

CHAPTER-VI: OTHER TAX AND NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records of Multi Purpose Projects and Power, Revenue, Irrigation cum Public Health, Industries departments, conducted during the year 2007-08 revealed non/short levy of electricity duty, incorrect determination of market value of property, non-presentation of documents for registration, short realisation, non-renewal/payment of lease money, non/short recovery of water charges, non-realisation of royalty/interest and other irregularities amounting to Rs. 34.55 crore in 292 cases, which fall under the following categories:

| (Rupees in crore) | | | |
|-------------------|---|-----------------|--------------|
| Sr. No. | Particulars | Number of cases | Amount |
| 1. | Levy and collection of electricity duty (A review) | 01 | 12.12 |
| 2. | Non/ short recovery of water charges | 27 | 12.16 |
| 3. | Incorrect determination of market value of property | 90 | 5.43 |
| 4. | Non-realisation of royalty/ interest | 17 | 0.41 |
| 5. | Loss due to non- renewal/payment of lease money | 03 | 0.30 |
| 6. | Short realisation of lease money due to incorrect fixation of rates | 01 | 0.07 |
| 7. | Non-presentation of documents for registration | 05 | 0.06 |
| 8. | Other irregularities | 148 | 4.00 |
| Total | | 292 | 34.55 |

During 2007-08, the department accepted under assessments of Rs. 13.59 crore involved in 35 cases of which one case involving Rs. 46 lakh had been pointed out in audit during the year and rest in the earlier years.

A few illustrative cases involving Rs. 7.03 crore and a review of **Levy and collection of electricity duty** involving Rs. 12.12 crore are mentioned in the succeeding paragraphs.

A. MULTI PURPOSE PROJECTS AND POWER DEPARTMENT

6.2 Levy and collection of electricity duty

6.2.1 Highlights

- In the absence of enabling provisions in the HPED Act, electricity duty (ED) of Rs. 390.40 crore on sale of electricity could not be levied.

(Paragraph 6.2.9)

- Hotels being an industry were being charged ED at the commercial rates instead of industrial rates resulting in loss of ED of Rs. 80.79 lakh.

(Paragraph 6.2.11)

- Incorrect grant of eligibility certificate to five ineligible industrial units of Baddi, Darlaghat and Paonta Sahib resulted in incorrect exemption of Rs. 28.33 crore on account of ED.

(Paragraph 6.2.15)

6.2.2 Introduction

The levy and collection of duty on electricity are governed by the Himachal Pradesh Electricity (Duty) (HPED) Act, 1975. Under the HPED Act, the Himachal Pradesh State Electricity Board (Board) has the statutory obligation to levy and collect electricity duty (ED) from the consumers at the prescribed rates for the energy consumed and deposit it into the Government account. Those who generate electricity for their own consumption are also required to deposit ED directly into the Government account provided the capacity of generation is 5 KW or above. Under the HPED Rules, 1975, the ED shall be deposited in the Government treasury/scheduled bank half yearly i.e. in April and October every year. Under the HPED Act, if the Board or the licensee or the generating company or the consumer as the case may be, evades or attempts to evade the payment of ED, the Board or such person shall pay by way of penalty in addition to the duty payable under this Act, a sum not exceeding four times the amount of the duty as may be determined by the Chief Electrical Inspector (CEI). **However, the HPED Act is silent about the levy of penalty on delayed payments of duty by the Board or the licensee or the consumer.** Further the Board and a person generating energy for his own use or consumption shall submit to the CEI by the last day of May and November a statement¹ in the prescribed form and the CEI

¹ Containing details like class of consumers, duty assessed, previous balance, total ED payable, duty realised, balance carried over etc.

shall submit to the Government a return² in prescribed form within three months of the close of the financial year. The duty, which remains unpaid, shall be recoverable as arrear of land revenue or by deduction from amounts payable by the State Government to the Board or person generating energy for his own consumption.

It was decided by audit to review the accuracy of levy and collection of ED. The review revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

6.2.3 Organisational set up

The overall administrative control including monitoring, internal controls and internal audit on levy and collection of ED rests with the Principal Secretary Multi Purpose Projects and Power (MPPP) Department who is assisted by the CEI. The CEI is responsible for implementation of the provisions of the HPED Act and Rules, receipt of returns, inspection of premises and checking of electrical installations. He is assisted by five Assistant Electrical Inspectors (AEI)³ who are responsible for checking of electrical installations and meters in the areas of their jurisdiction.

6.2.4 Scope of audit and methodology

The review of the efficacy of the system of levy and collection of ED for the period 2002-03 to 2006-07 was conducted in the office of the CEI between March 2008 and May 2008. During the course of audit, data/information obtained from 44⁴ out of 228 electrical sub divisions of the Board were also cross verified with the records maintained by the CEI. Of these 44 electrical sub divisions, 14 were located in the industrial belt in four districts, 14 in commercially important places in five districts and 16 sub divisions in eight districts having consumers predominantly other than industrial and commercial. This enabled the audit to cover 30 per cent consumers and more than 78 per cent of the revenue earned in all the sub divisions.

6.2.5 Audit objectives

The review was conducted with a view to assess:

- the efficiency and effectiveness of the system of levy and collection of ED; and

² Containing details like duty payable, duty assessed, balance brought forward, total ED payable, amount realised, balance, remarks etc.

³ AEI Dalhousie: Chamba district and Dharamsala of Kangra district, Hamirpur: Hamirpur, Palampur of Kangra district and Una district, Mandi: Mandi, Kullu and Lahaul Spiti, Shimla-I: Shimla and Kinnaur districts and Shimla-II: Solan and Sirmour districts.

⁴ Amb, Baddi, Barotiwala, Bilaspur-I, Bhawanagar, Bhunter, Boileauganj, Chhota Shimla, Dalhousie, Damtal, Darlaghat, Dhaulakuan, Dharamsala-I, Dharamsala-II, Gagret, Idgah, Jutogh, Kala Amb, Kandaghat, Kasauli, Katrain, Khalini, Kullu-I, Kullu-II, Manali-I, Manali-II, Mashobra, Mehatpur, Nahan, Nalagarh-I, Nalagarh-II, Namhol, Nurpur, Paonta Sahib, Parwanoo, Reckongpeo, Ridge, Sanjauli, Sansarpur Terrace, Sataun, Solan-I, Solan-III, Sundernagar and Tahliwal.

- whether an adequate internal control mechanism existed to ensure proper realisation of ED.

6.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the MPPP Department and the CEI in providing necessary information and records for audit. An entry conference was held in March 2008 with the department and the scope and methodology for conducting the review were discussed. The Principal Secretary to the Government of Himachal Pradesh, MPPP Department represented both the Government and the department. The draft review report was forwarded to the department and the Government in June 2008 and was discussed in the Audit Review Committee meeting held in July 2008. The Principal Secretary, MPPP represented the Government while the CEI represented the department. Views of the Government have been incorporated in the relevant paragraphs.

6.2.7 Trend of revenue

As per the Himachal Pradesh Budget Manual, the actuals of previous years and the revised estimates ordinarily afford the best guide in framing the budget estimates (BEs) and a continuance of any growth or decline in income indicated by them, may, in the absence of definite reasons to the contrary, properly be assumed in all cases in which the proportionate estimates can be usefully employed. But special attention should be paid to new sources of revenue of which account has not been taken in previous years. The reasons which led to the adoption of the figures for the BEs should be briefly and clearly explained.

