

**CHAPTER V**  
**REVENUE SECTOR**



## CHAPTER V REVENUE SECTOR

### 5.1 Trend of revenue receipts

5.1.1 The Revenue Receipts of the State Government comprise,

- Tax and non-tax revenues raised by the Government of Sikkim,
- State's Share of Net Proceeds of divisible Union taxes and duties assigned to the State, and
- Grants-in-aid received from the Government of India.

The details along with the corresponding figures for the preceding four years have been depicted in **Table 5.1:**

**Table 5.1: Trend of Revenue Receipts**

Sl. No.		2015-16	2016-17	2017-18	2018-19	2019-20
I	Revenue raised by the State Government					
	• Tax revenue	566.82	652.56	688.33	892.92	970.41
	• Non-tax revenue	412.99	451.64	654.38	657.78	693.40
	<b>Total</b>	979.81	1,104.20	1,342.71	1,550.70	<b>1,663.81</b>
II	Receipts from Government of India					
	• State's share of net proceeds of divisible Union taxes	1,870.28	2,069.19	2,634.66	2,794.67	2,295.56
	• Grants-in-aid	934.20	1,436.91	1,235.42	1,574.99	881.90
	<b>Total</b>	2,804.48	3,506.10	3,870.08	4,369.66	<b>3,177.46</b>
III	<b>Total receipts of State Government (I + II)</b>	3,784.29	4,610.30	5,212.79	5,920.36	<b>4,841.27</b>
IV	Percentage of I to III	26	24	26	26	34

(Source: Finance Accounts, Government of Sikkim)

Revenue Receipts of the State increased by 27.93 per cent from ₹ 3784.29 crore in 2015-16 to ₹ 4841.27 crore in 2019-20 at an annual average rate of 5.59 per cent. During 2019-20, Revenue Receipts decreased by ₹ 1079.09 crore (-18.23 per cent) as compared to the previous year, mainly on account of decrease in Grants-in-aid. About 34.36 per cent of Revenue Receipts during 2019-20 came from State's Own Resources while Central Tax Transfers and Grants-in-aid together contributed 65.63 per cent.

Tax Revenue raised by the State constituted 20.04 per cent of Revenue Receipts and increased by ₹ 77.49 crore during 2019-20, recording a growth of 8.68 per cent over the previous year. Non-Tax Revenue of the State in 2019-20 constituting 14.32 per cent of the total Revenue Receipts, has increased by ₹ 35.62 crore with growth rate of 5.42 per cent over the previous year.

5.1.2 The details of the tax revenue raised during the period from 2015-16 to 2019-20 are given in **Table 5.2.**

**Table 5.2: Details of Tax Revenue realised**

(₹ in crore)

Sl. No.	Head of revenue	2015-16		2016-17		2017-18		2018-19		2019-20		% of increase (+) or decrease (-) in 2019-20 over 2018-19	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1	State Goods and Services Tax (SGST)	Not Applicable				0.00	171.39	253.07	405.72	415.00	454.89	64	12
2	Goods and Service Tax (Compensation)	Not Applicable				-	00	110.58	00	235.00	00	113	0
3	Sales Tax/Value Added Tax (VAT)	300.00	325.72	361.00	364.82	388.26	249.66	154.00	188.20	200.00	197.63	30	5
4	Taxes on Income and Expenditure other than Corporation Tax	8.51	7.92	9.00	7.82	10.00	8.04	10.00	10.57	15.00	15.17	50	44
5	State Excise	135.00	142.08	144.45	156.24	155.00	150.47	158.54	183.09	237.00	207.15	49	13
6	Stamps and Registration Fees	7.64	8.51	7.64	12.57	7.82	13.57	13.34	14.95	16.14	13.30	21	-11
7	Taxes on Vehicles	21.07	22.36	24.00	24.90	28.50	29.37	31.05	33.10	49.15	41.08	58	24
8	Other Taxes and Duties on Commodities and Services	81.26	58.38	93.07	79.82	72.84	58.39	32.63	48.21	44.32	36.79	36	-24
9	Land Revenue	6.89	1.85	6.89	6.39	7.09	7.44	7.10	9.08	8.60	4.40	21	-51
	<b>Total</b>	<b>560.37</b>	<b>566.82</b>	<b>646.05</b>	<b>652.56</b>	<b>669.51</b>	<b>688.33</b>	<b>770.31</b>	<b>892.92</b>	<b>1220.21</b>	<b>970.41</b>	<b>58</b>	<b>8.68</b>

\* BE: Budget Estimates, Source: Estimate of Receipts, Finance Department, GoS and Finance Accounts 2019-20

It can be seen from the above table that during 2019-20, the actual realisation was 20.47 per cent lower than the Budget Estimates (BE). In respect of GST (Compensation), against the BE of ₹ 235.00 crore, there was no receipt during 2019-20. Out of remaining eight heads of revenue, in six heads, the actual realisations were less than BEs. The percentage of realisation under different heads ranged between (-) 100 per cent to 9.61 per cent of the BE which indicated that the budget was not prepared based on realistic estimates.

Tax Revenue increased by ₹ 77.49 crore (8.68 per cent) in 2019-20 as compared to previous year, the increase was mainly contributed by 'State Goods and Services Tax' (SGST) by ₹ 49.17 crore (12.12 per cent), State Excise by ₹ 24.06 crore (13.14 per cent) and Other Taxes on Income and Expenditure by ₹ 4.6 crore (43.52 per cent).

The respective departments reported the following reasons for variations:

**State Excise:** Increase was mainly due to increase in production and sale of alcoholic products as well as extensive inspection by Excise officials.

**State Goods and Services Tax:** Increase was mainly due to enhancement in business turnover of existing tax payers and proper monitoring on taxable transactions

In respect of the other revenue heads, the departments concerned did not furnish reasons for variations.

**5.1.3** The details of the non-tax revenue raised during the period 2015-16 to 2019-20 are given in **Table 5.3:**

Table 5.3: Details of Non-Tax Revenue realised

(₹ in crore)

