entertainments Duty

There are 80 auditable units in the Revenue Department tasked with collection of Entertainments Duty. Out of these, audit selected 43 units for test check wherein there are 8,372 licences. Of these, audit test checked records of all these licences (100 per cent) and noticed 981 cases (approx. 12 per cent of the audited sample) of non/short recovery of Entertainments Duty, interest, etc. of ₹ 6.86 crore.

#### State Education Cess and Employment Guarantee Cess:

State Education Cess and Employment Guarantee Cess is recovered by Municipal Corporations from the property Tax Bills and is credited to the Government Treasury. There are 23 Municipal Corporations in the State of Maharashtra, out of these, audit selected eight corporations for test check

during 2017-18 and noticed that two corporations had not deposited the amount collected for Education Cess and Employment Guarantee Cess amounting to ₹ 88.24 crore into the Government account. These cases are illustrative only as these are based on test check of records.

The Department accepted underassessment and other deficiencies of ₹ 15.49 crore in 283 observations which were pointed out during 2017-18 and earlier years. The Department also recovered an amount of ₹ 13.94 crore in respect of 224 observations accepted during 2017-18 and earlier years, of which an amount of ₹ 43.40 lakh pertained to observations made during 2017-18 and the rest to earlier years.

In addition to this, the Department also intimated recovery of ₹ 3.53 crore during the year by way of explanatory memoranda in respect of paragraphs pertaining to Audit Reports 2011-12 and 2012-13.

A few illustrative cases involving ₹ 90.82 crore are discussed in the succeeding paragraphs.

### **Education Cess and Employment Guarantee Cess**

#### **6.3 Non-remittance of Education Cess and Employment Guarantee Cess**

Under the provisions of Sections 4 and 6(b) of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, read with Rule 4 of Education (Cess) Tax on Lands and Buildings (Collection and Refund) Rules, 1962, amounts of Education Cess and Employment Guarantee Cess and penalty collected by any Municipal Corporation during any calendar week are required to be credited into the Government account before the expiry of the following week.

During the scrutiny of the Tax Collection Registers of two Municipal Corporations (Nagpur and Pune) during July 2017 and December 2017, Audit noticed that the corporations had not credited Education Cess and Employment Guarantee Cess amounting to ₹ 88.24 crore collected during the periods 2015-16 and 2016-17 into the Government Account.

This was brought to notice of concerned corporations in August 2017 and January 2018; their reply has not been received.

The matter was brought to the notice of the Government in July 2018; their reply has not been received (October 2019).

### **Entertainments Duty**

#### **6.4 Non-recovery of Entertainments Duty from permit rooms/beer bars with live orchestra**

As per Section 3(11A) of the Maharashtra Entertainments Duty Act, 1923, there shall be levied and paid in advance by the tenth of every calendar month by the proprietor of every permit room or beer bar with live orchestra, the Entertainments Duty in respect of entertainment in such permit room or beer bar with live orchestra, to the State Government, at the rates of ₹ 50,000 per month in case of areas within the limit of Municipal Corporations. As per

Section 9B of the Act, penal interest was also leviable @18 *per cent* for the first 30 days, and @24 *per cent* per annum thereafter for delayed payment of tax.

Scrutiny of Recovery Register and relevant records in five<sup>1</sup> offices falling within the limits of Municipal Corporation of Greater Mumbai between April 2017 and October 2017 revealed that Entertainments Duty was not paid by the proprietors of 19 permit room/beer bars with live orchestra. The non-recovery during various periods between August 2015 and June 2017 amounted to ₹ 54.50 lakh.

On this being brought to notice between May 2017 and November 2017, four offices communicated (July 2017 and May 2018) recovery of ₹ 40 lakh in respect of 15 permit rooms/beer bars. Report on action taken on recovery of the remaining amount has not been received.

The matter was brought to the notice of the Department in July 2018; their reply has not been received (October 2019).