The BEs and actual realisation of ED during the years 2002-03 to 2006-07 are mentioned below:

(Rupees in crore)

| Year | BEs | Actual | Variations increase (+) decrease(-) | Variation (per cent) |
|---------|-------|--------|---|-------------------------|
| 2002-03 | 36.84 | 0.03 | (-) 36.81 | (-) 100 |
| 2003-04 | 32.00 | 16.42 | (-) 15.58 | (-) 49 |
| 2004-05 | 33.34 | 87.68 | (+) 54.34 | (+) 163 |
| 2005-06 | 34.99 | 88.92 | (+) 53.93 | (+) 154 |
| 2006-07 | 51.77 | 29.96 | (-) 21.81 | (-) 42 |

Actuals have been at variance with the BEs in all the years which indicates that the BEs were not prepared on realistic basis.

The Government stated that in future, the BEs shall be prepared in consultation with the Himachal Pradesh State Electricity Board (Board) authorities so that the figures are more realistic.

Audit findings

System deficiencies

6.2.8 Absence of provision for levy of surcharge

In terms of the Tariff Order issued under the Indian Electricity Act, if a consumer fails to pay charges for the energy consumed, by the prescribed date, he is liable to pay surcharge (SC) at the rate of two *per cent* per month upto 2003-04 and one *per cent* thereafter on the unpaid amount at the rates prescribed by the Board in its tariff. **However, the HPED Act is silent about the levy of surcharge on the delayed payment of ED by the consumer.**

Scrutiny of the annual statement of accounts of the Board revealed that the Board realised surcharge of Rs. 37.39 crore during the years 2002-03 to 2006-07 but no surcharge could be levied on the unpaid amount of ED as mentioned below:

| Year | SC realised by the Board | ED unpaid |
|--------------|--------------------------|--------------|
| 2002-03 | 5.85 | 1.77 |
| 2003-04 | 11.40 | 2.50 |
| 2004-05 | 7.17 | 3.28 |
| 2005-06 | 6.04 | 4.74 |
| 2006-07 | 6.93 | 5.36 |
| Total | 37.39 | 17.65 |

The Government stated that the Board has been advised (July 2008) to recover the outstanding ED from the consumers who have defaulted in making payment and a suitable proposal to levy surcharge on delayed payment of ED shall be considered by making an amendment in the HPED Act. In this regard the Government is proposing to constitute a Review Committee shortly.

The Government may, therefore, consider providing a penal clause for levy of surcharge on the delayed payment of ED on the lines of levy of surcharge on delayed payment of energy charges.

6.2.9 Absence of provision for levy of electricity duty on sale of energy

Under the provision of the HPED Act, ED at the prescribed rates shall be levied and paid to the State Government on the energy consumed except the energy consumed by the State Government, consumed or sold to the Government of India for consumption by that Government or consumed by railway/Board for specified purposes. **However, the Act is silent about levy of ED on sale of energy by the Board/electricity generating companies/persons to other states/public sector undertakings.**

Test check of the records revealed that the Board and Satluj Jal Vidyut Nigam Ltd. (SJVN⁵) sold 18,656.233 million units of electric energy to other states/public sector undertakings during the years 2002-03 to 2006-07. However, in the absence of enabling provisions in the HPED Act, ED of Rs. 390.40 crore could not be levied on the sale of above mentioned units as given below:

| Name of the selling agency/unit | Year/Units of electrical energy sold (in million units) | | | | |
|--|---|----------|----------|----------|----------|
| | 2002-03 | 2003-04 | 2004-05 | 2005-06 | 2006-07 |
| Board | 515.67 | 1,097.57 | 1,158.21 | 1,232.72 | 363.73 |
| SJVN | -- | 986.09 | 4,498.62 | 3,568.60 | 5,235.02 |
| Total | 515.67 | 2,083.66 | 5,656.83 | 4,801.32 | 5,598.75 |
| Rate ⁶ of ED per unit (in rupees) | 0.15 | 0.15 | 0.18 | 0.24 | 0.24 |
| ED forgone (Rupees in crore) | 7.73 | 31.25 | 101.82 | 115.23 | 134.37 |

The Government stated that perhaps the confusion arose as a result of ambiguity/lack of clarity in the Act and steps will be taken to make the provisions of the Act clear.

Since the Government is foregoing a considerable amount in the shape of ED, it may consider providing for levy of ED on sale of electric energy.

6.2.10 Loss of electricity duty on auxiliary consumption

Under the provisions of the HPED (Amendment) Act, 1992, ED at the prescribed rates shall be levied and paid to the State Government on the energy consumed. Accordingly, auxiliary consumption of energy by the electricity generating units other than the Board are liable to ED. The Himachal Pradesh High Court⁷ while accepting the statement of the department directed (October 1994) that the petitioners will not be charged duty on electricity consumed by them (NHPC/PSEB-petitioners) for generating stations, sub-stations and works directly connected with the generation, transmission and distribution of energy and the directions were made a rule of the court. Though the statement of the department was not supported by applicable laws/rules in the State, the department/Government did not proceed either to amend the HPED Act/Rules nor sought legal recourse to regularise the matter of levy of duty on the auxiliary consumption of energy by the electricity generating units.

Test check of the records revealed that six power houses availed exemption of ED of Rs. 5.26 crore during the years 2002-03 to 2006-07 as mentioned below:

⁵ A public sector undertaking of the Government of India established for generation and sale of electric energy.

⁶ Worked out on the basis of rates applicable to other consumers.

⁷ In the matter of National Hydroelectric Power Corporation and Punjab State Electricity Board V/s State of Himachal Pradesh, the Chief Electrical Inspector Himachal Pradesh and Himachal Pradesh State Electricity Board.

| Sr. No. | Name of the power house | Year/Generation during the year (in million units) | | | | |
|--------------|--|--|------------------|------------------|------------------|------------------|
| | | 2002-03 | 2003-04 | 2004-05 | 2005-06 | 2006-07 |
| 1. | Baira Siul Power station | 683.000 | 688.000 | 690.000 | 791.000 | 698.000 |
| 2. | Chamera-I Power station | 2,260.000 | 2,462.000 | 2,105.000 | 2,343.000 | 2,366.000 |
| 3. | Chamera-II Power station | -- | -- | 1,348.000 | 1,490.000 | 1,432.000 |
| 4. | Baspa stage II Power station | -- | 1,132.838 | 1,190.389 | 1,173.617 | 1,281.105 |
| 5. | Mallana hydel project | 263.281 | 330.643 | 261.571 | 320.592 | 244.362 |
| 6. | PSEB Shanan Power station | 469.279 | 564.205 | 515.474 | 508.950 | 495.666 |
| Total | | 3,675.560 | 5,177.686 | 6,110.434 | 6,627.159 | 6,517.133 |
| | Auxiliary consumption at the rate (0.5 per cent) | 18.378 | 25.888 | 30.552 | 33.136 | 32.586 |
| | Auxiliary consumption of SJVN | -- | 7.912 | 36.196 | 28.731 | 42.101 |
| | Total auxiliary consumption | 18.378 | 33.800 | 66.748 | 61.867 | 74.687 |
| | Rate of ED per unit (in Rupees) | 0.15 | 0.15 | 0.18 | 0.24 | 0.24 |
| | Loss of electricity duty (Rupees in lakh) | 27.57 | 50.70 | 120.15 | 148.48 | 179.25 |

The Government stated that it is true that the advocate of Government informed the Court without any instructions either from the Government or the CEI. However, action on amendment in the Act is being taken separately and the committee constituted to review the Act shall be asked to consider this issue while framing their recommendations.