Sl. No.	Head of revenue	2015-16		2016-17		2017-18		2018-19		2019-20		Percentage of increase (+) or decrease (-) in 2019-20 over 2018-19	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1	Power	125.1	147.68	140.10	170.04	160.10	310.26	190.10	269.44	320.10	256.37	68.4	-4.9
2	Interest receipts	31.21	72.52	37.21	78.38	50.41	114.76	50.41	125.33	86.25	143.82	71.1	14.8
3	Police	55.35	61.68	52.42	41.43	52.74	45.39	57.11	46.64	88.12	86.77	54.3	86.0
4	Road Transport	39.35	41.55	47.00	48.71	55.00	52.08	59.00	53.96	65.00	57.10	10.2	5.8
5	Forestry and Wild Life	12.06	12.79	12.06	16.02	13.50	14.21	13.50	17.53	17.50	15.78	29.6	-10.0
6	Other Administrative Services	10.40	7.30	2.38	9.32	4.83	5.30	7.79	5.04	23.23	12.65	198.2	151.0
7	Public Works	6.83	4.25	4.22	8.65	4.37	15.38	4.59	28.01	14.65	23.13	219.2	-17.4
8	Plantations	5.18	3.86	5.18	5.21	5.18	2.19	7.00	2.41	2.50	2.00	-64.3	-17.0
9	Water Supply and Sanitation	3.99	3.80	4.26	4.04	5.00	4.88	10.00	4.29	8.00	4.92	-20.0	14.7
10	Tourism	3.14	3.96	3.80	5.42	4.50	5.14	4.64	6.16	5.33	11.67	14.9	89.4
11	Medical and Public Health	2.50	2.15	2.50	2.59	2.50	2.11	2.50	2.37	5.75	2.48	130.0	4.6
12	Other Rural Development Programmes	1.50	0.94	1.50	0.51	1.50	0.91	1.50	0.98	1.65	0.31	10.0	-68.4
13	Stationery and Printing	2.03	1.83	1.81	2.16	1.85	3.08	1.95	1.52	3.10	2.60	59.0	71.1
14	Crop Husbandry	0.91	0.70	0.91	0.57	0.91	0.34	0.63	0.37	0.69	0.68	9.5	83.8
15	Education, Sports, Art and Culture	1.17	1.16	1.12	2.05	1.15	2.31	1.17	2.32	1.32	3.55	12.8	53.0
16	State Lotteries (SL)	Gross	--*	--*									
		Net	37.40	20.02	33.55	45.00	50.00	55.03	55.00	57.82	40.00	40.10	-27.3
17	Others	12.24	26.80	12.24	11.54	12.92	21.01	15.03	33.59	27.85	29.47	85.3	-12.3
<b>Total (with net figures of SL)</b>		<b>350.36</b>	<b>412.99</b>	<b>362.26</b>	<b>451.64</b>	<b>426.46</b>	<b>654.38</b>	<b>481.92</b>	<b>657.78</b>	<b>711.04</b>	<b>693.4</b>	<b>47.5</b>	<b>5.4</b>

Source: Finance Accounts 2019-20 and Estimate of Receipts, Finance Department, GoS.

\* Gross figures of State Lotteries have not been furnished by the Department for 2015-20. Since gross figures of State Lotteries have not been reflected for the year 2015-20, percentage increase/decrease has not been calculated.

It appears from the above table that the actual realisation was 2.48 per cent less than the BEs. The percentage of realisation under different heads ranged between (-) 81.21 per cent to 169.94 per cent of the BE which indicated that the budget was not prepared based on realistic estimates.

Non-tax revenue increased by ₹ 35.62 crore (5.42 per cent) in 2019-20 over the previous year. The increase was attributed to receipts under Police by ₹ 40.13 crore (86 per cent), Interest Receipts by 18.49 crore (14.75 per cent) and Tourism by ₹ 5.51 crore (89 per cent). The increase was offset by decrease mainly under State Lotteries by ₹ 17.72 crore (31 per cent).

The respective departments reported the following reasons for variations:

**Water supply and sanitation:** Increase in revenue was mainly due to addition of new connections, recovery of old dues and other receipts from sewerage, water testing, sewerage cleaning etc.

**Power:** Decrease in revenue was due to closure of tourism related activities with the onset of Covid-19.

**Other Rural Development Programmes:** Decrease was due to non-sanctioning of new works as the first quarter of the FY 2019-20 was engaged in General Election and Vote on Account was effective wherein only payments related to Salaries and GIAs were done. Therefore, the major source of revenue like Storage Charge and Tender Fee could not be realised.

**Education:** Increase was due to collection of registration and renewal fees from Private Schools and also sale of tender forms, teachers' recruitment exam application fees, five per cent storage charge deducted from work bills paid from the fund parked outside the Government.

**State Lotteries:** Decrease was due to decline of online lottery business.

In respect of other revenue heads, the departments concerned did not furnish reasons for variations.

## 5.2 Revenue and return filing trends

### 5.2.1.1 GST Revenue of Government of Sikkim: Comparison between budget estimates and actual receipts

The comparison of budget estimates and the corresponding actual collection of Goods and Service Tax (GST) during the period from 2017-18 to 2019-20 are shown in **Table 5.4**.

**Table 5.4: Revenue from GST during 2017-18, 2018-19 and 2019-20**

(₹ in crore)

Year <sup>55</sup>	Budget Estimates (BE)	Revised Estimates (RE)	Actuals
	State GST	State GST	State GST
2017-18	-	221.99	171.39
2018-19	253.07	253.07	405.72
2019-20	415.00	415.00	454.89

Source: Budget estimates

It could be seen from above table that, the actual collection of revenue from SGST in 2017-18 was short of the target and during 2018-19 and 2019-20 the revenue collection under SGST exceeded the estimate.

### 5.2.1.2 Compensation under GST

As per the GST Act, any shortfall in revenue by the State is required to be compensated by the Central Government. Compensation under GST (Compensation to the States) Act 2017 is payable when the actual revenue collected by the State under GST and pre-GST arrears is less than the projected revenue. In Sikkim the actual revenue collected was more than the projected revenue, hence compensation was not payable to Sikkim during 2017-18 to 2019-20. Details are shown in **Table 5.5**.

<sup>55</sup> GST data on Budget Estimates for the Financial year 2017-18 is not applicable as GST was implemented from July 2017

**Table 5.5: Projected Revenue figure for compensation and actual collection of SGST***(₹ in crore)*

Sl. No.	Year	Projected Revenue	SGST collection along with pre-GST arrears
1	2017-18	239.24	264.76
2	2018-19	363.65	428.00
3	2019-20	414.56	454.89

Source: State Finance Audit Report for the year ended March 2020

**5.2.1.3 Trends of Integrated GST apportionment to the State and its cross utilisation**

The Integrated GST (IGST) collected will be apportioned between the Centre and the State where the goods or services are consumed. The revenue will be apportioned to the Centre at the CGST rate, and the remaining amount will be apportioned to the consuming State.

The trends of IGST apportionment to the State and its cross utilisation are given in **Table 5.6**.

**Table 5.6: Integrated Goods and Services Tax***(₹ in crore)*

IGST component	2017-18	2018-19	2019-20
IGST <sup>56</sup> apportioned to the State as per Section 17 of IGST Act, 2017	11.00	39.87	8.28
IGST provisionally/ad-hoc apportioned to the State	23.16	45.84	63.58
IGST cross utilised between			
SGST <sup>57</sup> as IGST	(+)24.05	(+)52.93	(+)49.39
IGST as SGST	(-)77.41	(-)194.18	(-)262.98

Source: Sanction letters (for settlement of IGST) of Ministry of Finance

**5.2.1.4 Registration under GST**

The category-wise registrations under GST as on 31 March 2020 have been given in **Table 5.7** below:

**Table 5.7: Details of GST registrations upto 31 March 2020**

Category of Registrant	No. of Registrants	Percentage of total
Normal taxpayers	7,507	86.21
Composition taxpayers	830	9.53
Tax Deductors at Source	314	3.61
Tax Collectors at Source	52	0.60
Input Service Distributors	4	0.05
Others (Casual, NRTP, OIDAR)	1	0.01
Total Registrants	<b>8,708</b>	<b>100</b>

Source: GSTN Daily summary reports as on 31 March 2020

The total registrations under GST were 8,708, of which normal taxpayers accounted for 86.21 per cent and composition taxpayers were around 9.53 per cent. Of the total registrations, 2,473 were migrated from pre-GST regime, accounting for around 28.40 per cent, while balance were new registrations.

