

PREFACE

This Report for the year ended 31 March 2009 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, state excise, taxes on motor vehicles, land revenue, stamps and registration fees, other tax receipts and non-tax receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2008-09 as well as those which came to notice in earlier years but could not be included in previous years' Reports.

OVERVIEW

This Report contains 26 paragraphs including three reviews pointing out non-levy or short levy of tax, interest, penalty, revenue forgone, etc., involving Rs. 336.61 crore. Some of the major findings are mentioned below:

I General

Total revenue receipts of the State Government for the year 2008-09 amounted to Rs. 43,290.67 crore against Rs. 41,151.14 crore for the previous year. 71 *per cent* of this was raised by State through tax revenue (Rs. 27,645.66 crore) and non-tax revenue (Rs. 3,158.99 crore). The balance 29 *per cent* was received from the Government of India as State's share of divisible Union taxes (Rs. 7,153.77 crore) and grants-in-aid (Rs. 5,332.25 crore).

(Paragraph 1.1)

3,705 inspection reports issued up to December 2008 containing 7,028 observations involving money value of Rs. 1,417.56 crore were pending settlement at the end of June 2009.

(Paragraph 1.7)

Test check of the records of sales tax, state excise, taxes on motor vehicles, agricultural income tax, land revenue, stamps and registration fees, entry tax, entertainments tax, professions tax, betting tax, electricity tax, forest and other departmental offices conducted during the year 2008-09 revealed underassessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc., involving Rs. 638.87 crore in 1,075 cases. During the course of the year 2008-09, the departments concerned accepted underassessments, short demands, etc., aggregating Rs. 299.21 crore in 1,183 cases including 1,053 cases involving Rs. 265.86 crore which were pointed out in audit in earlier years. A sum of Rs. 22.72 crore relating to 855 audit observations were recovered at the instance of audit.

(Paragraph 1.12)

II Taxes on sales, trade, etc.

A review of **Transition from sales tax to value added tax** revealed as under:

- The average growth rate of revenue collection in post VAT period (2005-06 to 2007-08) declined by 0.48 *per cent* compared to average growth rate in pre VAT period (2002-03 to 2004-05).

(Paragraph 2.2.6)

- Software got developed for implementation of VAT was not found suitable by the department. Also, the software was not tested before implementation nor was the source code obtained.

(Paragraph 2.2.7.5)

- Scrutiny of assessment records of VAT revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax, arithmetical inaccuracies, non-levy of penalty, etc. amounting to Rs. 3.66 crore.

(Paragraph 2.2.9.2)

- Non-levy of penalty for non-filing of annual returns by 3,145 dealers for the year 2006-07 and 3,304 dealers for the year 2007-08 amounted to Rs. 15.57 crore.

(Paragraph 2.2.9.3)

- There was no provision under the KVAT Act for disallowing the input tax credit on capital goods where the KVAT paid on capital goods is capitalised and depreciation claimed.

(Paragraph 2.2.11.1)

Application of incorrect rates of tax in 19 assessments finalised under the Karnataka Sales Tax Act, 1957 and Central Sales Tax Act, 1956 resulted in short levy of tax of Rs. 1.20 crore.

(Paragraph 2.4.1)

Excess/incorrect tax reduction of Rs. One crore was allowed to a dealer for the years 2003-04 and 2004-05 by assessing authority in Bangalore (Urban).

(Paragraph 2.4.3)

III Taxes on Motor Vehicles

Lifetime tax of Rs. 1.07 crore was levied short in respect of 792 vehicles in 42 RTOs.

(Paragraph 3.3.1)

IV Land Revenue

The conversion fine of Rs. 95.13 lakh for diversion of agricultural land for non-agricultural purposes was not levied.

(Paragraph 4.3.1)

V Stamps and Registration Fees

A review of **Levy and collection of stamp duty and registration fees** revealed as under:

- No rules prescribing the procedures for conducting inspection of public offices were framed. As such, the department was unaware of any leakage/evasion of revenue on instruments presented before the officers in-charge of public offices.

(Paragraph 5.2.8.2)

- Absence of a system of co-ordination with various agencies to ensure realisation of proper duty led to non-realisation of revenue of Rs. 215.44 crore.

(Paragraph 5.2.9)

- Leakage of revenue due to non-execution of lease deeds subsequent to revision of mining plans in nine cases amounted to Rs. 2.49 crore.

(Paragraph 5.2.10)

- Incorrect classification of bonds led to short levy of stamp duty of Rs. 42.65 crore.

(Paragraph 5.2.13.1)

Non-detection of suppression of fact of executing a general power of attorney along with an agreement for sale resulted in short levy of stamp duty and registration fees of Rs. 18.94 crore. Besides, penalty of Rs. 44.88 crore was also realisable.

(Paragraph 5.4.1)

Non-detection of evasion of stamp duty by not mentioning the fact of conversion of agricultural land for non-agricultural purposes led to short levy of stamp duty and registration fees of Rs. 19.16 lakh. Besides, penalty of Rs. 85.70 lakh was also realisable.

(Paragraph 5.4.2)

VII Non-Tax Receipts

A review of **Receipts of the Public Works Department** revealed as under:

- There were huge variations between Budget Estimates and actual realisation indicating that the BEs were unrealistic.

(Paragraph 7.2.6)

- Fixation of concessional lease rent by Government in respect of properties leased to non-charitable private bodies/individuals resulted in foregoing of revenue of Rs. 1,205.97 crore.

(Paragraph 7.2.8)

- Non-levy of centage charges and Establishment, Tools and Plant (ETP) charges resulted in loss of revenue of Rs. 19.30 crore

(Paragraph 7.2.11)

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Karnataka during the year 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)						
Sl. No.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
I.	Revenue raised by the State Government					
	• Tax revenue	16,072.32 ¹	18,631.55	23,301.03	25,986.76	27,645.66
	• Non-tax revenue	4,472.34 ¹	3,874.71	4,098.41	3,357.66	3,158.99
	Total	20,544.66¹	22,506.26	27,399.44	29,344.42	30,804.65
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	3,878.44	4,213.42	5,374.33	6,779.23	7,153.77 ²
	• Grants-in-aid	2,146.56	3,632.37	4,813.17	5,027.49	5,332.25
	Total	6,025.00	7,845.79	10,187.50	11,806.72	12,486.02
III.	Total receipts of the State	26,569.66¹	30,352.05	37,586.94	41,151.14	43,290.67
IV.	Percentage of I to III	77	74	73	71	71

The above table indicates that during the year 2008-09, the revenue raised by the State Government was 71 per cent of the total revenue receipts (Rs. 43,290.67 crore). The balance 29 per cent of receipts during 2008-09 was from the Government of India.

¹ These figures differ from those adopted in the Audit Report for the year ended 31 March 2005 on account of corrections effected in the Finance Accounts for that year as reflected in the Finance Accounts for the year 2005-06.

² For details see statement No.11 – Detailed accounts of revenue by Minor Head of the Finance Accounts of the Government of Karnataka for the year 2008-09. Figures of 'Tax share of net proceeds assigned to States' booked in the Finance Accounts under A-Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in the statement.

1.1.1 The following table presents the details of tax revenue realised during the period from 2004-05 to 2008-09:

(Rupees in crore)							
Sl. No.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase(+)/ decrease (-) in 2008-09 over 2007-08
1.	Taxes on sales, trade, etc.	8,700.07	9,869.54	11,761.72	13,893.99	14,622.73	(+) 5.25
2.	State excise	2,805.53	3,396.79	4,495.48	4,766.57	5,749.57	(+) 20.62
3.	Stamps and registration fees	1,759.84	2,212.20	3,205.80	3,408.83	2,926.72	(-) 14.14
4.	Taxes on vehicles	982.99	1,105.45	1,374.50	1,650.13	1,681.16	(+) 1.88
5.	Taxes on goods and passengers	791.72	1,041.45	1,147.20	837.34	1,085.02	(+) 29.58
6.	Taxes and duties on electricity	339.02 ³	277.09	388.57	449.50	370.59	(-) 17.56
7.	Other taxes on income and expenditure	277.93	330.25	392.58	451.37	538.79	(+) 19.37
8.	Other taxes and duties on commodities and services	295.28	280.66	425.05	380.68	406.15	(+) 6.69
9.	Land revenue	117.76	116.50	108.76	145.31	255.65	(+) 75.93
10.	Taxes on agricultural income	2.18	1.62	1.37	3.04	9.28	(+) 205.26
Total		16,072.32³	18,631.55	23,301.03	25,986.76	27,645.66	6.38

Reasons for variations in receipts during 2008-09 as compared to those of 2007-08 were not intimated (November 2009) by the respective departments despite being requested in June 2009 except from Stamps and Registration Department mentioned below:

Stamps and registration fees: The decrease was attributed by the department to global economic recession. This decrease mainly occurred under 'Duty on impressing of documents'.