The Government may, therefore, consider taking suitable remedial measures to safeguard the revenue.

6.2.11 Levy of electricity duty at incorrect rates

Under Section 2 of the HPED Act, commercial consumer is a consumer having non-residential premises such as business houses, clubs, offices, schools, hospitals, hostels, street lighting and places of worship etc. Hotels do not fall under this category. However, as per the industrial policy of 1991 and 2003 of the Government of India, hotels have been declared as thrust sector industry. The HPED Act defines industrial consumers as any person or institution using energy for industrial purpose or purposes subservient to industry. Thus hotels being an industry were required to pay ED at the prescribed rates meant for industrial consumers. However, under the tariff notifications issued by the Board from time to time in pursuance of tariff orders issued by the Himachal Pradesh Electricity Regulatory Commission, restaurants, hotels/motels, lodging and boarding houses have been included under commercial supply.

Test check of the records maintained in 44 sub divisions revealed between March 2008 and May 2008 that in 26⁸ sub divisions, ED in respect of 360 hotels during the period 2002-03 to 2006-07 was levied and recovered at the rates meant for commercial consumers on the basis of tariff orders for commercial supply issued from time to time instead of the rates applicable to the industrial consumers. This resulted in short recovery of ED of Rs. 80.79⁹ lakh.

The Government stated that in order to avoid any conflict in the definition of categories of consumers as provided in the HPED Act and the Tariff order issued by the Himachal Pradesh Electricity Regulatory Commission, it is proposed to amend the Act.

The Government may therefore, consider bringing out suitable order in conformity with the industrial policy of 1991 and 2003 of the Government of India.

Internal controls

6.2.12 Submission of returns

Under the provisions of the HPED Rules, the Board and a person generating energy for his own use or consumption shall submit to the CEI by the last day of May and November, a statement (in duplicate) showing the duty assessed and realised in respect of energy sold to consumers and the duty assessed and paid by persons generating energy for his own use or consumption in Annexure I and II respectively. The CEI in turn shall also submit to the Government a return in Annexure III indicating duty payable by the Board/persons, assessed and balance etc., within three months of the close of the financial year. The CEI may also at any time require the Board to produce for inspection such books and records in its possession or control as may be necessary for ascertaining or verifying the amount of ED leviable under the Act. The duty which remains unpaid shall be recoverable as arrears of land revenue. **It was however, noticed that the prescribed returns in Annexure I and Annexure III did not contain column(s) for information on account number of consumer(s), name of defaulter(s) etc. for initiating action for recovery of outstanding ED against the defaulters.**

The Government stated that various formats of prescribed returns are proposed to be reviewed by the committee being constituted by the Government.

⁸ Barotiwala, Boileauganj, Chhota Shimla, Dharamsala-I, Dharamsala-II, Idgah, Jutogh, Kala Amb, Kandaghat, Kasauli, Katrain, Manali-I, Manali-II, Mashobra, Mehatpur, Nahan, Nalagarh-I, Nalagarh-II, Paonta Sahib, Parwanoo, Reckongpeo, Ridge, Sanjauli, Solan-I, Solan-III and Sundernagar.

⁹ ED less charged: Rs. 17.21 lakh for the period April 2002 to October 2003 on the consumption of 233.32 lakh units @ of paise 7 (paise 22 - paise 15); Rs. 13.31 lakh for the period December 2003 to May 2005 on the consumption of 195.72 lakh units @ of paise 7 (paise 25 - paise 18) and Rs. 50.27 lakh for the period June 2005 to March 2007 on the consumption of 506.37 lakh units @ of paise 9 (paise 33 - paise 24).

6.2.12.1 Delay in/non-submission of returns by the Board/CEI

Test check of the records maintained by the CEI revealed that the Board had submitted the returns for the period 2002-03 to 2006-07 with delays ranging between 41 to 102 days (except the returns for April 2002 to September 2002, April 2005 to September 2005 and April 2006 to September 2006). The CEI, however, did not initiate any action to ensure timely submission of returns by the Board. Further, the CEI neither submitted the prescribed returns in Annexure-III to the Government nor carried out requisite inspection of records for ascertaining or verifying the amount of ED leviable.

After this was pointed out, the CEI while admitting the facts stated (March 2008) that no such return had been submitted to the Government in the past and the same would be submitted in future.

The Government stated that instructions have already been issued for submission of returns.

6.2.12.2 Non-levy/recovery of electricity duty

Under section 3 (2) of the HPED Act, energy consumed by the State or Central Government is exempted from payment of ED. No such exemption is available to public sector undertakings, boards, corporations and other autonomous bodies whether owned by the Central or State Governments. **The prescribed return in Annexure-I however did not contain details of the department/ Government/ organisations etc. to determine the correctness of exemption of ED availed/allowed.**

Test check of the records of 44 sub divisions, revealed that in five¹⁰ sub divisions, the Board had neither levied nor recovered ED from public sector undertakings, boards, corporations and other autonomous bodies. This resulted in non-levy/recovery of ED of Rs. 5.92 lakh for the period April 2002 to March 2007. In the absence of requisite details in the return, the CEI also could not detect the non-levy of ED on ineligible organisations.

The Government stated that the Board is being directed to take immediate action and submit a report of action taken.

6.2.12.3 Short levy of duty

According to the HPED Act, domestic consumer is a person or any institution occupying a premise ordinarily used for residential purposes and supplied with energy upto 10 KW. The domestic consumers who are supplied energy of more than 10 KW cannot be termed as domestic consumers for levy of ED in terms of Section 3(1) (i) of the HPED Act. Such consumers are required to be charged at the rates meant for any other consumer i.e. other than domestic, commercial and industrial consumers. **However, the prescribed return in Annexure I did not contain information on supply of energy in KW.**

¹⁰ Boileauganj, Chhota Shimla, Dhaulakuan, Nahan and Sundernagar.

Test check of the records revealed that out of 44 sub divisions, in 22¹¹ sub divisions the ED from domestic consumers having connected load of more than 10 KW was incorrectly realised at the rate of six paise per unit meant for domestic consumers between March 2002 and March 2007 against the proper duty of Rs. 40.23 lakh at the rate of 15 paise, 18 paise and 24 paise per unit applicable to other consumers. This resulted in short recovery of ED of Rs. 30 lakh¹². **In the absence of the requisite details in the return, the CEI could not detect the short realisation of duty from the domestic consumers.**

The Government stated that in order to avoid any conflict between the definition of categories of consumers, it is proposed to amend section-2 of the HPED Act.

6.2.12.4 Non-maintenance/submission of record/returns by the licensees

Under the HPED Rules, every person generating energy for his own use or consumption shall declare himself as such in writing giving details of the generating plants installed by him to the CEI within 30 days from the date of publication of the rules failing which he is liable to pay a fine not exceeding Rs. 1,000.