<sup>56</sup> IGST: It is a tax collected by the Central Government for an inter-State sale<sup>57</sup> SGST: It is a tax collected by the State Government for an intra-State sale

### 5.2.1.5 GST Return filing pattern of GSTR-1 and GSTR-3B

The trends of filing of GSTR-1 and GSTR-3B as on 30 June 2020 for the period from April 2019 to March 2020, as compiled from the summary reports shared by GSTN, have been depicted in Table 5.8.

The filing of GSTR-3B for April 2019 was 81 per cent while for March 2020 was only 53 per cent. It was noticed that GSTR-3B returns were being filed within the due date on an average by 47 per cent taxpayers and 29 per cent filed the returns after due date. GSTR-3B returns filed within due date remained at a low ranging between 7.10 per cent and 58 per cent during April 2019 to March 2020. Thus, while it was expected that compliance would improve as the system would stabilise with passage of time, it was seen that there was no improvement in filing of GSTR-3B by due date.

Table 5.8: Details of return filing (GSTR-1 and GSTR-3B) during 2019-20

Return Type	GSTR-1			GSTR-3B				
	Months	Due for filing	Returns filed	Return filing (%)	Due for filing	Returns filed as on June 2020	Return filing (%)	Returns filed by due date
Apr'19	4,600	2451	53.28	6,884	5,609	81.48	6,884	3,469
May'19	4,548	2442	53.69	6,969	5,587	80.17	6,969	3,620
Jun'19	7,029	5129	72.97	7,029	5,589	79.51	7,029	4,114
July'19	4,252	2430	57.15	7,130	5,648	79.21	7,130	3,674
Aug'19	4,075	2452	60.17	7,135	5,692	79.78	7,135	3,808
Sep'19	7,195	5198	72.24	7,195	5,725	79.57	7,195	3,362
Oct'19	4,095	2489	60.78	7,314	5,756	78.70	7,314	3,756
Nov'19	4,062	2490	61.30	7,403	5,779	78.06	7,403	4,147
Dec'19	7,450	5064	67.97	7,450	5,804	77.91	7,450	3,717
Jan'20	3,908	2293	58.67	7,448	5,671	76.14	7,448	3,731
Feb'20	3,729	2134	57.23	7,399	5,268	71.20	7,399	2,704
Mar'20	7,508	3273	43.59	7,508	3,994	53.20	7,508	579

Source: GSTN daily summary reports

## 5.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2020 in respect of some Heads of Revenue as reported by the departments amounted to ₹ 376.33 crore, of which, ₹ 107.33 crore was outstanding for more than five years (as detailed in Table 5.9).

Table 5.9: Arrears of Revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding		Replies of Department
		As on 31 March 2020	For more than five years	
1	Power	368.64	104.09	Non-payment of Electricity Bills by consumers
2	Animal Husbandry	0.15	-	Entry tax of ₹ 34.98 lakh, due from a firm M/S Uttara Foods & Feed Pvt. Ltd., was only partially paid by the firm leaving a balance of ₹ 14.58 lakh.
3	Roads and Bridges	3.37	1.94	The road machineries of the department were mostly deployed for the departmental works. Payment was not made despite serving several reminders for clearing the dues.



4	Water Supply and Sanitation	4.17	1.3	The house owners do not pay the bills as the bills are in the name of tenants who usually shift to other places. Old records are not available for the outstanding bills and the defaulters are untraceable.
<b>Total</b>		<b>376.33</b>	<b>107.33</b>	

Source: Information received from departments

#### 5.4 Response of the departments/ Government towards Audit

The Principal Accountant General (PAG), Sikkim conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the Rules and procedures. Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot are issued to the heads of the offices inspected with copies to the next higher authorities for prompt corrective action. The heads of the offices/ departments 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 within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

It was seen that 264 paragraphs involving ₹ 718.07 crore relating to 93 IRs remained outstanding at the end of June 2020. The details along with the corresponding figures for the preceding two years are mentioned in the following table:

**Table 5.10: Details of pending Inspection Reports**

Particulars	June 2018	June 2019	June 2020
Number of outstanding IRs	89	96	93
Number of outstanding audit observations	242	256	264
Amount involved (₹ in crore)	567.01	674.32	718.07

**5.4.1** The department-wise details of the IRs, the audit observations outstanding as on 30 June 2020 and the amounts involved are mentioned in the following table:

**Table 5.11: Department-wise details of IRs**

Sl. No.	Name of Department	Nature of Receipts	No. of outstanding IRs	No. of outstanding Audit observations	Money value involved (₹ in crore)
1	Finance (Commercial Taxes Division)	VAT/Taxes on Sales, Trade, etc.	15	63	375.74
2	Excise (Abkari)	State Excise	8	23	17.31
3	Land Revenue and Disaster Management	Land Revenue	19	25	0.89
4	Transport (Motor Vehicles Division)	Taxes on Motor Vehicles	7	20	14.38
5	Mines, Minerals and Geology	Non-ferrous Mining and Metallurgical Industries	3	3	3.31
6	Forest, Environment and Wildlife Management	Forestry and Wildlife	13	28	53.85
7	Finance (Directorate of State Lotteries)	State Lotteries	3	8	19.25
8	Urban Development and Housing	Urban Development	16	46	21.02
9	Energy and Power	Power	9	48	212.32
<b>Total</b>			<b>93</b>	<b>264</b>	<b>718.07</b>

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of six numbers of IRs (issued during 2019-20) till June 2020. Pendency of IRs due to non-receipt of the replies was indicative of heads of offices and heads of the departments not initiating adequate action to rectify the defects, omissions and irregularities pointed out by the PAG through IRs.

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

#### **5.4.3 Departmental Audit Committee Meetings**

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. During 2019-20, one Audit Committee Meeting was held with Excise Department wherein 18 paragraphs involving ₹ 5.34 crore relating to six IRs were settled.

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

#### **5.5 Response of the departments to the draft audit paragraphs**

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

Three draft paragraph proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2020 were forwarded to the heads of Departments through demi-official letter for which reply was received in respect of two draft paragraphs only.

#### **5.6 Follow up on Audit Reports - summarised position**

The Rules of Procedures of the Committee on Public Accounts of the Sikkim Legislative Assembly (internal working) lays down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the departments shall initiate action on the audit paragraphs and the Government should submit the action taken explanatory notes within three months of tabling the Report for consideration of the Committee. In spite of these provisions, the explanatory notes on the audit paragraphs of the Reports were being delayed inordinately.