1.1.2 The following table presents the details of major non-tax revenue realised during the period 2004-05 to 2008-09:

³ These figures differ from those adopted in the Audit Report for the year ended 31 March 2005 on account of corrections effected in the Finance Accounts for that year as reflected in the Finance Accounts for the year 2005-06.

(Rupees in crore)							
Sl. No.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase(+)/ decrease (-) in 2008-09 over 2007-08
1.	Non-ferrous mining and metallurgical industries	289.94	325.37	366.29	472.35	556.07	(+) 17.72
2.	Interest receipts	144.79 ⁴	283.00	376.19	375.24	337.17	(-) 10.15
3.	Forestry and wild life	169.41	115.80	127.97	131.84	126.92	(-) 3.73
4.	Contributions and recoveries towards pensions and other retirement benefits	18.38	76.64	27.47	29.08	76.20	(+) 162.04
5.	Other administrative services	136.88	74.33	101.34	79.60	94.37	(+) 18.56
6.	Education, sports, art and culture	45.37	44.91	65.00	74.93	73.56	(-) 1.83
7.	Medical and public health	47.07	43.92	39.54	52.77	40.52	(-) 23.21
8.	Police	37.26 ⁴	42.55	52.91	58.84	69.82	(+) 18.66
9.	Other general economic services	527.40	294.51	407.92	443.25	432.47	(-) 2.43
10.	Co-operation	31.80	31.07	30.13	33.14	37.30	(+) 12.55
11.	Village and small industries	18.46	29.05	39.46	35.30	36.65	(+) 3.82
12.	Public works	14.00	27.27	31.32	21.75	18.81	(-) 13.52
13.	Roads and bridges	13.83	25.01	24.18	14.05	36.71	(+) 161.28
14.	Major and medium irrigation	13.35	22.30	21.48	19.69	22.11	(+) 12.29
15.	Dividends and profits	16.66	16.88	19.48	23.40	40.14	(+) 71.54
16.	Housing	10.73	16.47	11.49	15.51	20.69	(+) 33.40
17.	Crop husbandry	11.89	10.69	12.92	14.04	15.69	(+) 11.75
18.	Miscellaneous general services	1,882.46 ⁴	1,792.76	1,892.46	468.20	398.92	(-) 14.80
19.	Others	1,042.66 ⁴	602.18	450.86	994.68	724.87	(-) 27.13
Total		4,472.34⁴	3,874.71	4,098.41	3,357.66	3,158.99	(-) 5.92

Reasons for variations in receipts during 2008-09 as compared to those of 2007-08 were not intimated (November 2009) by respective departments despite being requested (June 2009).

1.2 Variations between the budget estimates and actual receipts

The variations between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue are mentioned below:

⁴ These figures differ from those adopted in the Audit Report for the year ended 31 March 2005 on account of corrections effected in the Finance Accounts for that year as reflected in the Finance Accounts for the year 2005-06.

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation
Tax revenue					
1.	Taxes on sales, trade, etc.	17,160.78	14,622.73	(-) 2,538.05	(-) 14.79
2.	State excise	5,626.08	5,749.57	(+) 123.49	(+) 2.19
3.	Stamps and registration fees	4,195.84	2,926.72	(-) 1,269.12	(-) 30.25
4.	Taxes on vehicles	1,769.04	1,681.16	(-) 87.88	(-) 4.97
5.	Taxes on goods and passengers	1,259.98	1,085.02	(-) 174.96	(-) 13.89
6.	Taxes and duties on electricity	385.79	370.59	(-) 15.20	(-) 3.94
7.	Other taxes on income and expenditure	428.47	538.79	(+) 110.32	(+) 25.75
8.	Other taxes and duties on commodities and services	527.77	406.15	(-) 121.62	(-) 23.04
9.	Land revenue	90.48	255.65	(+) 165.17	(+) 182.55
10.	Taxes on agricultural income	1.69	9.28	(+) 7.59	(+) 449.11
Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	632.70	556.07	(-) 76.63	(-) 12.11
2.	Interest receipts	146.92	337.17	(+) 190.25	(+) 129.49
3.	Forestry and wild life	186.77	126.92	(-) 59.85	(-) 32.04
4.	Contributions and recoveries towards pensions and other retirement benefits	19.88	76.20	(+) 56.32	(+) 283.30
5.	Other administrative services	42.87	94.37	(+) 51.50	(+) 120.13
6.	Education, sports, art and culture	54.02	73.56	(+) 19.54	(+) 36.17
7.	Medical and public health	55.31	40.52	(-) 14.79	(-) 26.74
8.	Police	52.13	69.82	(+) 17.69	(+) 33.93
9.	Other general economic services	413.23	432.47	(+) 19.24	(+) 4.66
10.	Co-operation	38.18	37.30	(-) 0.88	(-) 2.30
11.	Village and small industries	21.37	36.65	(+) 15.28	(+) 71.50
12.	Public works	15.05	18.81	(+) 3.76	(+) 24.98
13.	Roads and bridges	31.50	36.71	(+) 5.21	(+) 16.54
14.	Major and medium irrigation	23.59	22.11	(-) 1.48	(-) 6.27
15.	Dividends and profits	2.87	40.14	(+) 37.27	(+) 1,298.61
16.	Housing	12.69	20.69	(+) 8.00	(+) 63.04
17.	Crop husbandry	17.43	15.69	(-) 1.74	(-) 9.98
18.	Miscellaneous general services	30.26	398.92	(+) 368.66	(+) 1,218.31

Reasons for variations between the budget estimates and actuals as reported by the respective departments were as under:

Taxes and duties on electricity: The decrease was attributed to non-payment of tax by Electricity Supply Companies (ESCOMs).

Stamps and registration fees: The department attributed decrease in revenue to global economic recession.

The other departments did not inform (November 2009) the reasons for variations despite being requested (June 2009).

1.3 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2006-07, 2007-08 and 2008-09 along with the relevant all India average percentage of expenditure on collection to gross collection for 2007-08 were as follows:

Sl. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the year 2007-08
			(Rupees in crore)			
1.	Taxes on sales, trade, etc.	2006-07	11,761.72	60.60	0.51	0.83
		2007-08	13,893.99	74.30	0.53	
		2008-09	14,622.73	81.62	0.56	
2.	Taxes on vehicles	2006-07	1,374.50	24.37	1.77	2.58
		2007-08	1,650.13	29.39	1.78	
		2008-09	1,681.16	34.84	2.07	

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 3,128.76 crore as mentioned below:

(Rupees in crore)				
Sl. No.	Head of revenue	Amount of arrears as on 31 March 2009	Arrears outstanding for more than five years as on 31 March 2009	Remarks
1.	Taxes on sales, trade, etc., entry tax, entertainments tax, agricultural income tax, professions tax, luxury tax	3,004.80	Not furnished	Out of the total arrears, Rs. 366.67 crore was stayed by courts, Rs. 73.28 crore was covered by revenue recovery certificates, Rs. 43.13 crore was proposed to be written off and balance of Rs. 2,521.72 crore was under various stages of recovery.
2.	Taxes and duties on electricity	61.06	17.66	Out of the total arrears, Rs. 54.86 crore relates to Electricity Supply Companies (ESCOMS) and Rs. 6.20 crore relates to others.
3.	Stamp duty and registration fee	62.90	Not furnished	Details regarding stages of action at which arrears are pending have not been furnished.
Total		3,128.76	17.66	

The position of arrears of revenue pending collection at the end of 2008-09 in respect of other departments was not furnished (November 2009) despite being requested (June 2009).