### **6.5 Non-recovery of Entertainments Duty in case of dishonored cheques**

Entertainments Duty payable under the provisions of the Maharashtra Entertainments Duty Act, 1923 is recovered by the Department in cash as well as by cheque. If a cheque tendered for payment of Entertainments Duty is dishonoured for any reason whatsoever, the Department has to immediately recover the amount in cash along with interest from the tenderer. Further, action may also be taken under the provisions of Section 138 of the Negotiable Instruments Act, 1881 in case the cheque is dishonoured for reason of insufficient funds in the bank account.

During test check of the records of five offices<sup>2</sup> between April 2017 and October 2017, Audit noticed from the cheque/ dishonoured cheque register that in 22 cases, cheques issued for payment of Entertainments Duty by various dealers aggregating ₹ 28.19 lakh between July 2016 and April 2017 had been dishonoured by the concerned banks, for insufficient funds in two cases, and bank account being blocked in other two cases. In the remaining cases, reasons were not furnished. The concerned officers neither took any action to recover the dues from the dealers in cash nor initiated proceedings as contemplated under the Negotiable Instruments Act. This resulted in non-realisation of Entertainments Duty aggregating ₹ 28.19 lakh and interest thereon.

After Audit pointed out the cases between May 2017 and November 2017, the Department accepted the observations and communicated (January 2018 and May 2018) recovery of ₹ 18.74 lakh in seven cases. Report on action taken on recovery of the remaining amount has not been received.

The matter was brought to the notice of the Department in July 2018; their reply has not been received (October 2019).

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<sup>1</sup> Resident Dy. Collector - Mumbai (Zone III): Taluka Magistrate - Andheri (Zone III), Kurla at Mulund (Zones VIII, X, XII).

<sup>2</sup> Taluka Magistrates – Andheri (Zone III); Borivali (Zone V); Kurla at Mulund (Zones VIII, X, and XII).

**6.6 Non-recovery of Entertainments Duty from cable operators**

Under Section 3(4) of the Maharashtra Entertainments Duty Act, 1923 (MED Act), Entertainments Duty is payable by the cable operators at the rates prescribed by the Government from time to time. These cable operators were required to file monthly returns in Form 'E' with the Collector, along with the payment of Entertainments Duty. As per Section 4B(4) of the MED Act, if the return is not filed within the prescribed time, the State Government may, after giving the cable operator a reasonable time, assess the Entertainments Duty due from the cable operators to the best of its judgment. The cable operators are liable to pay interest for delayed payment of the tax.

Test check of cable operator recovery registers of seven offices<sup>3</sup> between April 2017 and November 2017 revealed that 228 cable operators had neither filed the returns nor paid the Entertainments Duty. The collectors had not made any effort to assess the operators. This resulted in non-recovery of tax amounting to ₹ 1.75 crore for various periods between February 2015 and June 2017.

After Audit pointed out these cases, the concerned collectors accepted the audit observations and communicated (between May 2017 and December 2017) recovery of ₹ 50.71 lakh (including interest of ₹ 4.55 lakh) from 65 cable operators. Report on action taken on recovery of the remaining amount has not been received.

The matter was brought to the notice of the Department in September 2018; their reply has not been received (October 2019).



(S. K. JAIPURIYAR)

Principal Accountant General (Audit)-I,  
Maharashtra

Mumbai  
The 11 December 2019

Countersigned



(RAJIV MEHRISHI)

Comptroller and Auditor General of India

New Delhi  
The 12 December 2019

<sup>3</sup> Resident Deputy Collector (BEDA) – Mumbai (Zone VIII), and Nanded; Taluka Magistrate – Andheri (Zone III), Kurla at Mulund (Zones VIII, X, and XII); and Entertainments Duty Officer, Pune (Zone I).



## Appendix-I

(Reference: Para No.2.5.1.3)