Test check of the records revealed that the following units/person generating electricity for their own use or consumption neither declared as such to the CEI nor submitted the prescribed returns in Annexure-II during the years 2002-03 to 2006-07:

| Sr. No. | Name of generating company/ persons | Installed capacity (in MW) | Date from which the unit started commercial production |
|---------|--|----------------------------|--|
| 1. | Bhakra Beas Management Board having three power houses at Dehar, Pong and Bhakra | 2,711 | Not available |
| 2. | Satluj Jal Vidyut Nigam having power house at Jhakri | 1,500 | 2003-04 |
| 3. | National Hydroelectric Power Corporation having power houses at Surangani, Khairi and Karian | 1,020 | Not available |
| 4. | Mallana hydel company having power house at Jari | 86 | Not available |
| 5. | Baspa Hydel project stage II having power house at Karchham and owned by JP Hydro power | 300 | 2004-05 |

¹¹ Baddi, Bilaspur-I, Boileauganj, Chhota Shimla, Dharamsala-II, Dhaulakuan, Idgah, Jutogh, Kandaghat, Kasauli, Khalini, Manali-I, Manali-II, Mashobra, Nahan, Nalagarh-I, Paonta Sahib, Parwanoo, Ridge, Sanjauli, Solan-I and Solan-III.

¹² April 2002 to November 2003: 4,06,174 units @ paise 9 per unit (paise 15 – paise 6): Rs. 37,000; December 2003 to May 2005: 5,06,896 units @ paise 12 per unit (paise 18 – paise 6): Rs. 61,000 and June 2005 to March 2007: 1,61,31,645 units @ paise 18 per unit (paise 24 – paise 6): Rs. 29.03 lakh.

| | | | |
|----|---|---------------|-----------------------------------|
| 6. | 56 industrial units having their own generators | 162 | Not available |
| 7. | 9 other firms who were paying electricity duty | Not available | Not available |
| 8. | Micro hydel projects (10 Numbers) | 26.65 | Between June 2004 to January 2007 |

The CEI did not initiate any action to ensure submission of returns by these units/persons.

The Government stated that the instructions have already been issued for submission of returns. Matter shall be followed up vigorously.

6.2.12.5 Non-realisation of electricity duty on the energy sold from captive power stations

The Government of Himachal Pradesh exempted (October 1993) all categories of industrial units from the payment of ED on the power generated from their captive generating sets/hydel plants for their own use with immediate effect. A captive generating plant means a power plant set up by a person to generate electricity primarily for his own use. Under the HPED Act, persons generating energy for their own consumption is a consumer provided the capacity of generation is 5 KW or above and ED is payable by the person who supplies energy to a consumer.

Information collected from the balance sheet of a firm¹³ submitted to Superintendent (Central Excise) Baddi, revealed that the firm had sold 170.63 lakh units of energy to other industrial units during 2004-05. Since the energy of 170.63 lakh units was not consumed by the firm for its own use, ED of Rs. 42.66 lakh was payable by the firm. As the firm did not furnish the prescribed return in Annexure-II, the CEI could not detect the sale of energy to other industrial units and levy ED. This resulted in non-realisation of ED of Rs. 42.66 lakh.

The Government stated that action to recover the amount of ED has been initiated by the CEI.

The Government may consider prescribing additional column(s) in Annexure I, II and III to include information on account number and name of the defaulter, supply of energy in KW, issuing instructions to the CEI making the submission of prescribed returns mandatory, timely receipt of returns from the Board and other entities and captive power generating units to check non/short remittance of ED.

6.2.13 Position of arrears

The duty leviable under sub section 1 of section 3 of the HPED Act on the energy supplied to a consumer, shall be collected by the Board alongwith monthly bills and shall be deposited in the Government treasury, sub treasury or a scheduled bank of India, half yearly i.e. in April and October every year. The duty which

¹³ M/s Auro Spinning Mills Baddi.

remained unpaid whether by a consumer to the Board or by the Board or a person shall be recoverable as arrear of land revenue or by deduction from amounts payable by the State Government to the Board or such person. **The HPED Act is, however, silent about obtaining the security for ED at the time of release of the electricity connection.**

6.2.13.1 Non-deposit of electricity duty by the Board

The position of ED realised and deposited during 2002-03 to 2006-07 as furnished by the Board was as under:

(Rupees in crore)

| Year | Opening balance of ED as on 1 April | ED assessed | ED realised | ED deposited | Amount of ED outstanding as on 31 March |
|---------|-------------------------------------|-------------|-------------|--------------|---|
| 2002-03 | 16.37 | 26.90 | 26.87 | 0.32 | 42.92 |
| 2003-04 | 42.92 | 31.68 | 30.95 | 72.29 | 1.58 |
| 2004-05 | 1.58 | 43.21 | 42.43 | 32.02 | 11.99 |
| 2005-06 | 11.99 | 72.60 | 71.13 | 67.33 | 15.79 |
| 2006-07 | 15.79 | 95.57 | 94.97 | 29.83 | 80.93 |

It was further noticed that the Board had not deposited the ED realised in the prescribed months. As a result, percentage of ED short deposited ranged between 2 and 100 per cent as mentioned below:

(Rupees in lakh)

| Period | Opening balance | ED realised by the Board | Total | ED deposited | Closing balance | Percentage of short deposit |
|------------------------------|-----------------|--------------------------|----------|--------------|-----------------|-----------------------------|
| Up to 31 March 2002 | | | | | 1,637.06 | |
| April 2002 to September 2002 | 1,637.06 | 1,309.79 | 2,946.85 | -- | 2,946.85 | 100 |
| October 2002 to March 2003 | 2,946.85 | 1,377.67 | 4,324.52 | 32.43 | 4,292.09 | 99 |
| April 2003 to September 2003 | 4,292.09 | 1,464.38 | 5,756.47 | 440.00 | 5,316.47 | 92 |
| October 2003 to March 2004 | 5,316.47 | 1,631.07 | 6,947.54 | 6,789.25 | 158.29 | 2 |
| April 2004 to September 2004 | 158.29 | 1,851.37 | 2,009.66 | 730.00 | 1,279.66 | 64 |
| October 2004 to March 2005 | 1,279.66 | 2,391.61 | 3,671.27 | 2,472.66 | 1,198.61 | 33 |
| April 2005 to September 2005 | 1,198.61 | 3,199.45 | 4,398.06 | 1,650.00 | 2,748.06 | 62 |

| | | | | | | |
|------------------------------|----------|----------|----------|----------|----------|-----|
| October 2005 to March 2006 | 2,748.06 | 3,913.61 | 6,661.67 | 5,082.64 | 1,579.03 | 24 |
| April 2006 to September 2006 | 1,579.03 | 4,488.57 | 6,067.60 | 2,983.00 | 3,084.60 | 51 |
| October 2006 to March 2007 | 3,084.60 | 5,008.30 | 8,092.90 | -- | 8,092.90 | 100 |

The above table indicates that the Board had not deposited the amount of ED on the due dates. The CEI continued to request the Board to deposit the same. Thus, ED amounting to Rs. 1.58 crore to Rs. 80.93 crore remained with the Board unauthorisedly.

The Government stated that the late deposit of ED by the Board was on account of cash flow problem. However the Board assured that the total ED realised from the consumers ending 31 March 2008 shall be deposited with the Government positively by 30 September 2008.

6.2.13.2 Non-recovery of ED from consumers

Test check of the annual accounts of the Board for the years 2002-03 to 2006-07, revealed that the following amounts were recoverable from sundry debtors on account of ED. The consolidated statement showing the yearwise breakup of sundry debtors was however, not being maintained in the circle offices of the Board.