1.5 Arrears in assessments

The details of assessments relating to sales tax, taxes on goods and passengers, entertainments tax, luxury tax, professions tax and agricultural income tax pending at the beginning of the year, additional cases which became due for assessment during the year, cases disposed of during the year and cases pending at the end of each year during 2004-05 to 2008-09 as furnished by the Commercial Taxes Department (CTD) are mentioned below:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed of during the year	Cases pending at the end of the year
2004-05	6,42,574	4,85,217	11,27,791	5,44,364	5,83,427
2005-06	5,83,427	4,72,386	10,55,813	2,82,894	7,72,919
2006-07	7,72,919	1,59,719	9,32,638	6,56,233	2,76,405
2007-08	2,76,405	42,503	3,18,908	1,29,130	1,89,778
2008-09	1,83,547 [#]	38,015	2,21,562	78,538	1,43,024

[#] Differs from the closing balance of 1,89,778 reported by the department for 2007-08. No reasons for the same were furnished though called for in August 2009.

The arrears in assessment as on 31 March 2009 include 40,661 cases relating to 2004-05 and earlier years, 22,939 cases relating to 2005-06, 25,013 cases relating to 2006-07, 39,553 cases relating to the year 2007-08 and 14,858 cases relating to the year 2008-09.

1.6 Arrears in appeals

According to the information furnished by the CTD, opening balance of cases under appeals for 2008-09 was 6,145. During the year, appeals were filed in 10,387 cases and 8,030 cases were disposed of. As at the end of 31 March 2009, there were 8,502 cases pending for disposal registering growth of 38.36 *per cent* to the opening balance.

1.7 Outstanding inspection reports and audit observations

Accountant General (Works, Forest & Receipt Audit) (AG), Karnataka conducts periodical inspections of the Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities detected during the inspections are not settled on the spot, these IRs are issued to the heads of offices inspected with a copy to the next higher authorities. The hand book of instructions for speedy settlement of audit observations (Finance Department) provides for prompt response by the executive to the IRs issued by audit to ensure rectificatory action in compliance with the prescribed rules and procedures and accountability for the deficiencies, lapses, etc., noticed during the inspections. All IRs received from AG are required to be replied within a period of one month from the date of their receipt. The heads of offices and next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the AG. Serious irregularities are also brought to the notice of heads of departments by audit. A half-yearly report of pending IRs is sent to the concerned Principal Secretary to the Government and the controlling officers of the departments to facilitate monitoring of the pending audit observations.

The number of IRs and audit observations issued upto the end of December 2008, along with the corresponding figures for preceding two years are as follows:

	June 2007	June 2008	June 2009
Number of outstanding IRs	3,588	3,778	3,705
Number of outstanding audit observations	6,866	7,039	7,028
Amount involved (Rupees in crore)	1,302.71	1,420.58	1,417.56

Out of 3,705 IRs pending settlement, first replies have not been received (June 2009) for 191 IRs containing 720 audit observations. Pendency of these reports was reported to Government from time to time. However, no remedial action has been taken for speedy settlement of the IRs (November 2009). The department-wise details of IRs and audit observations outstanding as on 30 June 2009 and the amount involved are indicated below:

Sl. No.	Department	Nature of receipts	Number of outstanding inspection reports	Number of outstanding audit observations	Amount of receipts involved (Rupees in crore)
1.	Finance	(a) Taxes on sales, trade, etc., entry tax, entertainments tax, luxury tax, professions tax and betting tax	1,144	3,437	365.31
		(b) Agricultural income tax	27	58	7.33
		(c) State excise	953	1,002	355.13
2.	Energy	Electricity duty	9	12	49.03
3.	Revenue	(a) Land revenue	448	707	91.82
		(b) Stamps and registration fees	448	665	57.89
4.	Home and Transport	Taxes on motor vehicles	305	510	61.73
5.	Forest, Ecology and Environment	Forest receipts	214	290	275.01
6.	Commerce and Industries	(a) Sericulture industries receipts	44	55	5.00
		(b) Mineral receipts	78	215	138.50
7.	Public Works	Public works receipts	35	77	10.81
Total			3,705	7,028	1,417.56

Since the outstanding amount represents unrealised revenue, the Government needs to take speedy and effective action on the issues raised in the IRs.

1.8 Adhoc committee meetings

The Government issued (March 1968) instructions to constitute 'Adhoc Committees' in the Secretariat of 10 departments to expedite the clearance of audit observations contained in the IRs. These committees are to be headed by the Secretaries of the concerned Administrative Departments and attended by the designated officers of the State Government and a nominee of the AG.

These committees are to meet periodically and, in any case, at least once in a quarter.

Out of 10, only 3 departments held adhoc committee meetings during 2008-09.

The Department-wise number of adhoc committee meetings held and paragraphs settled are as under:

Department	No. of meetings held	No. of paragraphs settled	Money value (Rupees in crore)
Forest, Ecology and Environment	2	7	0.17
Land Revenue	2	143	17.76
State Excise	3	143	4.33

The other departments had not convened adhoc committee meetings to discuss the IRs on revenue receipts relating to commercial taxes, stamps and registrations fees, tax on motor vehicles, tax on electricity, mineral receipts, sericulture and public works. Thus, it would be seen from the above that poor response of the departments in holding the meetings resulted in poor settlement of paras and non-realisation of Government revenue.

1.9 Response of the departments to draft audit paragraphs

Draft paragraphs/reviews proposed for inclusion in the Audit Report are forwarded by the AG to Secretaries of the concerned departments through demi-official letters. According to the instructions issued (April 1952) by the Government, all departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Forty six draft paragraphs clubbed into 26 paragraphs (including three reviews) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009 were forwarded to the concerned Principal Secretaries to Government and copies endorsed to concerned heads of departments during March-September 2009. Their replies were due latest by the end of July-November 2009.

Replies of Government to 29 draft paragraphs have been received and considered in finalisation of the Report. However, none of the replies were received within the prescribed period of six weeks. Further, the draft reviews were discussed in the exit conference with the Principal Secretary/Secretary of the departments concerned.

1.10 Follow-up on Audit Reports – summarised position

According to the Rules of Procedure (Internal Working) of the Committee on Public Accounts (PAC) (as modified in September 1999), within four months (three months up to March 1994) of an Audit Report being laid on the Table of the Legislature, the departments of Government are to prepare and send to the Karnataka Legislative Assembly Secretariat detailed explanations (departmental notes) on the audit paragraphs. The Rules further require that before such submission, the departmental notes are to be got vetted by the AG.

A review of the position in this regard revealed that as of November 2009, 11 departments had not furnished the departmental notes in respect of 175 paragraphs included in Audit Reports for the years 1992-93 to 2007-08 due between July 1994 and June 2009, for vetting. The delay ranged from 5 months to over 15 years, as detailed below:

Sl. No.	Department	Year of Audit Report	Dates of presentation to the Legislature	Last date by which Departmental Notes were due	Number of Paragraphs for which Departmental Notes were due	Delay (months)
1.	Finance	1996-97, 1999-2000 to 2007-08	May 1998 to February 2009	September 1998 to June 2009	117	5 to 135
2.	Revenue	1992-93 to 1996-97, 2004-05 to 2007-08	March 1994 to February 2009	July 1994 to June 2009	30	5 to 184
3.	Forest	2002-03 to 2004-05	July 2004 to March 2007	November 2004 to July 2007	6	28 to 60
4.	Urban Development	1998-99, 2002-03 to 2004-05 and 2006-07	March 2000 to July 2007	July 2000 to November 2007	5	24 to 112
5.	Energy	1993-94, 2001-02, 2002-03 and 2007-08	March 1995 to February 2009	July 1995 to June 2009	4	5 to 172
6.	Transport	2007-08	February 2009	June 2009	4	5
7.	Commerce and Industries	1996-97, 2002-03 and 2007-08	May 1998 to February 2009	September 1998 to June 2009	3	5 to 135
8.	Co-operation	2005-06 and 2007-08	July 2007 and February 2009	November 2007 and June 2009	2	5 to 24
9.	Health and Family Welfare	1997-98	March 1999	July 1999	1	125
10.	Public Works	2004-05	March 2006	July 2006	1	40
11.	Minor Irrigation	2006-07 and 2007-08	July 2007 and February 2009	November 2007 and June 2009	2	5 to 24
Total					175	

This indicated that the executive failed to take prompt action on the important issues highlighted in the Audit Reports that involved large amount of unrealised revenue.