Reports of the Comptroller and Auditor General of India of the Government of Sikkim for the years ended 31 March 2015, 2016, 2017, 2018 and 2019 containing 15 paragraphs under Revenue Sector were placed before the State Legislative Assembly between March 2016 and December 2021. Action taken explanatory notes in respect of nine paragraphs (excluding three from AR 2013-14) from five departments

{Excise; Finance<sup>58</sup>; Transport (Motor Vehicles Division); Urban Development ; and Power} had not been received for Audit Reports for the years ending 31 March 2015, 2016, 2017 and 2018.

During 2019-20, the PAC discussed one review<sup>59</sup> from Audit Report 2011-12.

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

To analyse the system of addressing the issues highlighted in the IRs/ Audit Reports by the departments/ Government, action taken on the paragraphs and Performance Audits (PAs) included in the Audit Reports pertaining to the last 10 years in respect of Excise Department was evaluated and included in this Report.

The succeeding paragraphs 5.7.1 to 5.7.3 discuss the performance of the Excise Department in dealing with the cases detected in course of local audit conducted during the last ten years and also the cases included in the Audit Reports pertaining to the last 10 years.

### 5.7.1 Position of IRs

The summarised position of IRs issued during the last ten years, paragraphs included in these Reports and their status as on 30 June 2020 are given in the following table:

**Table 5.12: Position of Inspection Reports**

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2010-11	6	16	3.77	1	4	15.85	-	1	0.21	7	19	19.41
2011-12	7	19	19.41	1	6	4.05	-	1	0.005	8	24	23.46
2012-13	8	24	23.46	-	-	-	-	-	-	8	24	23.46
2013-14	8	24	23.46	1	5	4.21	-	4	7.35	9	25	20.32
2014-15	9	25	20.32	1	4	11.63	-	2	2.33	10	27	29.62
2015-16	10	27	29.62	1	5	2.31	-	7	17.37	11	25	14.56
2016-17	11	25	14.56	1	3	1.31	-	1	0.2	12	27	15.67
2017-18	12	27	15.67	1	9	3.48	-	-	-	13	36	19.15
2018-19	13	36	19.15	-	-	-	-	-	-	13	36	19.15
2019-20	13	36	19.15	1	5	3.5	-	-	-	14	41	22.65

The Department arranged one Departmental Audit Committee meeting wherein 18 paragraphs involving ₹ 5.34 crore relating to six IRs were settled.

### 5.7.2 Recovery in accepted cases

The position of paragraphs included in the Audit Reports pertaining to the last 10 years accepted by the Department and recovery effected there-against is mentioned in the following table:

<sup>58</sup> Commercial Taxes Division and Directorate of Sikkim State Lotteries

<sup>59</sup> Performance Audit of Power Transmission activities of Energy and Power Department, Government of Sikkim

**Table 5.13: Details of accepted paragraphs and recovery thereof**

Year of the Audit Report	Number of paragraphs included	Money value of the paragraphs (₹ in crore)	Number of paragraphs accepted	Money value of accepted paragraphs (₹ in crore)	Amount recovered during the year (₹ in crore)	Cumulative position of recovery of accepted cases (₹ in crore)
2009-10	No paragraphs featured in the Audit Report					
2010-11	02	7.71	01	0.21	Nil	Nil
2011-12	No paragraphs featured in the Audit Report					
2012-13	No paragraphs featured in the Audit Report					
2013-14	01	0.68	Nil	Nil	Nil	Nil
2014-15	02	5.77	02	5.77	Nil	Nil
2015-16	04	5.14	02	0.29	Nil	Nil
2016-17	No paragraphs featured in the Audit Report					
2017-18	No paragraphs featured in the Audit Report					
2018-19	No paragraphs featured in the Audit Report					

It is evident from the above table that the progress of recovery even in accepted cases was very slow during the last ten years. The recovery in accepted cases was to be pursued as arrears recoverable from the parties concerned. The Department/ Government had not put in place any mechanism for pursuance of the accepted cases. In the absence of a suitable mechanism, the Department could not monitor the recovery in accepted cases.

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

### 5.7.3 Action taken on the recommendations accepted by the departments/ Government

The draft reports on Performance Audits (PAs)/ Thematic Audits (TAs) conducted by the PAG are forwarded to the Government/ Department concerned for their information with a request to furnish their replies. These PAs/ TAs are also discussed in the exit conference and the Department's/ Government's views are included while finalising the PAs/ TAs for the Audit Reports.

The following TA on 'Collection of Revenue from State Excise' had featured in the Audit Report 2015-16. The details of recommendations and their status are given in the following table:

**Table 5.14: Details of recommendations and their status**

Year of AR	Name of the PA	Details of the Recommendations	Status
2015-16	Thematic Audit on Collection of Revenue from State Excise	The Department needs to improve regulation of duties by proper compliance to applicable Acts/ Rules to prevent losses from bottling fees, production of IMFL/ beer from ENA/ wort. The Department also needs to enforce proper accounting of holograms by the distilleries/breweries.	i) The relevant bottling notification has been issued. ii) The matter pertaining to wort was placed before the PAC and subsequently dropped after discussion. iii) The Department is maintaining proper records of Holograms and the e-akbari online system will be introduced shortly, which will take care of the issue.
		The Department may check and analyse running of distilleries/ breweries with respect to its production capacity and actual production with introduction of penalty provision. The Department may also ensure	i) The Department has directed the distilleries/ breweries to make a market strategy in such a way that maximum production capacity is utilised. Since it depends upon the

Year of AR	Name of the PA	Details of the Recommendations	Status
		realisation of proportionate arrear of license fees in case of revision of license fees during the financial year.	demand of the brand in the market, provision of penalty is not reasonable. ii) The first phase of e-akbari online system is implemented which covers the renewal of license fee and issue of new license.
		The Department needs to ensure receipts of EVCs in time and to ensure sending of EVCs by post to the Excise Authorities of importing States instead of handing over to the distilleries/breweries to ensure genuineness of their verification.	This has been noted and the process is being followed.
		The departmental authorities may ensure receipt of samples of each and every batch of IMFL/ beer and their testing in the Laboratory.	All the manufacturing units have their own competent laboratory for testing. The Department does not have fully equipped hi-tech machines. However, it is still counter checking the products regularly.

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

## 5.8 Audit Planning

The unit offices under various departments were categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan was prepared on the basis of risk analysis which *inter alia* included critical issues in Government revenues and tax administration, *i.e.* Budget Speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years *etc.*

During 2019-20, there were 10<sup>60</sup> auditable units, of which five units (50 per cent) were planned and audited.

## 5.9 Results of audit

Test check of the records of five units under Revenue departments {Commercial Taxes Division, Motor Vehicles Division, Forest and Environment Department (Territorial circle, West), Urban Development Department and Energy and Power Department} was carried out during the year 2019-20. It revealed irregularities involving revenue aggregating to ₹ 1209.47 crore in 22 cases. During the course of the year, the departments concerned accepted all the 22 observations.

## 5.10 Coverage of this Report

This Chapter contains one ‘*Subject Specific Compliance Audit on processing of refund claims under GST in Sikkim*’ and two Compliance Audit Paragraphs involving financial effect of ₹ 138.87 crore.