(Rupees in crore)

| Sr. No. | Year | Sundry debtors |
|---------|---------|----------------|
| 1. | 2002-03 | 1.50 |
| 2. | 2003-04 | 2.26 |
| 3. | 2004-05 | 3.04 |
| 4. | 2005-06 | 4.51 |
| 5. | 2006-07 | 5.12 |

The CEI did not initiate any action against the consumers for recovery of dues. The arrears could have been minimised had there been provision for levy of security deposit in the HPED Act.

The Government stated that the Board has been advised to suitably increase the security amount proportionately in the next tariff petition to take care of non-payment of ED by the consumers.

The Government may consider providing a clause in the Act/Rules for obtaining security deposit at the time of release of connection.

6.2.14 Internal audit

The internal audit is a vital component of control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

It was however, noticed that internal audit wing (IAW) was not in existence in the department, leaving it vulnerable to the risk of control failure.

The Government stated that the proposal for engaging the services of an internal auditor on part time basis for concurrent internal audit shall be considered.

The Government may consider setting up of IAW to monitor the levy and correctness of ED paid.

Compliance deficiencies

6.2.15 Incorrect grant of exemption/refund of ED

To promote industrial growth and attract fresh investment in industries in the State, the Government formulated ED incentive schemes in the Industrial Policy of 1991, 1996 and 2004. The Industries Department formulates the schemes of incentives for industries and issues notifications in this regard setting forth eligibility conditions for the prospective industries. To avail of the benefit of exemption/concession in ED, the unit has to obtain eligibility certificate (EC) from the Director of Industries specifying the category of unit, investment in fixed capital assets, quantum of benefit, employment of Himachalis and period of exemption/concession. Based on the EC, the CEI issues the exemption certificate. On the basis of the EC and the exemption certificate, the electrical divisions of the Board allows exemption/concession to the concerned industrial unit.

Test check of the records revealed that five units were incorrectly granted exemption/concession of ED of Rs. 28.33 crore between April 1996 and June 2005 on the basis of EC issued between February 1996 and June 2005 by the Director of Industries without fulfillment of the prescribed conditions as mentioned below:

(Rupees in crore)

| Sr. No. | Location of unit | Month/ year of issue of EC | Period of availment of exemption/ concession | Nature of irregularity | ED involved | ED involved from April 2002 to September 2004 |
|--------------|------------------|----------------------------|--|---|--------------|---|
| 1. | Darlaghat | February 1996 | 26 September 1995 to 30 September 2004 | The unit started commercial production from 26 September 1995 i.e. after the prescribed period (January 1995) | 24.13 | 8.73 |
| 2. | Baddi | July 1996 | 31 October 1995 to 31 October 2002 | The prestigious status to the unit was granted in January 1996 i.e. after the prescribed period between 1992 and March 1995. | 1.93 | 0.47 |
| | | September 2000 | 5 years from 28 August 1998 | The firm did not achieve the prescribed percentage of exports. | 0.90 | -- |
| 3. | Paonta Sahib | February 1996 | 7 years from 20 April 1995 | The prestigious status to the unit was granted in January 1996 i.e. after the prescribed period between 1992 and March 1995. | 1.19 | 0.03 |
| 4. | Barotiwala | June 2005 | August 2005 to March 2007 | The exemption from ED was allowed without obtaining the requisite certificate regarding employment of the prescribed percentage of bonafide Himachalis. | 0.18 | 0.18 |
| Total | | | | | 28.33 | 9.41 |

After this was pointed out, the CEI stated between March 2008 and May 2008 that the exemptions granted were based on the ECs issued by the Director of Industries and there was no irregularity on the part of his office.

The Government advised the CEI that in future all exemption cases from the payment of ED should be sent to the Government for prior approval even if a recommendation of the Industries Department is received by him.

6.2.16 Short recovery of electricity duty

The State Government in exercise of the powers conferred by section 11 A of the HPED Act granted exemption (October 1997) to all new industrial units (for which specific concession of ED was not provided), at the rate of 10 paise per unit for a period of five years with immediate effect. In pursuance of the said orders, Chief Engineer (Commercial) of the Board granted exemption to M/s VMT Spinning Company from payment of ED for a period of five years from 20 October 1997 to 19 October 2002. The rate of ED was revised from 15 paise to 22 paise per unit from July 1999.

A scrutiny of records maintained by the electrical sub division Baddi and Barotiwala revealed that the company had paid duty of Rs. 26.63 lakh upto February 1999 which was refunded between August 1999 and October 1999. The firm was, however, required to pay ED at the rate of five paise per unit from November 1997 to June 1999 and at the rate of 12 paise per unit from July 1999 to November 2002 against 15 paise and 22 paise respectively. This resulted in short recovery of ED amounting to Rs. 65.91¹⁴ lakh from November 1997 to November 2002 on the consumption of 702.13 lakh units. Out of this, Rs. 10.95 lakh pertained to the period from April 2002 to November 2002.

6.2.17 Non-recovery of electricity duty at the revised rates

The Government vide notifications issued in November 2003 and May 2005 revised the rates of ED from 22 paise to 25 paise and 25 paise to 33 paise per unit respectively in the case of industrial consumers with immediate effect.

It was noticed that the rates of revised duty were implemented from a month subsequent to the month of issue of notification. Delay in implementation of the revised rates resulted in non-recovery of ED of Rs. 74.63 lakh in 16¹⁵ sub-divisions out of 44 sub-divisions, during November 2003 and May 2005.

6.2.18 Non-levy of electricity duty on the consumption of electrical energy in the board offices

Under section 3(2) (iv) of the HPED Act, consumption of electrical energy by the Board for generating stations, sub stations and works directly connected with the generation, transmission and distribution of energy, is exempt from the payment of ED.

Test check of the records of 44 sub divisions revealed that in 20¹⁶ sub divisions the Board had neither levied nor recovered ED on the energy of 90.41 lakh units consumed in its offices and rest houses not directly connected with generation, transmission and distribution during the period 2002-03 to 2006-07. This resulted in non-levy of duty of Rs. 18.35 lakh¹⁷.

After this was pointed out, the Government stated that section 3(2) (iv) of the HPED Act shall be reviewed by the committee being setup for the purpose.

¹⁴ November 1997 to February 1999: Rs. 9.26 lakh; March 1999 to June 1999: Rs. 3.84 lakh and July 1999 to November 2002: Rs. 52.81 lakh.

¹⁵ Barotiwala, Bilaspur, Bhawanagar, Boileauganj, Darlaghat, Dhaulakuan, Kala Amb, Manali-II, Nahan, Nalagarh-I, Nalagarh-II, Paonta Sahib, Parwanoo, Sataun, Solan-I and Solan-III.

¹⁶ Bilaspur, Bhawanagar, Boileauganj, Chhota Shimla, Darlaghat, Dharamsala-I, Jutogh, Kala Amb, Kandaghat, Kasauli, Manali-I, Manali-II, Nahan, Nalagarh, Namhol, Parwanoo, Reckongpeo, Solan-I, Solan-III and Sundernagar.

¹⁷ April 2002 to November 2003: 17,96,709 units @ paise 15 per unit: Rs. 2.69 lakh; December 2003 to May 2005: 32,99,168 units @ paise 18 per unit: Rs. 5.94 lakh and June 2005 to March 2007: 40,48,807 units @ paise 24 per unit: Rs. 9.72 lakh.