1.11 Compliance with earlier Audit Reports

In the Audit Reports 2003-04 to 2007-08, 8,800 cases of underassessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc. were included involving Rs. 2,565.05 crore. Of these, to the end of September 2009, the departments concerned have accepted 4,957 cases involving Rs. 354.58 crore and recovered Rs. 33.83 crore in 1,249 of them. Audit Report wise details of cases accepted and recovered are as under:

(Rupees in crore)

Audit Report	Included in Audit Report		Accepted by the department		Recovered	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2003-04	1,038	393.46	950	19.14	376	8.82
2004-05	544	820.86	396	27.59	236	9.17
2005-06	1,314	694.48	745	117.20	224	4.55
2006-07	824	324.48	487	24.56	137	2.64
2007-08	5,080	331.77	2,379	166.09	276	8.65
Total	8,800	2,565.05	4,957	354.58	1,249	33.83

It would be seen from the above that only 9.54 per cent of the amount involved in the cases accepted by the department was recovered during the last five years.

1.12 Results of audit

Test check of the records of sales tax, state excise, taxes on motor vehicles, agricultural income tax, land revenue, stamps and registration fees, entry tax, entertainments tax, professions tax, betting tax, electricity tax, forest and other departmental offices conducted during the year 2008-09 revealed underassessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc. involving Rs. 638.87 crore in 1,075 cases. During the course of the year 2008-09, the departments concerned accepted underassessments, short demands, etc. aggregating Rs. 299.21 crore in 1,183 cases including 1,053 cases involving Rs. 265.86 crore which were pointed out in audit in earlier years. Rs. 22.72 crore relating to 855 audit observations were recovered at the instance of audit.

This Report contains 26 paragraphs including three reviews involving financial effect of Rs. 336.61 crore. The departments accepted audit observations involving Rs. 286.52 crore, of which Rs. 2.03 crore had been recovered upto November 2009. These are discussed in the succeeding Chapters II to VII.

CHAPTER-II: TAXES ON SALES, TRADE, ETC.

2.1 Results of audit

Test check of the records of the sales tax offices, conducted during the year 2008-09, disclosed underassessments of tax, non/short levy of interest/penalty, etc., amounting to Rs. 195.03 crore in 688 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Transition from sales tax to value added tax (A review)	01	4.07
2.	Incorrect grant of exemption	08	6.74
3.	Non/short levy of tax	62	5.66
4.	Non-levy of interest	27	1.45
5.	Non-forfeiture of tax collected in excess	10	0.34
6.	Non/short levy of resale tax	17	0.31
7.	Non/short levy of cess	08	0.22
8.	Non/short levy of additional tax	16	0.20
9.	Short levy of output tax	176	73.04
10.	Non/short levy of interest/penalty	125	43.49
11.	Excess/incorrect allowance of input tax credit	92	34.60
12.	Excess/incorrect allowance of transitional relief	47	5.19
13.	Other irregularities	99	19.72
Total		688	195.03

During the course of the year 2008-09, the department accepted underassessments of tax amounting to Rs. 21.47 crore in 627 cases pointed out in audit in earlier years and, of that, recovered Rs. 12.98 crore in 495 cases.

After the issue of a draft paragraph, the department recovered the entire amount of Rs. 20.32 lakh in two cases.

A review on “Transition from sales tax to value added tax” involving Rs. 4.07 crore and few illustrative audit observations involving Rs. 3.34 crore are mentioned in the following paragraphs.

2.2 Review on Transition from Sales Tax to Value Added Tax

Highlights

- The average growth rate of revenue collection in post VAT period (2005-06 to 2007-08) declined by 0.48 *per cent* compared to average growth rate in pre VAT period (2002-03 to 2004-05).
(Paragraph 2.2.6)
- Software got developed for implementation of VAT was not found suitable by the department. Also, the software was not tested before implementation nor was the source code obtained.
(Paragraph 2.2.7.5)
- Scrutiny of assessment records of VAT revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax, arithmetical inaccuracies, non-levy of penalty, etc. amounting to Rs. 3.66 crore.
(Paragraph 2.2.9.2)
- Non-levy of penalty for non-filing of annual statement by 3,145 dealers for the year 2006-07 and 3,304 dealers for the year 2007-08 amounted to Rs. 15.57 crore.
(Paragraph 2.2.9.3)
- There was no provision under the KVAT Act for disallowing the input tax credit on capital goods where the KVAT paid on capital goods is capitalised and depreciation claimed.
(Paragraph 2.2.11.1)

2.2.1 Introduction

2.2.1.1 The Government of India recognised the need for rationalising the existing tax system by introduction of Value Added Tax (VAT) which would result in expansion of tax base, ensure buoyancy in revenue flow and ensure better compliance. The States represented by the Empowered Committee in its meeting held on 23 January 2002 unanimously decided to implement VAT.

2.2.1.2 The White paper on VAT envisaged the following:

- i) That VAT would widen the tax base and ensure buoyancy in revenue;
- ii) Set off of tax paid at the earlier points in respect of goods sold which would eliminate cascading effect;
- iii) Other taxes would be abolished and overall tax burden rationalized; and
- iv) Promotes voluntary compliance by providing for acceptance of returns filed by the dealers on self assessment basis.

In pursuance, the Government enacted the Karnataka Value Added Tax Act, 2003 (KVAT Act) with effect from 1 April 2005.

2.2.1.3 Some of the differences between the KVAT Act and the Karnataka Sales Tax (KST) Act were as under:

- KST was a first point levy at the rates ranging from one to 20 *per cent*. In addition, turnover tax (TOT) at one to three *per cent* on first sales turnover depending on the total turnover and at one *per cent* on second and subsequent sales turnover was leviable up to 31 March 2002. Further, with effect from 1 April 2002, resale tax (RST) was leviable at the rate of 1.5 *per cent* on second and subsequent sales turnover. Besides, additional tax at one *per cent* was also leviable on first sales turnover with effect from 1 June 2003. Under KVAT Act, tax is levied at prescribed rates at every point of sale after allowing deduction towards tax paid at the previous point (input tax credit).
- Under the KST Act supporting documents and declarations were required to be submitted along with the returns whereas VAT system provides for voluntary payment of tax by dealers and acceptance of returns on self assessment basis without requiring production of any supporting documents and declarations.
- Under the KST Act assessments were made in all the cases after scrutiny of books of accounts whereas in the VAT system scrutiny of books of accounts are made only in selected cases taken up for audit.
- Under the KST Act concessional rate of tax was levied on sale of industrial inputs to industrial units, sales to Government department and other specified bodies on production of prescribed declarations. Also sales to 100 *per cent* Export Oriented Units (EOU) were exempted subject to production of prescribed certificate obtained from the EOU. However, no such concessions/exemptions are provided under the KVAT Act.

2.2.1.4 The salient features of KVAT Act are as under:

All the dealers registered under the KST Act were liable to get registered under the KVAT Act. Every dealer whose total turnover exceeds or who reasonably expects his total turnover to exceed Rs. 2 lakh as computed in the year ending 31 March 2005 was liable to get registered under the KVAT Act. The KVAT Act and rules framed thereunder also provided for voluntary registration by dealers whose turnover was less than the prescribed limit, and *suo moto* registration by competent authority of the department after conducting survey, inspection or enquiry. All dealers registered under the KVAT Act were assigned Taxpayers Identification Number (TIN). Under the KVAT Act, every dealer is liable to pay tax on the sale of taxable goods by him after deducting tax paid on his purchases with certain restrictions.

Every registered dealer shall be liable to pay tax on his taxable turnover,

a) in respect of goods mentioned in

- i) Second Schedule at the rate of one *per cent*
 - ii) Third Schedule at the rate of four *per cent*
 - iii) Fourth Schedule at the rate of twenty *per cent*
- b) in respect of other goods at the rate of twelve and a half *per cent*
- c) in respect of transfer of property in goods involved in the execution of works contract at the rates specified in the Sixth Schedule from 1 April 2006.
- Goods specified in the First Schedule and any other goods specified by a notification of the State Government were generally exempt.