<sup>60</sup> (i) Commercial Taxes Division (ii) Directorate of State Lotteries (iii) Motor Vehicles Division (iv) Excise Department (v) Land Revenue Department (vi) Forest and Environment Department (Territorial Circle) (vii) Forest and Environment Department (Utilisation Circle) (viii) Mines and Geology Department (ix) Urban Development Department (x) Energy and Power Department

## COMPLIANCE AUDIT PARAGRAPHS

### 5.11 Subject Specific Compliance Audit on processing of refund claims under GST in Sikkim

#### 5.11.1 Introduction

**5.11.1.1** Timely refund mechanism constitutes a crucial component of tax administration, as it facilitates trade through release of blocked funds for working capital, expansion and modernisation of existing business. The provisions pertaining to refund contained in the GST laws aim to streamline and standardise the refund procedures under GST regime. It was decided that the claim and sanctioning procedure would be completely online. Due to non-availability of electronic refund module on the common portal, a temporary mechanism was devised and implemented. Circular Nos. 17/17/2017-GST dated 15 November 2017 and Circular no. 24/24/2017-GST dated 21 December 2017 was issued, prescribing the detailed procedures. In this electronic-cum-manual procedure, the applicants were required to file the refund applications in Form GST RFD-01A on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents.

**5.11.1.2** The process was further simplified by allowing online submission of refund applications in Form GST RFD-01A, along with all supporting documents vide Circular dated 31.12.2018. However, various post submission stages of processing of the refund applications continued to be done by manual process.

**5.11.1.3** The refund procedure was made fully electronic, wherein all the steps from submission applications to processing thereof could be undertaken electronically, with effect from 26 September 2019 (also called Automation of Refund Process). Accordingly, the Circulars issued earlier laying down the guidelines for manual submission and processing of refund claims have either been superseded or modified. In order to ensure uniformity in implementation of the provisions of law across field formations, several earlier Circulars<sup>61</sup> have been superseded vide the Circular dated 18.11.2019. However, the provisions of the said Circulars shall continue to apply for all refund applications filed on the common portal before 26.09.2019 and the said applications shall continue to be processed manually as were done prior to deployment of the new system.

#### 5.11.2 Audit Objectives

Audit of Refund cases under GST regime was conducted to assess:

- (i) *the adequacy of Act, Rules, notifications, circulars etc. issued in relation to grant of refunds,*
- (ii) *the compliance of extant provisions by the tax authorities and the efficacy of the systems in place to ensure compliance by taxpayers, and*

<sup>61</sup> Circular dated 15.11.2017, dated 21.12.2017, dated 15.03.2018, dated 30.05.2018 (including corrigendum dated 18.07.2019), dated 04.09.2018, dated 26.10.2018, dated 31.12.2018 and dated 28.03.2019.

- (iii) whether effective internal control mechanism exists to check the performance of the Departmental officials in disposing the refund applications.

### 5.11.3 Audit Scope and methodology

Pan-India refund data was obtained from GSTN, and out of the total of 151 refund cases processed involving an amount of ₹ 27.58 crore, 43<sup>62</sup> refund cases involving an amount of ₹ 3.26 crore from 19-9-2018 to 18-3-2020 were selected for detailed examination by audit.

Prior to the commencement of audit, an entry conference was held on 7 December 2020, during which the objectives, scope and criteria of the audit were discussed with the Department. After the conclusion of audit, an exit conference was held on 22 April 2021 where audit findings were discussed and the views of the Department have been duly incorporated in the draft report

### 5.11.4 Audit Findings

In Sikkim, all refund cases were processed in the Commercial Taxes Division (CTD), Finance Department, Government of Sikkim, for which a refund committee was constituted (11.04.2018) comprising of one Joint Commissioner, three Deputy Commissioner and one Assistant Commissioner. Before 11.04.2018, refund cases were being verified by the Joint Commissioner and submitted to the Commissioner for approval.

The table below brings out the extent of deficiencies noticed during the audit of refund cases, selected for detailed audit.

**Table 5.15: Deficiencies in refund cases**

Nature of Audit Findings	Audit Sample		Number of deficiencies noticed	Deficiencies as percentage of Sample
	Number	Amount (₹)	Number	
Delay in issue of acknowledgment	43	--	33	76.74
Delay in issue of Refund orders and non-payment of interest	43	3.26 crore	28	65.12
Delay in communicating refund orders to counterpart tax authority	19	2.24 crore	15	78.95
Delay/non-conducting of post audit of refund claims	43	--	43	100
Sanctioning of refunds without proper checks	33	--	15	45.45
Discrepancies in GSTN data with the data captured in State GST System	11	--	09	81.82

Audit findings are included in the subsequent paragraphs.

### 5.11.5 Acknowledgment not issued within time

Rule 90 (1) of SGST Rules, 2017 stipulates that where the application relates to claim for refund from the Electronic Cash Ledger (ECL), an acknowledgement in Form GST RFD-02 shall be made available to the applicant through the common portal

<sup>62</sup> 32 cases pertain to pre-automation period and 11 cases pertain to post-automation period.

electronically and Rule 90 (2) of SGST Rules, 2017 stipulates that for the application related to refund other than ECL, the application shall be forward to the proper officer within a period of 15 days of filing of the said application, who will scrutinise the application for its completeness. An acknowledgment in Form GST RFD-02 shall be made available to the applicant within 15 days through the common portal.

Out of 43 cases<sup>63</sup> examined involving refund of ₹ 231.14 lakh, it was noticed that in all the pre-automation cases (32) involving ₹ 3.51 lakh, rejection orders and refund orders were issued without issue of acknowledgement and for the post automation cases (11) there was delay in one case of 132 days involving refund ₹ 2,074. Thus, the department failed to adhere to the timelines for issuing acknowledgement as prescribed in the rules *ibid*.

The matter was reported to the Department (March 2021 and June 2021). The Department, while admitting the observation for post automation cases, intimated (April 2021) that the reason for such delay was failure of dealer's account validation through PMS. With reference to the pre-automation cases, the department informed (September 2021) that during pre-automation period there was no option available in the system for issuing acknowledgement.

The reply of the department for the pre-automation cases is not acceptable since, as per circular No.17/17/2017-GST/Sikkim, dated 15/11/2017, all communication with reference to acknowledgement, deficiency memo, provisional refund order etc. shall be done manually.

#### **5.11.6 Refund orders not sanctioned in time**

Section 54 (7) of the SGST Act, 2017 stipulates that the proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects. Further, Section 56 of Act also *ibid* provides that, if any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent as may be specified in the notification issued by the Government on the recommendations of the Council, shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax.

Audit observed that in 28<sup>64</sup> refund cases (out of 43<sup>65</sup> cases) involving refund of ₹ 2.30 lakh, there was delay in sanction of refunds ranging from 1 to 296 days. Of these, 14 cases were delayed by 1 to 3 months, 11 cases were delayed by 3 to 6 months, and 3 cases were delayed by more than 6 months. Further, the Department did not pay interest amounting to ₹ 4.82 lakh (₹ 0.07 lakh pertained to post automation period and ₹ 4.75 lakh pertained to pre automation period) as detailed in Appendix 5.2A and 5.2B.