### APIs and their functions under development in October 2018

Module	Functions of APIs		Remarks
Registration	1	Used to intimate status of field visit.	In case of visit of place of business by tax officer, the status of field visit is intimated.
	2	Used to process core amendment application for UIN	The UIN (Unique Identification Number) is granted to specialized agencies of UNO or Multilateral Financial Institutions, Consulate/ Embassy of foreign countries. Core Amendment in registration are like change in legal name, change in place of business or change in stakeholder like partner, director, <i>karta</i> , trustee, CEO. These changes require approval by the proper tax officer.
	3	Used to fetch non-core amendment application for UIN	The other than Core Amendments are non-Core Amendments, and the same does not require approval from tax officer.
	4	Used to fetch non-core amendment application for a TDS/TCS/OIDAR/ NRTP Taxpayer	TDS: Tax Deduction at Source TCS: Tax Collection at Source OIDAR: Online information and database access retrieval services NRTP: Non-resident taxable person
Returns	1	Get filed GSTR-2 details of a tax payer	GSTR 2 is a return for inward supply.
	2	Get filed GSTR-4 details of a tax payer	GSTR-4 is return to be filed by taxable person who have opted for composition.
	3	Get filed GSTR-6 details of a tax payer	GSTR-6 is return to be filed by input service distributor.
	4	Get filed GSTR-8 details of a tax payer	GSTR-8 is return to be filed by e-commerce operator who is required to collect tax at source.
	5	Get filed GSTR-11 details of a tax payer	GSTR-11 is returned to be filed by UIN.
	6	Get GSTR-2A details of a tax payer	GSTR-2A is report of inward supply.
	7	Get filed GSTR-6 amendment details of a tax payer	GSTR-6 is return to be filed by input service distributor.

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	8	Get filed ITC-01 details of a tax payer	ITC-01 is a declaration form for claim of input tax credit.
	9	Get filed ITC-03 details of a tax payer	ITC-03 is declaration for intimation of ITC reversal/ payment of tax on inputs held in stock, inputs contained in semi-finished and finished goods held in stock and capital goods
	10	Get filed ITC-04 details of a tax payer	Details of goods/ capital goods sent to job worker and received back.
	11	Get filed GSTR-7 details of a tax payer	GSTR 7 is return to be filed by the person required to deduct tax at source.
	12	Get filed GSTR-7A details of a tax payer	GSTR-7A is Tax Deduction at Source certificate.
	13	Get filed GSTR-2X details of a tax payer	Used to generate TDS report about the taxpayer.
Payment	1	Used by tax officer to Set-off demand from ITC/Cash balance of a taxpayer.	It is used for set-off of demand from balance in credit/ cash ledger.
	2	Used to fetch details of outstanding Demand	It is used to fetch details of demand from the liability ledger.
	3	Used to fetch Cash/ITC balance of a Registered taxpayer	It is used to fetch balance of credit/ cash ledger.
Ledger	1	Used to fetch liability ledger part-2 of a tax payer	Part II of the liability gives detail of other than return liability.
	2	Used to block/un-block ITC credit of a tax payer	It is used to block or un-block utilization of balance in credit ledger.
Recovery	1	Get Case for Payment in Installment or Deferred Payment	It is used to get the application filed for deferment of tax or payment in installments.
	2	Payment in Installment or Deferred Payment application	It is for approving or rejecting the application for deferment of tax or payment in installments.
Refund	1	Get LUT Application ARN List	Letter of Undertaking (LUT) for exports of goods or services without payment of IGST Application Reference Number
	2	LUT (Get Application Details)	To get LUT details of application
	3	LUT Order (Updating Application Status)	LUT application status
	4	Enable/disable LUT	To approve or disapprove LUT



	5	LUT notice	To generate notice for submitting LUT
	6	LUT Reply	To fetch reply of the Notice
Appeal	1	used to fetch an appeal application	It is used to fetch an appeal application.
	2	Used to admit/reject an appeal application	It is used to admit/reject an appeal application
	3	Used to issue notice on an appeal application	It is used to issue notice on an appeal application
	4	Used for counter reply on an appeal application	It is used for counter reply on an appeal application
	5	Used to fetch counter reply	It is used to fetch counter reply
	6	Used to issue order on an appeal application	It is used to issue order on an appeal application
FO Service	1	Get All Grievance or Complaint Numbers	It is to get the taxpayer's grievance details.
	2	Get Grievance Data	It is to get the taxpayer's grievance details.
	3	Update Grievance Status	It is to get the taxpayer's grievance status details.
BO Service	1	Add Update Delete Tax Official	It is for changing/ updating
Common	1	Get CRN List	Both this modules are for the communication between tax authorities and GSTN.
	2	Get Alert	





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