2.2.2 Organisational set up

The Commercial Taxes Department (CTD) is under the administrative control of the Finance Department. It is headed by the Commissioner of Commercial Taxes (CCT) who is assisted by the Additional Commissioners at headquarters. There are 13 Divisional VAT Offices (DVO) in the State headed by Joint Commissioners and 148 Audit Offices headed by Deputy Commissioners. At the field level VAT is being administered through 95 Local VAT Offices (LVOs) and VAT Sub Offices (VSOs) headed by Assistant Commissioners and Commercial Tax Officers respectively.

2.2.3 Audit objectives

The review was aimed to ascertain whether the

- planning for implementation and the transition from the KST Act to KVAT Act was effected timely and efficiently;
- organisational structure was adequate and effective;
- the provisions of the KVAT Act and the Rules made thereunder were adequate and enforced properly to safeguard the revenues of the State;
- the internal control mechanism existed in the Department and was adequate and effective to prevent leakage of revenue.

2.2.4 Scope and methodology of audit

The review covered the period from 2005-06 to 2008-09 (up to December 2008) and was conducted between April and September 2009. Information on issues relating to implementation of VAT was called for from 10 VAT divisions¹ covering 41 LVOs, 25 VSOs, 40 Debt Management offices and 115 Audit offices and six Recovery Divisions covering 96 Recovery offices. In addition, 12 LVOs and three Audit offices were selected on random basis for test check with special emphasis on registration of dealers, monitoring of returns, verification of threshold limit for dealers, compliance with the provisions of the Act and deterrent measures. Besides, Management Information System (MIS) as at the end of December 2008 and other records in the office of the CCT were analysed. Further, points noticed during the course of local audit during the year 2008-09 are also included in the review.

¹ DVO I to VI, Bangalore, Davangere, Gulbarga, Mangalore and Mysore.

2.2.5 Acknowledgement

An Entry conference was held in April 2009 with the Principal Secretary to Government of Karnataka, Finance Department and the CCT wherein the scope of audit, methodology and audit objectives were explained to the Department. Indian Audit and Accounts Department acknowledges the co-operation of the CTD in providing MIS and information from four divisions². Information from the other DVOs has not been received (November 2009). The draft review report was forwarded to the Government and the Department in September 2009 and was discussed in the exit conference held in November 2009 with the Principal Secretary to Government of Karnataka, Finance Department and the CCT. The replies of the Government received during the exit conference and at other points of time have been appropriately included in the respective paragraphs.

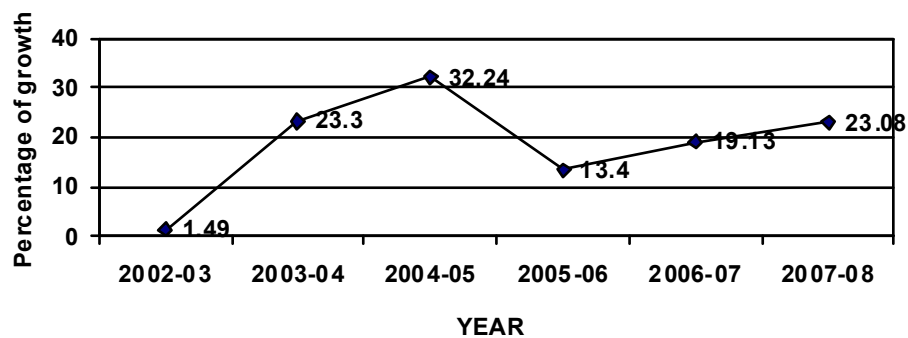
Audit findings

2.2.6 Pre-VAT and post-VAT tax collection

The comparative position of pre-VAT sales tax collection (2002-03 to 2004-05) and post-VAT (2005-06 to 2007-08) tax collection including VAT and the growth rate in each of the years compared to previous year is furnished below:

(Rupees in crore)

Pre VAT			Post VAT		
Year	Actual collection	Percentage of growth	Year	Actual collection	Percentage of growth
2002-03	4,658.74	1.49	2005-06	8,614.30	13.40
2003-04	5,744.15	23.30	2006-07	10,262.84	19.13
2004-05	7,595.99	32.24	2007-08	12,631.89	23.08



The average growth rate during 2002-03 to 2004-05 was 19.01 *per cent* while the average growth rate for 2005-06 to 2008-09 was 18.53 *per cent*. Thus, the average growth rate in the post VAT period registered a marginal decrease of 0.48 *per cent*.

Department stated that under the KST Act, for the purpose of additional resource mobilisation, rates of tax had been enhanced. Further, decrease in

² DVO V, Bangalore, Davangere, Mangalore and Mysore.

revenue collection after introduction of VAT was anticipated and hence the Government of India announced VAT loss compensation package for the years 2005-06 to 2007-08.

2.2.6.1 Arrears of Revenue under KVAT

The Karnataka Commercial Taxes Manual (KCT Manual) prescribed maintenance of demand register to watch recovery of arrears of tax. However, no such registers are being maintained after implementation of VAT. Under the KVAT Act and Rules made thereunder, where a dealer or any other person is in default or is deemed to be in default in making a payment of tax or any other amount due under the Act, the authority concerned under the Act, may forward to the jurisdictional tax recovery officer, a certificate in the prescribed form. The tax recovery officer, on receipt of the certificate shall serve a notice in the prescribed form requiring defaulter to pay the amount. Further, interest on the defaulted amount and costs and charges incurred in respect of recovery proceedings are also recoverable.

As per the information furnished by the department, the position of arrears as at the end of March 2009 was as under:

(Rupees in crore)					
Year	Opening Balance	Accrued up to the year	Total	collection	Closing balance
2005-06	0	38.49	38.49	26.41	12.08
2006-07	12.08	43.41	55.49	18.56	36.93
2007-08	36.93	62.23	99.16	25.04	74.12
2008-09	74.12	75.70	149.82	22.49	127.33

2.2.7 Preparedness and transitional process

2.2.7.1 Planning for implementation of VAT in the State

The Government of Karnataka, appointed in August 2001 M/s Crown Agents (technical consultants) to provide technical assistance to the CTD at a total cost of Rs. 20.33 crore. The technical consultants were to provide draft of VAT law including necessary regulations/rules, policy advice, reports on study of tax base and business practices, besides developing VAT Information Processing System (VIPS) and VAT Registration Number System (VRN) for computerisation of the department. A VAT Project Cell was also formed in CTD to work exclusively on VAT and interact with the technical consultants.

As per the agreement all the works were to be completed by the technical consultants by March 2002 to enable introduction of VAT in the State with effect from 1 April 2002 and only training programme to continue up to June 2002.

2.2.7.2 Preparation of VAT Act/Rules, vetting of the Act and Rules by the Government

The Draft VAT Law was approved by the Cabinet on 31 December 2002. The Draft VAT Law after receiving the assent of the President on 15 December 2004, was first published in the Karnataka Gazette, Extraordinary on the 23 December 2004.

2.2.7.3 Creation of awareness among the stake holders

The Department organised a number of workshops/seminars for the departmental officers and stakeholders (Chambers of Commerce and Industries, Tax practitioners and Tax consultants) between November 2001 and March 2003. The Department also organised communication campaign through print and electronic media starting from March 2003.

2.2.7.4 Analysis of staff requirement and Re-organisation of the Taxation Department

On introduction of VAT, 200 transition offices were formed with effect from 1 April 2005 for finalisation of assessments for the years up to 2004-05 under the KST Act which were continued till 2007-08.

For administration of VAT, the department was restructured on functional basis with effect from 1 April 2005 by creating 90 LVOs/VSOs, 101 Audit Offices, 75 Debt Management Offices besides continuing with the intelligence wing. The LVO offices in Bangalore were again reorganised according to PIN code during 2007-08 and 2008-09 and as at the end of 31 March 2009, 101 LVOs/VSOs were functioning in the State.

The details of assessment of staff requirement made by the department, if any, though called for (May 2009), have not been furnished (November 2009).