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<sup>63</sup> 32 pertained to pre-automation period and 11 pertained to post-automation period.

<sup>64</sup> 19 cases pertain to pre-automation period and 9 cases pertain to post automation period

<sup>65</sup> Out of 43 refund cases, 30 claims were approved.



The matter was reported to the Department (March 2021 and April 2021). The Department accepted the audit observation and stated that the sanction order could not be issued on time as various documents to be submitted by taxpayers were not submitted online. Regarding non-payment of interest, the Department stated that the same was not claimed by the taxpayers.

The reply of the Department is not acceptable as there was no documentary evidence in the records/data provided to Audit to establish that any notice was issued to the taxpayers for submission of required documents.

#### **5.11.7 Abnormal delay in communicating refund orders to counterpart tax authority**

As per Circular No. 24/24/2017 GST dated 21/12/2017 of the Department, refund order issued either by the central tax authority or the state tax/UT tax authority shall be communicated to the concerned counterpart tax authority within 7 working days for the purpose of payment of relevant sanctioned amount of tax or cess as the case may be. It was also reiterated therein to ensure adherence to the time lines specified under section 54 (7) and rule 91(2) of SGST Act and Rules respectively for sanction of refund orders.

While verifying the records of transmission of refund sanction orders, it was observed that 15 refund orders involving ₹ 0.59 crore were forwarded to the Central tax authority with delays ranging from 10 to 16 days as detailed in Appendix 5.3.

The matter was reported to the Department (June 2021). The Department stated (July 2021) that during the pre-automation period as the system was manual, so documentary compliance was to be followed and delivery time for sending the documents to disbursing authority took a longer time.

The justification furnished by the Department is not tenable as the Department was aware that the processing of refunds was manual and the Department had itself issued the notification in that regard.

#### **5.11.8 Delay/non-conducting of post audit of refund claims**

The CTD, Government of Sikkim circular No 17/17/2017-GST dated 15/11/2017 elaborately laid down the procedure for manual processing of refunds of zero rated supplies. The circular inter alia, stipulated that, the pre-audit of manually processed refund applications is not required till separate detailed guidelines are issued, irrespective of the amount involved. However, it was clarified that the post audit of refund order shall be continued as per the extant guidelines.

43 cases involving refund of ₹ 231.14 lakh were examined and it was noticed that none of the cases were sent for post audit of refund claims. As a result, an important check in the refund processing system has not been exercised.

The matter was reported to the Department (March 2021). The Department accepted the audit observation (July 2021) and stated that audit team has not been constituted yet; once the team is constituted the audit of refunds shall be taken up.

## **5.11.9 Sanctioning of Refunds without proper checks**

### **5.11.9.1 Irregular allowance of refund of inverted duty structure**

As per Circular no. 24/24/2017-GST dated 21 December 2017 of the CTD, the refund on account of Inverted duty structure was to be supported by statements I and IA which contained (i) calculation of maximum refund amount claimed and (ii) details of invoices of inward and outward supplies.

Out of 5 refund cases audited pertaining to Inverted duty structure, deviations were found in two refund cases involving refund of ₹ 18.96 lakh where the Division granted the refunds although no such statements were furnished as detailed in Appendix 5.4.

The Department accepted the audit observation (July 2021) and stated that statement 1A was not released in the GST portal during the said period and tax authority made the refunds based on documents submitted by taxpayer.

The reply of the Department is not acceptable as the question of whether statements were released in the GST portal does not arise. Both the refund cases pertained to pre-automation period where refunds were processed manually.

### **5.11.9.2 Refund (post automation) sanctioned without filing of 3B returns**

Section 54 (1) of SGST Act, 2017 stipulates that when a registered person is claiming refund of any balance in the electronic cash ledger, it shall be done in accordance with the provisions of sub-section (6) of section 49, which stipulates that the balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of Section 54. Rule 61 of Sikkim GST Rules, 2017 stipulates filing of monthly/quarterly GSTR-3B return by normal taxpayers for every tax period electronically through the common portal, either directly or through a facilitation centre under Section 39 of Sikkim GSST Act, 2017. GSTR-3B is a simplified summary return and the purpose of the return is for taxpayers to declare their summary GST liabilities for a particular tax period and discharge these liabilities.

Scrutiny of 11 selected cases and cross verification with GSTR 3B data revealed that in 10 cases involving refund of ₹ 7.37 lakh, refunds were sanctioned although the concerned applicants had not furnished all GSTR 3B returns as detailed in Appendix 5.5.

The matter was reported to the Department (April 2021). The Department did not accept the audit observation (April 2021) and stated that the refund claims are filed in the GST common portal and the checking of filing GSTR 3B has to be ensured in the common portal itself. The Department further intimated (21 July 2021) that the refunds were released as there was excess balance in the cash ledger and that filing of GSTR 3B was ignored as the taxpayers have to self-assess as provided under Section 58 of SGST Act, 2017.

The reply of the Department is not acceptable as the refunds approving authority i.e. the State Tax authorities should have ensured proper compliance to the relevant provision of the Act.

### 5.11.9.3 Non-submission of statement in case of refunds (pre automation) of excess payment of tax

Rule 89 (2) (k) of the SGST Rules, 2017 stipulated that the application under sub-rule (1) shall be accompanied by a statement showing the details of the amount of claim on account of excess payment of tax.

Out of the 3 cases audited, no such statement was submitted in any of the cases. However, two cases involving refund of ₹ 8.78 lakh were approved and one involving refund claim of ₹ 36 lakh was rejected on the ground that no document was received for excess payment<sup>66</sup> as detailed in Appendix 5.6.

The matter was reported to the Department (April 2021). The Department stated (July 2021) that the excess payment under GSTR 3B was verified and the taxpayer had submitted the amended GSTR 1 which led to refund.

The reply of the Department is not acceptable as the processing of cases during pre-automation was manual and that two excess payment refunds were sanctioned even though they were not accompanied by the statement showing details of amount claimed, thereby resulting in non-adherence to Rule 89 (2) (k) of SGST Rules, 2017.

### 5.11.10 Discrepancies in GSTN data with the data captured in State GST system

For post automation cases, Application Reference Number (ARN) is generated after filing of application in form GST RFD 01 and uploading the supporting documents. The application shall be deemed to have been filed under Rule 90 (2) of SGST Rules, 2017 on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement would be counted from the said date. The above process of the common portal gets transferred to the State back-end system through an Application Programme Interface (API). In the State's back-end system the refund applications will be assigned to the proper officer who will continue to process these applications up to the stage of issuance of final sanction order in Form GST RFD-06 and related payment order in Form GST RFD-05 and after completion of the process in the state system, the data would be again transferred to the common portal through API.

Scrutiny of the data of the state's back-end system revealed the following:

#### 5.11.10.1 Discrepancy in ARN date (of GSTN) and Application date (of State GST system)

Audit noticed that in 7 cases out of 11 refund cases (post automation), the date of ARN (as shown in GSTN) is different from the date of application (as captured in the State's back-end system) as detailed in Appendix 5.7.