6.2.19 Non-levy of electricity duty

Under Section 3(2) of the HPED Act, the State/Central Government are exempt from payment of ED on the energy consumed by them. The railways have also been exempted from payment of duty on energy consumed or sold for the construction, maintenance or operation of any railway. This clearly shows that ED is not recoverable on the energy consumed in the offices of these Governments and energy used by railway on construction, maintenance or operation of railway. The rest/guest houses/holiday homes and hostels owned by these Governments and used for housing the visiting officers for residential purpose are not entitled for exemption from payment of ED.

During test check of the records of 44 sub divisions it was noticed that in 15¹⁸ sub divisions the Board had neither levied nor recovered ED of Rs. 8.50 lakh¹⁹ during April 2002 to March 2007 on the energy consumed in the rest/guest houses, holiday homes and hostels owned by the State/Central Government/Railways though electricity charges for the period of stay were being recovered.

6.2.20 Conclusion

The HPED Act provides for filing of half yearly returns by the licensees which are an important internal control measure to monitor the payment of ED and its correctness. The department had failed to effectively scrutinise the receipt of the prescribed returns and correctness of ED payable as per the returns. This led to leakage of revenue. The prescribed return did not contain column(s) for information on account number, name of defaulters etc. resulting in non/delayed pursuance of dues. The internal control mechanism of the department was abysmally weak as is evidenced by the absence of internal audit wing which is the control of all internal controls and a management tool for plugging leakages of revenue.

6.2.21 Recommendations

The State Government may consider:

- providing a penal clause for levy of surcharge on delayed payment of ED on the lines of levy of surcharge on delayed payment of energy charges;
- providing for levy of ED on sale of electric energy and taking of suitable remedial measures for levy of ED on auxiliary consumption to safeguard the revenues;
- bringing out suitable order in conformity with the industrial policy of 1991 and 2003 of the Government of India;

¹⁸ Bhawanagar, Boileauganj, Darlaghat, Dharamsala-I, Idgah, Kandaghat, Kasauli, Nahan, Nalagarh, Namhol, Paonta Sahib, Parwanoo, Reckongpeo, Solan-I and Sundernagar.

¹⁹ April 2002 to November 2003: 5,40,603 units @ paise 15 per unit: Rs. 81,000; December 2003 to May 2005: 10,54,206 units @ paise 18 per unit: Rs. 1.90 lakh and June 2005 to March 2007: 24,11,586 units @ paise 24 per unit: Rs. 5.79 lakh.

- prescribing additional column(s) in Annexure I, II and III to include information on account number and name of the defaulter, supply of energy in KW, issuing instructions to the CEI making the submission of prescribed returns mandatory, timely receipt of returns from the Board and other entities and captive power generating units to check non/short remittance of ED;
- providing a clause in the Act/Rules for obtaining security deposit at the time of release of connection; and
- setting up of IAW to monitor the levy and correctness of ED paid.

B. REVENUE DEPARTMENT

6.3 Incorrect determination of the market value of property

Under the Himachal Pradesh Land Record Manual, 1992 (Appendix-XXI) the *patwaris* are responsible for preparation of *partas*²⁰. As per the clarifications issued by the Inspector General Registration (IGR) in June 1998 and October 2004, valuation of land is to be done on the basis of the kind of land mentioned in the revenue records. Further, the average price is based on the consideration amount or market value (MV), whichever is higher on mutation done during the preceding 12 months in respect of a sale deed. The registering officer is also required to verify the consideration shown in the sale deeds with *partas* prepared by the concerned *patwaris*. If the registering officer has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer it to the collector for determination of the value of consideration and the proper duty payable.

During test check of the records of 26²¹ sub registrars (SRs), it was noticed between April 2007 and March 2008 that consideration of properties set forth in 361 documents registered during 2006 was much below the average price shown in the *partas* prepared by the concerned *patwaris* of the localities. Against the market value of Rs. 54.12 crore, the value set forth in the deeds was Rs. 26.62 crore. The registering authorities, while registering the documents failed to correlate the consideration with that of the *partas*. This resulted in short realisation of stamp duty of Rs. 2.19 crore and registration fee of Rs. 13.51 lakh.

After the cases were pointed out between April 2007 and March 2008, the SR concerned stated that relevant documents would be examined. Further reply has not been received (September 2008).

6.4 Short realisation due to incorrect preparation of *parta*

As per the instructions issued by the IGR in July 1997, market value of land for a year is to be worked out on the basis of mutation done during the preceding 12 months. The market value of land for levy of stamp duty is assessed on the basis of classification of land and is calculated in accordance with the procedure given in Appendix-XXI of the Himachal Pradesh Land Record Manual. In October 2004, the IGR clarified that the average price should be based on the consideration amount or market value whichever is higher.

During test check of the records of 16 SRs, it was noticed between April 2007 and March 2008 that *partas* prepared by the *patwaris* were incorrect. The *patwaris* had taken lower value of the land instead of higher value against the mutation mentioned in the *partas*. Consequently 294 deeds executed in 2006 were registered at sale value of Rs. 14.56 crore instead of Rs. 42.43 crore. This

²⁰ It is a valuation report of the land prepared by the *Patwari*.

²¹ Bilaspur, Chirgaon, Dalhousie, Dehra, Dharamsala, Indora, Jogindernagar, Junga, Kalpa, Kandaghat, Kasauli, Kullu, Mandi, Manali, Nadaun, Nahan, Nalagarh, Nurpur, Paonta Sahib, Rajgarh, Rampur, Shimla (Rural), Solan, Suni, Theog and Una.

resulted in short realisation of stamp duty and registration fee of Rs. 2.29 crore as mentioned in Annexure.

After the cases were pointed out between April 2007 and March 2008, three²² SRs intimated in January 2008 and May 2008 that out of Rs. 2.98 lakh, an amount of Rs. 1.22 lakh had been recovered. Further report on realisation and reply from the remaining SRs has not been received (September 2008).

The matter was reported to the department and the Government between May 2007 and April 2008; their reply has not been received (September 2008).

6.5 Non-presentation of document for registration

According to section 23 of the Indian Registration Act, 1908, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution. The department did not have a system for obtaining periodical information from the registration authority on the presentation of sale deed for levy of stamp duty and registration fee.

Test check of the records of SR Jawali, in November 2007 revealed that the Government sold four cafetaria of the Himachal Pradesh Tourism Development Corporation (HPTDC) in July 2004 and authorised the latter to execute the sale deed of Café Pancham at Trilokpur of Kangra district with the buyer. It was noticed that the sale agreement and sale deed were signed on 10 September 2004 and 1 April 2005 respectively and the buyer had paid (1 April 2005) Rs. 26.60 lakh to the HPTDC. The SR was also informed in April 2005 about the sale of the cafeteria. The Area Manager, Dharamsala complex was to execute the registration of the sale deed document on behalf of the HPTDC. According to the sale deed agreement, all charges of stamp duty and registration fee were to be borne by the buyer. However, neither the buyer presented the document nor the SR pursued the HPTDC to present the document. This resulted in non-realisation of stamp duty and registration fee of Rs. 3.44 lakh.

The matter was reported to the department and the Government in December 2007; their reply has not been received (September 2008).