2.2.7.5 Computerisation of the Taxation Department and the check gates and their interlinking

The VIPS and VRN systems were developed by the technical consultants at a cost of Rs. 7.09 crore. An attempt was made during July and August 2005 to operationalise VIPS and VRN systems. However, attributing inability to carry out the basic activities like returns processing, registration of dealers etc. and inadequate support in maintenance of the Software in fixing the bugs and improving the system, the CTD discontinued the usage of the VIPS and VRN. The work of Software Development and Support was entrusted to National Informatics Centre (NIC) during January 2006. The VAT Software (VATSOFT) developed by NIC was introduced from 2 August 2006.

In relation to computerisation of checkposts, the department stated (November 2009) that data entry is being successfully carried out in all the check posts. However, it was noticed that VIPS and VRN were not got tested before implementation. Also, the source code was not obtained from the technical consultants.

2.2.7.6 Creation of manuals and training of the staff

The manual prepared by the technical consultants on registration and deregistration, returns and payment, repayment, cross reference, advisory visits, debt management, audit and anti-fraud strategy was not found suitable by the department. The department stated (November 2009) that the manuals prepared by the technical consultants were on the basis of proposed VAT law and due to changes in the working patterns, they are being re-written.

The department imparted training to its staff between November 2001 and July 2003 on VAT implementation and administration covering the modules relating to registration, returns and payment, refunds, input tax credits, debt management and audit.

2.2.7.7 Collection of arrears of taxes due under the KST Act and CST Act

The position of arrears and collection under the KST Act and Central Sales Tax (CST) Act during the period 2005-06 to 2008-09 as furnished by the CTD was as under:

(Rupees in crore)

Year	Arrears	Additional demand raised	Total	Collection during the year	Write-off of revenue	Balance
2005-06	2,916.64	11,585.20	14,501.84	11,297.06	330.89	2,873.89
2006-07	2,873.90	16,242.69	19,116.58	14,255.06	564.34	4,297.19
2007-08	4,297.19	15,825.46	20,122.64	15,568.19	569.32	3,985.13
2008-09	3,985.13	16,459.96	20,445.09	16,646.67	793.62	3,004.80

Out of the balance of arrears, Rs. 366.67 crore was stayed by courts, Rs. 73.28 crore was covered by revenue recovery certificates, Rs. 43.13 crore was proposed to be written off and balance of Rs. 2,521.72 crore was under various stages of recovery.

2.2.8 Registration and database of dealers

2.2.8.1 Creation of database of dealers

The CTD has been maintaining a database of registered dealers in VATSOFT which includes the name of the dealer, business and residential address and two major commodities as available in the application for registration. The database is being updated as and when new registrations are issued by the LVOs.

2.2.8.2 Security deposit

Under the KVAT Act and the Rules made thereunder, the prescribed authority may at any time demand from any dealer as security an amount equivalent to the tax anticipated to be payable by him in three months period. By a circular issued in August 2005, the CCT stipulated that the security deposits to be paid by the dealers are as below:

- a) For turnover not exceeding Rs. 10 lakh - Rs. 2,000/-.
- b) For turnover above Rs. 10 lakh - Rs. 3,000/-.
- c) For turnover above Rs. 25 lakh - Rs.10,000/-.

Details of the amount of security deposit collected from the dealers, if any, though called for (May 2009) were not furnished by the Department (November 2009).

2.2.8.3 Excess allowance of transitional relief

Under the KVAT Act and the Rules made thereunder, any registered dealer shall be entitled to transitional relief (TR) on tax paid under KST Act on

purchase of any goods and held in stock at the date of commencement of the KVAT Act for resale or use in manufacture as a component part or raw material, which are taxable under the KVAT Act. Further, every registered dealer claiming TR was required to make an application in Form 265 to the jurisdictional LVO and the LVO was required to issue a certificate in Form 270 indicating the amount to which the dealer is entitled as TR.

- As against 3,04,309 registered dealers as on 31 March 2005, no details were furnished by the department though requested for (April 2009) regarding the number of dealers who had filed application for claiming transitional relief, amount of transitional relief certified by the LVOs and actual transitional relief availed by the dealers.
- Test check of the records of a LVO in Bangalore (Urban) district in August 2008 revealed that as against TR of Rs. 19.78 lakh indicated in the Form 270 issued by the LVO in July 2005, a dealer in his return filed for five tax periods from August 2005 to December 2005 availed TR of Rs. 28.58 lakh. No action was taken by the LVO to demand and recover the excess TR availed by the dealer. This resulted in excess allowance of TR of Rs. 8.80 lakh.

After the case was brought to notice, the department stated (November 2009) that the case has been referred to audit³.

2.2.8.4 Periodic analysis of dealers below threshold limit

Under the KVAT Act, every dealer whose turnover does not exceed Rs. 15 lakh and who is not a works contractor, hotelier and a mechanised crushing unit has an option to pay tax at one *per cent* of his turnover by way of composition (COT) provided the dealer does not obtain goods from outside the State or from outside the country nor sells goods in the course of inter-state trade or in the course of export. Further every dealer whose total turnover within a period of four consecutive quarters exceeds the threshold limit shall cease to be eligible for COT and liable to pay VAT for the period starting from the first day of the month succeeding the month in which he exceeded the threshold. Separate quarterly returns have been prescribed for dealers who opted for COT.

Test check of 200 cases of dealers under COT in 10 LVOs in five districts⁴ revealed that though five dealers exceeded the threshold limit, they continued to file returns and pay tax under COT. No action was taken by the LVOs to issue notices and get the returns filed under VAT. The tax liability at the minimum rate of four *per cent* in these cases on the turnover exceeding the threshold limit amounted to Rs. 85,746.

Deficiencies in the Act and Rules

The review revealed deficiencies in the provisions of the KVAT Act and Rules, which persisted during the period covered under the review. Some of the important deficiencies are discussed below:

³ Audit Offices headed by DCCTs

⁴ Bangalore (Urban), Davangere, Dakshina Kannada, Kolar and Mysore.

2.2.9 Returns

Under the KVAT Act, every dealer shall furnish a return in such form and shall pay tax due on such return within twenty days after the end of the preceding month. Any dealer who fails to furnish a return or fails to pay tax due on any return shall be liable to pay tax together with interest.

2.2.9.1 Mechanism to monitor filing of returns

Under the KVAT Act where a registered dealer fails to furnish his monthly/final return on or before due date the prescribed authority shall issue an assessment to the registered dealer to the best of his judgement and the tax assessed shall be paid within 10 days from the date of service of such assessment on the dealer.

As per the MIS, 18,91,905 returns were not filed during 2005-06 to December 2008. Details are as under:

Year	Number of returns not filed	No. of returns for which Notice issued	Balance
2005-06	1,01,594	6,074	95,520
2006-07	6,18,846	39,469	5,79,377
2007-08	7,93,535	47,258	7,46,277
2008-09 (Upto December 2008)	3,77,930	46,792	3,31,138
Total	18,91,905	1,39,593	17,52,312

Details of action taken by the department in respect of the remaining 17,52,312 cases was not ascertainable.

Test check of 200 cases of non-filing of returns in 10 LVOs of five districts⁵ revealed that no action was taken by the concerned LVOs to issue best judgement assessment in these cases. Out of these, in 59 cases, it was observed that there was a tax liability based on the last return filed by the dealers which worked out to Rs. 58.45 lakh as computed by audit.

Department stated that steps have been taken to get compliance from the concerned DVOs to take required action against assessee not filing returns.

2.2.9.2 Scrutiny and verification of returns

Under the KVAT Act, every dealer is deemed to have been assessed to tax based on the return filed by him. However, where any return submitted is apparently incomplete or incorrect, the LVO shall issue notice requiring the dealer to submit a revised or corrected return. Some of the cases of incorrect/incomplete return could be attributed to:

- (i) mathematical error in calculation of tax
- (ii) input tax credit is claimed without filling the details of purchases
- (iii) adjustment of brought forward refund though no amount/lesser amount was shown as carried forward refund in the previous return

⁵ Bangalore (Urban), Davangere, Dakshina Kannada, Kolar and Mysore.