<sup>66</sup> AA1104190067488 and AA110218006323Y (Sanctioned)  
AA110119007671Q (Rejected)

The matter was reported to the Department (March 2021). The Department while admitting the observation replied (April 2021) that Sikkim being Model I state has a separate system to process the application at GST common portal. Date was different from the GST common portal because the State's back-end system updates the date on which the data is received and also due to frequent network outage and failure of CRON<sup>67</sup>. The Department further intimated (July 2021) that the data is times tamped on the receipt of data on the State's system or Central system irrespective of the ARN date.

The reply of the Department is not acceptable as the State's system failed to represent actual application date i.e. ARN date resulting in non-observance of the provision.

#### **5.11.10.2 Discrepancy in RFD 05 date (payment order date) issued**

While comparing the payment order in Form RFD 05 of the GSTN with that of the State's system's data, Audit noticed that in 3 out of 11 cases, the date of RFD 05 (as shown in GSTN) is different from the order date of RFD 05 (as captured in the State System) as detailed in Appendix 5.8.

The matter was reported to the Department (March 2021). The Department while admitting the observation replied (April 2021) that GST common portal date was different from the State's system date due to delay in data transfer through API because of network outage and failure of CRON.

The reply of the Department is not acceptable as the State's system failed to represent the actual date of issue of RFD 05 resulting in non-observance of the provision.

#### **5.11.11 Maintenance of refund register**

Para 2.6 of the Circular No. 17/17/2017 – GST, dated 15 November, 2017 of the CTD stipulated that once a refund application in FORM GST RFD-01A is received in the office of the jurisdictional proper officer, an entry shall be made in a refund register to be maintained for this purpose with the details such as applicant's name, GSTIN, date of receipt of application, period to which the claim pertains, nature of refund, amount of refund claimed, date of issue of acknowledgement and date of receipt of complete application.

Audit noticed that no such refund register was maintained and all the refunds prior to automation were processed in the relevant file.

The matter was reported to the Department (June 2021). The Department replied that the divisions were instructed to dispose of refund cases with expedition, therefore; all the records were maintained in the file itself.

The reply of the department is not acceptable as non-maintenance of refund register affects proper monitoring and as in contravention of the government's instructions.

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<sup>67</sup> *The software utility CRON is acronym of Command Run On, is a time-based job scheduler in Unix-like computer operating systems.*

### 5.11.12 Conclusion

Audit noticed certain cases where the Department did not adhere to the prescribed timelines leading to instances of delay in issuing of acknowledgement, sanction of refund orders and communicating refund orders to counterpart tax authority. Further, lack of proper scrutiny of refund claims by the jurisdictional officers led to irregular allowance of refunds in certain cases.

In addition, certain systematic issues such as discrepancies in GSTN data with the data captured in State's GST back-end system were noticed.

### 5.11.13 Recommendations

In order to address the non-compliance to relevant provisions of the Acts and Rules and to improve the effectiveness of the internal control system, the following recommendations are made:

- *Compliance to relevant provisions of the Act and Rules should be monitored and ensured by CTD, Sikkim at each stage of refund process right from issue of acknowledgement up-to the credit of refund amount into the taxpayers account within the prescribed time limit.*
- *The CTD may address issues relating to auto calculation of interest in the system in case of delay in sanction of refund.*
- *The CTD may consider put in place a system of post-audit of refund cases by issuing detailed instructions/ guidelines.*
- *The CTD should take necessary systemic steps to ensure that the data captured by the state's system is fully consistent with that in the common GST portal.*

## Finance Department (Directorate of Sikkim State Lotteries)

### 5.12 Loss of Government revenue

*The DSSL by violating the provisions of agreement, allowed the Marketing Agent (MA) to continue the lottery draws even though the MA had failed to deposit Minimum Assured Revenue and other dues. This led to non-recovery of dues of ₹ 3.60 crore from the MA.*

The Directorate of Sikkim State Lotteries (DSSL) invited (29 October 2018) tender for selection and appointment of Marketing Agent (MA) for marketing and sale of 16 weekly online lotteries in three Parts i.e. Part-A (consisting of five draws), Part- B (consisting of six draws) and Part- C (consisting of five draws). Based on tender bids, M/s Pan India Network Ltd (PINL) was selected as MA for Part-A (five draws) and Part- B (six draws). Similarly, M/s Summit Online (P) Ltd (SONTSPL) was selected (March 2019) as MA for Part- C (five draws).

As per agreement, the MA was required to furnish Security Deposit (SD) in the form of Bank Guarantee (BG) of amount equivalent to Minimum Assured Revenue (MAR), before commencement of the first draw. The SD could be adjusted by the Government in case the MA failed to deposit sale proceeds or such other dues to the Government. The MA was required to pay MAR monthly on pro-rata monthly basis, without any deductions, by 10<sup>th</sup> of every succeeding month. In addition, draw expenses @ ₹ 3,000 per draw was required to be paid to the Government. In case, MA wanted to discontinue the operation of lotteries, 90 days' notice was required to be given to the Government or else was required to compensate the revenue loss to the State Government.

Audit observed (March 2021) that M/s SONTSPL commenced (08 April 2019) selling and marketing of five draws (Part-C) of Sikkim Online Lotteries but could not continue and served (15 April 2019) 90 days' notice to discontinue citing unfavourable condition of online lottery schemes. The request of M/s SONTSPL for termination of Agreement was accepted (1 August 2019) by the State Government.

Audit noticed that M/s PINL deposited BG of ₹ 10 crore (March 2019) and ₹ 67.90 lakh (May 2019) in respect to five Online Weekly lottery (Part-A) and sought (May 2019) time extension of one month to deposit the BG of ₹ 14.11 crore in respect to 06 Online Weekly lottery (Part- B). The request was accepted (May 2019) by the DSSL. M/s PINL could not deposit the BG of ₹ 14.11 crore and requested (8 May 2019) the State Government to allow to run Six Online Weekly Lottery for 90 days as per the terms of agreement. The State Government allowed (26 July 2019) M/s PINL to continue to operate Six Online Weekly Lottery draws for 90 days. M/s PINL, however, informed (12 August 2019) their inability to continue to operate Six Online Lottery and accordingly Six Online Weekly Lottery was suspended with effect from 15 May 2019 (*Post Facto*).

It was observed that the M/s PINL did not pay MAR and other dues to the State Government from June 2019 with respect to five Online Weekly Lottery. As a consequence, the State Government suspended (01 October 2019) five Online Weekly Lottery draws from 03 October 2019 also as the MA had failed to clear the pending liabilities of ₹ 14.91 crore. The State Government, however could recoup only ₹ 10.67 crore by encashing the SD, against the total receivable amount of ₹ 14.27 crore<sup>68</sup>, leaving ₹ 3.60 crore as unrecovered as of May 2021. Besides this penal interest (₹ 2.74 crore)<sup>69</sup> was also recoverable as per clause 10 the agreement.