6.6 Embezzlement/undue retention of Government money

Under the Himachal Pradesh Financial Rules, 1971, every Government servant is personally responsible for the money which passes through his hands and for the prompt record of receipts and payments in the relevant account as well as for the correctness of the account in every respect. It further stipulates that all departmental receipts collected during the day should be credited into the treasury on the same day or latest by the morning of the next working day. Every officer receiving money on behalf of Government should maintain a cash book in the prescribed form and close it daily after it is completely checked. All monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the

²² Sundernagar, Dharampur and Jhandutta.

office or the officer authorised in this behalf, in token of check. Before attesting the cash book, he should satisfy himself that the amount have been actually credited into the treasury or the Bank.

6.6.1 Test check of the records of SR Aut in May 2008 revealed that in 302 cases, Rs. 17.28 lakh were collected as registration and miscellaneous²³ fee between January 2004 and January 2007. Cross verification of the receipts books with cash book/treasury revealed that Rs. 8.30 lakh only was deposited in the treasury and the remaining amount of Rs. 8.98 lakh was neither entered in the cash book nor deposited in the treasury. Scrutiny further revealed that entries in the cash book were neither attested by the head of office nor by any other officer authorised in this behalf. This resulted in embezzlement of Government money of Rs. 8.98 lakh.

After the case was pointed out, the SR while admitting the lapse, stated in May 2008 that the amount involved would be recovered from the concerned official and action would be taken against the defaulting official as per the rules. Further report has not been received (September 2008).

6.6.2 Test check revealed that in 74 cases, Rs. 16.52 lakh collected on account of registration fee and miscellaneous fee between December 2002 and April 2007, were not deposited in the treasury within the prescribed period. The delay in deposit of Government money ranged between 6 and 223 days. However, the department failed to exercise the prescribed checks and ensure that Government receipts collected during the day were promptly deposited in the treasury as prescribed. This resulted in undue retention of Government money which tantamounts to temporary misappropriation of Government receipts.

After the case was pointed out, the SR while admitting the lapse, intimated that concerned official had been directed to submit a clarification for delayed deposit of the Government money in the treasury. The SR further assured that in future the Government money would be deposited promptly in the treasury.

The matter was reported to the department and the Government in June 2008; their reply has not been received (September 2008).

6.7 Loss due to non-renewal/payment of lease money

Under the Himachal Pradesh Lease Rules (HPLR) 1993, Government land can be leased out to individual/private companies for various purposes. The lease money is required to be revised after the period specified in the lease agreement and is calculated at the rate of 18/5 *per cent* of the latest highest market value of land leased or double the average market value of five years whichever is less in the case of individuals, private companies and educational institutions respectively.

Test check of the records of three²⁴ District Collectors between December 2006

²³ Pasting fee.

²⁴ Kullu, Mandi and Una.

and February 2008 revealed that in 13 cases²⁵, Government land measuring 43-4-18 bighas were leased (between January 1986 and December 2005) for the period ranging from 10 to 99 years for various purposes²⁶. Scrutiny revealed that in 10 cases of Kullu and Una districts, the lease money which was to be revised after the period specified in the lease agreement, was not done. Neither the department took any action for the revision of lease money nor was it paid by the lessees. In three cases of Mandi district, although the lease money was revised and approved in November 2006, it had not been recovered. Thus, inaction on the part of the department resulted in non-realisation of revenue of Rs. 19.36 lakh for the period falling between 15 December 1990 and 27 January 2008, of which Rs. 13.80 lakh pertained to the year 2002-03 to 2007-08.

After the cases were pointed out between December 2006 and February 2008, the Collector Kullu intimated in February 2008 that Rs. 51,000 had been recovered in five cases and in the remaining cases notices had been issued. Further report on realisation and reply in respect of Mandi and Una districts have not been received (September 2008).

The matter was reported to the department and the Government between January 2007 and February 2008, their reply has not been received (September 2008).

6.8 Short realisation of lease money due to incorrect fixation of rate

Under the HPLR, Government land can be granted on lease to eligible institutions for establishment/extension of educational institutions. The maximum area that can be sanctioned on lease for high/higher secondary/senior secondary school/college is 10 *bighas*. The lease money under HPLR is to be fixed at the rate of five *per cent* of the latest highest market value of the land leased or double the average market value of five years, whichever is less. As per the Inspector General of Registration (IGR) instructions of July 1997, *patwaris*²⁷ are required to prepare *parta* of the *mohal*²⁸ concerned or the adjoining *mohal* if no land was sold in the concerned *mohal*.

Test check of the records of the Collector, Shimla in January 2008 revealed that a lease deed²⁹ for 99 years was executed in November 2006 with Daughters of Sacred Heart, Tara Hall Convent School, Shimla for leasing Government land measuring 0-89-24 hectare (i.e 11 bigha and 17 biswas) at *mauja Badah*³⁰, for the construction of school building. The department while working out five *per cent* lease money (Rs. 4.13 lakh) considered one year market value (Rs. 82.59 lakh) of the adjoining *mohal* Dhalli-II as no land was sold in *mauja Badah* during 9 May 2005 to 8 May 2006 and compared it with five years (9 May 2001 to 8 May 2006)

²⁵ Kullu: 9 cases: Rs. 8.41 lakh, Mandi: 3 cases: Rs. 7.28 lakh and Una: 1 case: Rs. 3.67 lakh.

²⁶ Establishment of HRTC bus stand, small hydro electric projects, ice cream factory, construction of school building etc.

²⁷ Patwaris are the lowest revenue officials in revenue hierarchy who are responsible for proper upkeep and preservation of all revenue records in respect of all revenue estates falling within their jurisdictions.

²⁸ Means circle of villages.

²⁹ Registration No. 1839/2006.

³⁰ It is a name of village.

market value (Rs. 7.88 lakh) of *mauja Badah*. The department calculated Rs. 39,401 as five *per cent* of Rs. 7.88 lakh and after doubling it (Rs. 78,802) fixed lease money as Rs. 79,000 per annum being the lesser amount. The action of the department was incorrect because comparison was to be done in respect of the same *mohal*. Scrutiny of *parta* prepared by the *patwaris* and information collected by audit revealed that market value of one year (9 May 2005 to 8 May 2006) and average market value of land for five years (9 May 2001 to 8 May 2006) in respect of *mohal* Dhalli-II were Rs. 82.59 lakh and Rs. 39.54 lakh respectively. As per HPLR, five *per cent* of one year market value was Rs. 4.13 lakh whereas double of average market value for five years worked out to Rs. 79.08 lakh in respect of *mohal* Dhalli-II. Thus, lease money in this case was chargeable at the rate of Rs. 4.13 lakh per annum. The department, however, incorrectly fixed lease money of Rs. 79,000 per annum for the period November 2006 to October 2008. This resulted in short realisation of lease money of Rs. 7.47 lakh besides crossing of the maximum area limit of 10 bighas.

The matter was reported to the department and the Government in February 2008; their reply has not been received (September 2008).

C. IRRIGATION CUM PUBLIC HEALTH DEPARTMENT

6.9 Non-recovery of water charges

Under section 5 of the Himachal Pradesh Water Supply Act, 1968, recovery of water charges shall be effected from the individuals on the basis of the flat rate or on the basis of metered connections. The rates levied shall, if not paid when due, be recovered as arrears of land revenue.