Details of incomplete/incorrect returns received by various LVOs during the period 2005-06 to 2008-09 and notices issued to dealers to rectify the mistake are detailed in the following table:

Year	Number of error returns	Number of corrected returns received	Number of cases taken up for scrutiny	Tax, penalty and interest levied and collected (Rs. in lakh)	Balance error returns	Percentage of corrected returns received
2005-06	2,06,994	9,519	762	60.56	1,97,475	4.60
2006-07	4,10,229	41,262	1,723	-	3,68,967	10.05
2007-08	5,53,630	38,954	2,522	23.31	5,14,676	7.04
2008-09 (up to December 2008)	2,88,423	45,040	9,941	37.10	2,43,383	15.61
Total	14,59,276	1,34,775	14,948	120.97	13,24,501	

Percentage of corrected returns received ranged from 4.60 to 15.61. No details were available regarding the action taken in the remaining 13,09,553 cases.

After the cases were brought to notice, department stated (November 2009) that scrutiny and verification of returns could not be handled in scientific and organised manner due to excess work load at LVOs, lack of awareness on the part of dealers in filing returns and absence of mechanism to identify probable error returns. In order to overcome this, a newly formatted report called "Returns Data Entry Statistics" has now been put in place and a "Tax Analysis" Report is introduced. These would enable the department to closely monitor the correctness of the returns.

Scrutiny of assessment records of VAT revealed several cases of non-observance of provisions of Act/Rules, non/short levy of tax, arithmetical inaccuracies, non-levy of penalty, etc. as mentioned in the succeeding paragraphs.

Non/short levy of penalty

Under the KVAT Act, every registered dealer liable to pay tax shall furnish a return as prescribed and shall pay the tax due on such return within 20 days after the end of the preceding month or any other tax period. A dealer who for any prescribed tax period furnishes a return which understates his liability to tax (output tax) or overstates his entitlement to a tax credit (input tax) by more than five *per cent* of his actual liability to tax, shall after being given the opportunity of showing cause in writing against the imposition of a penalty, be liable to a penalty at the rate of 20 *per cent* of such tax under or overstated up to 31 March 2006 and at 10 *per cent* thereafter.

Test check of the records of 34 LVOs in eight districts between October 2007 and November 2008 revealed that 59 assesseees had either understated the output tax or overstated the input tax credit amounting to Rs. 8.76 crore in their 365 monthly returns for the tax periods during the years 2005-06 and 2006-07. Penalty of Rs. 1.33 crore was either not levied or short levied by the AAs as mentioned below:

(Rupees in lakh)				
Sl. No.	District (number of assesseees)	Period of assessment/ Number of returns	Amount of tax involved	Non/short levy of penalty
1.	Bangalore (Urban) (44)	April 2005 to March 2007 (289)	655.17	98.53
2.	Belgaum (2)	April 2005 to January 2006 (19)	71.22	14.24

(Rupees in lakh)				
Sl. No.	District (number of assesseees)	Period of assessment/ Number of returns	Amount of tax involved	Non/short levy of penalty
3.	Bellary (4)	April 2005 and September 2006 (14)	59.88	9.75
4.	Dakshina Kannada (2)	December 2005 and December 2006 (6)	8.93	1.20
5.	Davanagere (1)	November 2006 (1)	11.91	1.19
6.	Dharwad (1)	April and June 2005 (2)	8.92	1.78
7.	Ramanagara (4)	April 2005 and January 2007 (22)	47.53	4.75
8.	Tumkur (1)	April 2006 to March 2007 (12)	12.93	1.29
Total (59)		(365)	876.49	132.73

After the cases were brought to notice, the Government/department reported (November 2009) recovery of Rs. 44.61 lakh in 19 cases, issue of notices in 13 cases involving Rs. 21.64 lakh and stated that recovery is being pursued in the remaining cases.

Excess credit carried forward

Under the KVAT Act and the Rules made thereunder, any dealer in whose case, on the basis of return filed for any tax period, the input tax deductible exceeds the output tax payable by him, such dealer may adjust the excess amount towards the tax payable by him for any other tax period.

Test check of the records of eight LVOs in four districts⁶ between January and October 2008 revealed that 14 dealers in their 16 returns filed for the tax periods between July 2005 and March 2007 brought forward credit of Rs. 40.79 lakh from earlier tax periods and adjusted it towards the tax payable by them. However, the actual credit available in the earlier tax periods in these cases was Rs. 11.85 lakh only. The excess carry forward and adjustment of credit resulted in loss of revenue of Rs. 28.94 lakh.

After the cases were brought to notice, the Government/department stated (November 2009) that Rs. 2.66 lakh has been recovered in one case and remaining cases are being pursued by issue of notice/reassessment orders.

Excess allowance of input tax

Under the KVAT Act and the rules made thereunder, input tax shall be deducted from the output tax by any dealer, in calculating the net tax payable subject to conditions prescribed.

Test check of the records of 12 LVOs in four districts⁷ between February and September 2008 revealed that 14 dealers had claimed input tax credit of Rs. 2.49 crore in their 37 returns for the tax periods between April 2005 and March 2007. The input tax admissible as per provisions of the Act in these cases was Rs. 1.71 crore which resulted in allowing excess/incorrect input tax

⁶ Bangalore (Urban), Belgaum, Chamarajanagar, Dakshina Kannada.

⁷ Bangalore (Urban), Bellary, Dharwad and Mysore.

of Rs. 78 lakh. A few illustrative cases are mentioned below:

(Rupees in lakh)				
Sl. No.	District/ Number of dealers	Nature of omission	Input tax claimed/ Input tax allowable	Amount of excess/ incorrect input tax
1.	Bangalore (Urban) 1	The input tax on the purchase turnover of Rs. 2.80 crore during March 2006 works out to Rs. 34.94 lakh. However, the dealer had claimed input tax of Rs. 70.84 lakh due to arithmetical error.	70.84/ 34.94	35.90
2.	Bangalore (Urban) 1	The dealer in his return for the month of August 2005 claimed tax paid under CST Act on interstate purchases as input tax credit which was not admissible under KVAT Act.	2.06/ Nil	2.06

After the cases were brought to notice, the LVOs concerned accepted audit observations in three cases involving Rs. 1.35 lakh. Of these Rs. 95,466 was recovered in two cases and notice for reassessment was issued in the other case. Final reply in respect of the remaining cases has not been received (November 2009).

Underassessment of output tax

Under the KVAT Act, every registered dealer shall be liable to pay tax on his taxable turnover at the rates specified in the relevant schedules to the Act. In respect of goods not specified in any of the schedules, tax is payable at the rate of 12.5 per cent.

Test check of the records of 12 LVOs in five districts⁸ between February and November 2008 revealed that the taxable turnover of 22 dealers during the tax periods between April 2005 and March 2007 amounted to Rs. 40.98 crore. The output tax liability worked out to Rs. 4.07 crore. However, the dealers declared output tax liability of Rs. 3.22 crore only in their 56 returns filed between May 2005 and April 2007 which was accepted by the concerned LVOs. This was due to arithmetical mistakes, short declaration of taxable turnover, claiming of incorrect exemption on taxable turnover, etc. The underassessment of output tax amounted to Rs. 85.16 lakh.

After the cases were brought to notice, the Government/department reported (November 2009) that Rs. 19.09 lakh has been recovered in four cases and the remaining cases are being pursued by issue of notice/reassessment orders.

Non-forfeiture of VAT collected in excess

Under the KVAT Act, when any amount is wrongly collected by way of tax or purporting to be by way of tax from any person by any dealer, whether knowingly or not, such dealer shall pay the entire amount so collected, to the prescribed authority within 20 days after the close of the month in which such amount was collected, notwithstanding that the dealer is not liable to pay such amount as tax or that only a part of it is due from him as tax under the Act. Such amount paid by the dealer to the extent it is not due as tax shall be forfeited to the Government and recovered from him.

⁸ Bangalore (Urban), Bellary, Chitradurga, Dharwad, Ramanagara.

Test check of the records of five LVOs in Bangalore (Urban) and Mysore districts between February and July 2008 revealed that seven dealers had collected tax of Rs. 2.63 crore during the months from April 2006 to March 2007. It was noticed in their returns filed for these months, that the output tax payable as declared by them amounted to Rs. 2.28 crore. No action was initiated by the concerned LVOs to forfeit the excess tax of Rs. 34.67 lakh collected by the dealers.