Further, as per Agreement, the State Government was responsible for payment of prize money to winning tickets. Thus the State Government disbursed ₹ 11.67 crore towards prize money by revoking SD (₹ 10.68 crore) and ₹ 0.99 crore from its own funds, under the approval of Government on 09 December 2020. Later, post facto approval (18 January 2021) of the State Cabinet was obtained.

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<sup>68</sup> ₹ 14.27 crore towards (MAR- ₹ 2.46 crore; Draw Expenses- ₹ 0.14 crore; Prize Winners payment- ₹ 11.67 crore)

<sup>69</sup> @12% from July 2019 to Feb. 2021

The possibility to recover the dues of ₹ 3.60 crore along with interest of ₹ 2.74 crore appears remote as M/s PINL has been declared insolvent and the Corporate Insolvency Resolution Process has been initiated (October 2019) under provision of Insolvency Bankruptcy Code 2016 against the company. Insolvency proceeding was still on as of December 2021.

The DSSL failed to protect the interest of Government revenue by allowing the MA to continue the five Online Weekly Lottery draws despite non-payment of MAR and other dues since June 2019 which was against the stipulations of the agreement. This resulted in undue favour to the MA and loss of revenue of ₹ 3.60 crore to the State exchequer apart from interest of ₹ 2.74 crore.

In its reply (September 2021), DSSL stated that M/s PINL did not turn up to deposit the dues and admitted that this has resulted in loss of revenue of ₹ 3.60 crore.

***Recommendations:** The Department may ensure adherence to the provisions of agreements with marketing agents to prevent undue benefit to them and to avoid loss to State Exchequer, and closely monitor the insolvency proceedings so as to recover the dues to the extent possible.*

### **5.13 Loss of revenue due to non-deduction of commission on printing works of lotteries tickets**

*The DSSL failed to follow the prescribed instructions for printing works of Government w.r.t printing works of lotteries tickets and not deducted mandatory three per cent commission from bills of the private printing presses, resulting in loss of revenue of ₹ 5.09 crore.*

In accordance to Sub-rule 5 of Rule 3 of the Lotteries (Regulation) Rules 2010, paper lottery tickets and the stationery on which the online lottery tickets are issued shall be printed by the Organising State at a Government Press or any other high security press included in the panel of the Reserve Bank of India.

With a view to streamline the system of printing work by the State Government Press, Sikkim, the State Government vide Circular No. 90 dated 19 September 1999, in supersession of all previous instructions issued elaborate guidelines, which *inter-alia* included that: all indenting Departments to approach Printing & Stationery Department (PSD) for printing related work by Sikkim Government Press; in case, Government press is unable to do the work, they will arrange to get the printing done by Private Press, listed with the PSD, for printing works valuing up to ₹ 2.00 lakh; for all individual printing works of value exceeding ₹ 2.00 lakh, which are not possible to be done by PSD due to any constraints, open tenders will be invited in each case and the bills for the printing works done by Private Press has to be submitted to PSD for certification of correctness of the rate and amount before making payment to the Private Press.

In slight modifications of the previous Circular, the State Government vide Circular (3 November 2004) stipulated that all the printing work will be executed by the PSD

itself. The indenting Departments were accordingly requested to obtain Performa Invoice (PI) first from PSD and remit 90 *per cent* advance along with the indent for printing work. In case, Government Press is not in a position to undertake job due to pre-occupation or not having facilities, alternative arrangement to get the work done by Private Press will be made as per Circular No. 90 of 19 September 1999. In such cases, three *per cent* commission from the bill of the Private Press would be deducted and credited to Government revenue as service charge.

The State Government vide Circular No. Admn 110/Ptg & Sty/45 dated 30 April 2018 stressed for getting all printing jobs done from the Government Press, in view of upgradation of the Press to undertake multi-colour printing works. The circular reprimanded the Departments for allotting printing jobs to the Private Presses directly on lowest quotation basis, in violation of the standing norms issued by the Government. The Government Departments were asked to place their indent and obtain Performa Invoice in the first instance. In the event of non-compliance to above procedure, request of verification of rates of Private Press would not be entertained by the Government Press. The Circular reiterated that in exceptional cases, involving special quality of printing jobs, for which infrastructural facilities were not available in the Government Press or due to any other unavoidable circumstances, clearance for carrying out printing jobs from other Printing Presses established in the State, could be given by PSD. In such cases, three *per cent* administrative charges will be deducted at source and credited to Government Revenue.

During 2015-21, the DSSL had given printing job orders to four Private Presses for carrying out printing works involving ₹ 169.64 crore. Neither the necessary clearances from PSD nor the mandatory deduction of administrative charges of three *per cent* was affected from the bills of Private presses as detailed below:

**Table 5.16: Non-deduction of administrative charges**

Sl. No.	Year	Total printing cost	3 <i>per cent</i> Commission
1.	2015-16	121246000	3637380
2.	2016-17	234742750	7042282
3.	2017-18	369092662	11072780
4.	2018-19	152455400	4573662
5.	2019-20	466441600	13993248
6.	2020-21	352389600	10571688
	<b>Total</b>	<b>169,63,68,012</b>	<b>5,08,91,040</b>

Following irregularities were noticed in Audit:

- In violation of the Government circulars, DSSL had never approached the PSD for getting printing works of Lottery Directorate done by the Sikkim Government Press.
- DSSL also did not invite open tenders as required under Circular dated 19 September 1999, though the value of printing works were far beyond the thresh



hold limit of ₹ 2.00 lakh, in case it was not possible for the State Government Press to undertake the printing works of DSSL due to any constraints.

- The bills for the printing works of DSSL done by Private Presses were not routed through PSD for certification of correctness of the rate and amount before making payment to the Private Presses. This is in violation of Circular dated 19 September 1999.
- The DSSL had not placed their indent and obtained Performa Invoice in the first instance from PSD as required vide State Government Circular (April 2018).
- The DSSL had also not obtained clearance from PSD for carrying out printing jobs from other printing presses, in case the printing works of Lottery involved special quality of printing jobs, for which infrastructural facilities are not available in the Government Press or due to any other unavoidable circumstances.
- The deduction of mandatory three *per cent* administrative charges to be deducted at source from the bills of the Printing Presses was also not done.

As a result of failure of DSSL to follow the prescribed instructions for printing works of Government, there was no assurance that the rates paid to the Private Presses were competitive, since no tenders were called and the rates were not verified from the PSD. Apart from this, there was loss of revenue of ₹ 5.09 crore of the three percent deduction to be made from the bills.

The DSSL in its reply (September 2021) confirmed that it had not collected three *per cent* commission and added that it inadvertently missed out seeking clearance from Printing and Stationery Department. The DSSL further stated that it had taken up the matter with Government (June 2021) for post-facto approval to regularise the issue and assured to collect commission in all their future paper lottery printing works. However, till March 2022 neither the post-facto approval was granted by the State Government nor was the three *per cent* commission collected from private presses.

***Recommendation:*** *The Department may fix responsibility for loss of revenue and also initiate process for recovering the three per cent commission from the private presses.*