Test check of the records of 19³¹ irrigation cum public health divisions, between April 2007 and March 2008 revealed that water charges amounting to Rs. 1.77 crore for the period 2005-06 and 2006-07 were not recovered. Scrutiny revealed that in Hamirpur division, water charges amounting to Rs. 4.37 lakh were recoverable for the years 2005-06 and 2006-07 whereas in other 18 divisions water charges of Rs. 1.72 crore pertained to the period 2006-07. The department neither recovered the amount nor was it paid by the individuals.

After the cases were pointed out between April 2007 and March 2008, six³² divisions intimated between August 2007 and March 2008 that Rs. 9.27 lakh had been recovered and efforts were being made to recover the balance amount. Further report of recovery and reply from the remaining divisions has not been received (September 2008).

The matter was reported to the department and the Government between May 2007 and April 2008; their reply has not been received (September 2008).

³¹ Arki, Barsar, Ghumarwin, Hamirpur, Indora, Jubbal, Karsog, Kullu-I, Kullu-II, Nahan, Nalagarh, Nohradhar, Paonta Sahib, Pooh, Rampur, Rohru, Solan, Sundernagar and Suni.

³² Barsar: Rs. 1.40 lakh; Ghumarwin: Rs. 1.47 lakh; Hamirpur: Rs. 2.76 lakh; Indora: Rs. 49,000; Kullu-I: Rs. 1 lakh and Nahan Rs. 2.15 lakh.

D. INDUSTRIES DEPARTMENT

6.10 Non-recovery of interest on delayed payment of royalty

Under the Mineral Concession Rules (MCR), 1960, royalty is payable as soon as the mineral is removed from the leasehold. A monthly return in form F-8³³ under Rule 45 of the Mineral Conservation and Development Rules, 1988, is required to be submitted to the Controller General, Controller of Mines and the Regional Controller, by the lessee before 15th of every month in respect of the preceding month. As per clause 3 of part-VI of the mining lease agreement executed between the State Government and the lessee³⁴ on 28 May 1992, if the royalty due is not paid by the lessee within the prescribed time, the same may be recovered together with interest due thereon, at the rate of 15 *per cent* per annum.

6.10.1 Test check of the records of the Mining Officer (MO), Solan, in December 2007 revealed that a lessee engaged in the extraction of limestone, had filed monthly returns on the removal of limestone and paid royalty of Rs. 9.22 crore quarterly on the quantity of 20.50 lakh tonnes of limestone. Although the mining lease agreement did not stipulate that royalty was to be paid quarterly yet the department accepted the payments of royalty on quarterly basis during 2006-07. By accepting quarterly payments without any demand for interest, the department had shown undue favour to the lessee. There was nothing on record for remission of interest by the MO/department. As a result, royalty was received late by one to two months every time for which interest of Rs. 18.15 lakh was payable by the lessee which has not been paid (September 2008).

After the case was pointed out in December 2007, the department intimated in May 2008 that notice had been issued to the concerned company for the payment of interest on delayed payment of royalty. Further report on recovery has not been received (September 2008).

The matter was reported to the Government in January 2008; their reply has not been received (September 2008).

6.10.2 Rule 21(1)(i)(c) of the Himachal Pradesh Minor Mineral (Concession) Revised Rules, 1971, provides that the lessee shall pay royalty in advance for the material to be removed from the leased area. As per the terms and conditions of standard mining lease agreement, if a lessee does not deposit the royalty in time, interest at the rate of 24 *per cent* per annum shall be charged for the period of default.

Test check of the records of three³⁵ MOs between November and December 2007 revealed that 13 lessees engaged in stone crushing had delayed payments of royalty of Rs. 47.64 lakh during the period between 2004-05 and 2006-07 by 1 to 31 months. Interest of Rs. 3.83 lakh though recoverable from the lessees on the delayed payments of royalty was not charged by the department.

³³ Shows the name of the minerals, address of the lessee, location of the mine, quantity of minerals produced and despatched from mines, stocks at mines head and royalty paid etc.

³⁴ M/s Gujrat Ambuja Cement Ltd.

³⁵ Bilaspur: one: Rs. 1.10 lakh; Kangra: five: Rs. 77,000 and Kullu: seven: Rs. 1.96 lakh.

After the cases were pointed out between November and December 2007, the department intimated in May 2008 that in the case of MOs Kangra and Kullu, Rs. 1.80³⁶ lakh had been recovered from nine lessees and efforts were being made to recover the balance amount. In the case of MO Bilaspur, notice had been served to the concerned party to deposit the outstanding amount of interest. Further report on recovery has not been received (September 2008).

The matter was reported to the Government between December 2007 and January 2008; their reply has not been received (September 2008).

6.11 Non/short realisation of royalty

Under the MCR, royalty is payable as soon as the mineral is removed from the leasehold. As per the notification dated April 2003 made by the Government of India, Ministry of Mines in the MCR, royalty on rock salt is to be computed on the basis of the average value as published by the Indian Bureau of Mines (IBM) in the "Monthly Statistics of Mineral Production". The State Government shall add 20 *per cent* to this bench mark³⁷ value for the purpose of computation of royalty payable at the rate of 10 *per cent* of the value so arrived at.

6.11.1 Test check of the extraction returns filed by the lessee³⁸ under the jurisdiction of MO Mandi, revealed in November 2007 that a lessee had extracted 1,747.8 tonnes of rock salt during 2006-07 on which royalty of Rs. 3.31 lakh was recoverable after adding 20 *per cent* on the average value determined by the IBM. The department neither demanded this amount nor was it paid by the lessee. Inaction on the part of the department resulted in non-realisation of royalty of Rs. 3.31 lakh.

After the case was pointed out in November 2007, the department intimated in May 2008 that the lessee had been directed to deposit the royalty amount. Further report on recovery has not been received (September 2008).

The matter was reported to the Government in December 2007; their reply has not been received (September 2008).

6.11.2 Rule 21 of the Himachal Pradesh Minor Mineral (Concession) Revised Rules, 1971 provides that the lessee shall pay the royalty in advance for the material to be removed from the leased area. Royalty for stone (a raw material for production of aggregates through the process of crushing) is to be charged at the rate of Rs. 10 per tonne.

Test check of the records of MO Kullu in November 2007 revealed that, between March 2005 and April 2007, a lessee³⁹ engaged in construction of Parbati Hydro Electric Project in the district had recovered royalty of Rs. 6.93 lakh from a contractor⁴⁰ at the rate of Rs. 6 per tonne instead of the correct rate of Rs. 10 per tonne for 1.16 lakh tonnes of aggregates produced. This resulted in short realisation of royalty of Rs. 4.68 lakh.

³⁶ Kangra: three cases: Rs. 30,000 and Kullu: six cases: Rs. 1.50 lakh.

³⁷ Month wise average value of rock salt fixed by IBM.

³⁸ M/s Hindustan Salts Ltd., Mandi.

³⁹ M/s NHPC Ltd., Nagwain, district Mandi.

⁴⁰ M/s Patel-SEW Joint Venture.

After the case was pointed out in November 2007, the department stated in May 2008 that notice had been served to the lessee for the deposit of royalty. Further report on recovery has not been received (September 2008).

The matter was reported to the Government in December 2007; their reply has not been received (September 2008).

Shimla
The

(SUMAN SAXENA)
Principal Accountant General (Audit)
Himachal Pradesh

Countersigned

New Delhi
The

(VINOD RAI)
Comptroller and Auditor General of India