After the cases were brought to notice, the Government/department reported (November 2009) that Rs. 8.95 lakh has been recovered in two cases and the remaining cases are being pursued by issue of notice/reassessment orders.

Short computation of net tax payable

Under the KVAT Act and Rules made thereunder, every dealer shall be deemed to have been assessed to tax based on the return filed by him. Where any return submitted is apparently incomplete or incorrect, the jurisdictional LVO shall issue a notice in Form VAT 150 requiring the dealer to submit a complete or correct return within ten days of issue of the notice. The net tax payable by a registered dealer in respect of each tax period shall be amount of tax payable by him in respect of any taxable sale of goods (output tax) less the tax collected or payable under this Act on the sale of any goods to him for use in the course of his business (input tax).

Test check of the records of two LVOs in Bangalore (Urban) and Bellary districts between May and August 2008 revealed that two dealers in their returns filed for August 2005 and November 2005 declared output tax and input tax credit amounting to Rs. 44.89 lakh and Rs. 25.96 lakh respectively. However, as against the net tax payable by both amounting to Rs. 18.93 lakh, the dealers concerned declared and paid net tax of Rs. 12.13 lakh due to error in computation. No action was taken by the LVOs concerned to demand and recover the tax liability declared and paid short. The short computation of net tax amounted to Rs. 6.80 lakh.

2.2.9.3 Annual statement

Under the KVAT Rules every dealer was required to file an annual statement in prescribed form commencing from the end of the year on 31 March 2007 within sixty days after the end of the relevant year. Any dealer who fails to furnish the annual statement was liable to pay a penalty at Rs. 50 for each day of default. Filing of annual statement was dispensed with effect from 1 August 2008, as a result of which there is no mechanism for cross verification of the returns submitted by the assesseees.

As per the information furnished by Mysore Division and Bangalore Division-V, as against 35,824 dealers, 3,145 dealers did not file the statements during 2006-07. Similarly out of 47,139 dealers, 3,304 dealers did not file the statements during 2007-08. In respect of the defaulters penalty of Rs. 15.57 crore leviable upto 31 March 2009 was not levied. Information in respect of other divisions though called for (April 2009) has not been received (November 2009).

2.2.10 Tax audit

The KVAT Act provides for cases to be taken up for reassessment where the prescribed authority has grounds to believe that any return furnished which is deemed as assessed or assessment issued understates the correct tax liability of the dealer. The CCT vide circular issued during July 2005 specified the types of audit that can be chosen viz., Credit Returns, Big dealer audits, Deterrence audits and High Risk audits, Compliance Audit and Others. The circular also laid down broad guidelines on the selection of cases for audit.

2.2.10.1 Time frame for completion of tax audit

The White paper envisaged that the audit work would be completed within 6 months. However, neither the Rules nor the administrative instructions issued by the Department prescribed any time frame for completion of the audit of selected cases.

2.2.10.2 Percentage of dealers to be taken up for tax audit

The Empowered Committee envisaged that not more than 20 *per cent* of the total dealer population should be audited every year. However, minimum percentage of dealers to be taken up for audit has not been prescribed.

The total number of registered dealers, number of cases selected for audit, actual number of cases audited and additional demand raised after audit during the years 2005-06 to 2008-09 were as under:

Year	Number of dealers	Number of dealers selected for audit	Percentage to number of dealers	Number of dealers audited	Percentage to number of dealers	Additional demand raised in audit	
						Number of dealers	Amount (Rs. in lakh)
2005-06	3,54,721	9,646	2.72	5,882	1.66	2,783	3,121
2006-07	3,89,393	17,625	4.53	12,614	3.24	6,783	8,979
2007-08	4,31,029	16,029	3.72	11,029	2.56	7,065	13,328
2008-09	4,34,746	5,343	1.23	6,910	1.59	4,490	18,778
Total		48,643		36,435		21,121	44,206

It may be seen from the above table that in respect of 58 *per cent* of the audited cases, the department noticed underassessment of tax by the dealers. This also indicated that there was a need to increase the percentage of audit coverage which was mere 1.59 *per cent* to 3.24 *per cent*. Reasons for not auditing all the cases selected for audit was not forthcoming.

2.2.10.3 Non/short levy of interest

Under the KVAT Act, every dealer shall be liable to pay simple interest at the rate of 1.25 *per cent* per month on any amount of tax which should have been declared on a return, but which has been omitted from it, and such interest is payable from the date the tax should have been declared. Further, under the Act, when any prescribed authority has grounds to believe that any return furnished understates the correct tax liability, it may re-assess to the best of its judgment the additional tax payable and raise demand of interest thereon.

Test check of the records of 11 LVOs in Bangalore (Urban) and Belgaum districts between November 2007 and November 2008 revealed that the AAs created additional demand of Rs. 3.40 crore on reassessments for 202 tax periods in respect of 24 dealers between January 2006 and February 2008. However, interest of Rs. 41.03 lakh though leviable was not levied.

After the cases were brought to notice, the Government/department reported (November 2009) that Rs. 13.24 lakh has been recovered in six cases and the remaining cases are being pursued by issue of notice/reassessment orders.

2.2.11 Input tax credit

Under the KVAT Act, input tax in relation to a registered dealer means the tax paid or payable on the purchase of any goods for use in his business and includes the tax on purchase of goods by his agent on his behalf. Subject to restrictions as specified under the Act, a registered dealer can claim/adjust input tax paid on raw materials, intermediaries, inputs and capital goods for resale or for manufacture or any other process of other goods for sale.

2.2.11.1 Deficiencies in the provisions for input tax credit

Under the CENVAT Credit Rules, credit of duty paid on purchase of capital goods is allowed subject to the condition that the manufacturer shall not claim depreciation on the part of the value of capital goods which represents the amount of specified duty paid on such capital goods.

However, there is no such provision under the KVAT Act for disallowing the input tax credit on capital goods where the KVAT paid on capital goods is also capitalised and depreciation is claimed. Absence of such provision may lead to claiming of both input tax credit by the dealers under the KVAT Act as well as claiming of depreciation on the amount of KVAT paid.

2.2.12 Non-filing of copies of works contract agreements

Under the KVAT Act with effect from 1 April 2007 every registered dealer and every dealer including owner of a land, liable to get registered under the Act, entering into a written agreement during any tax period for executing a civil works contract shall submit a copy of the agreement within the end of the subsequent tax period. In view of this provision all works contractors, co-developers of land, sub contractors are liable to file copies of agreement along with the monthly returns to the department. Failure to file such agreements attracts penalty of Rs. 2,000/- if such failure was the first during any year or Rs. 5,000/ if such failure was the second or subsequent during that year and in addition a further penalty not exceeding Rs. 200 per day of delay.

Test check of records in seven LVOs in five Districts⁹ revealed that 1,919 registered works contractors had not filed copies of the agreement along with the monthly returns. The minimum penalty leviable in these cases worked out to Rs. 38.38 lakh.

⁹ Bangalore (Urban), Davangere, Dakshina Kannada, Kolar and Mysore.

2.2.13 Acceptance and disposal of appeal cases

Under the KVAT Act, any persons objecting to any order or proceedings affecting him passed under the provisions of the Act by the prescribed authority may appeal to the prescribed appellate authority after paying the tax or other amount in accordance with the order or proceedings against which an appeal has been preferred. Further, no appeal against an order of assessment shall be entertained by the appellate authority unless it is accompanied by satisfactory proof of the payment of tax and penalty not disputed in the appeal. The following table shows the number of appeal cases disposed during the period 2005-06 to 2008-09 in respect of 7¹⁰ Divisions under KST and KVAT Acts.

Year	OB	Additions	Total	Disposal	CB
2005-06	1,322	3,735	5,057	3,233	1,824
2006-07	1,824	3,019	4,843	3,050	1,793
2007-08	1,793	4,971	6,764	3,265	3,499
2008-09	3,499	7,038	10,537	5,846	4,691

2.2.14 Deterrent measures

Provision has been made in the Act in Section 71 to 77 for levy of penalty in respect of defaults relating to registration, returns and assessments, unauthorised collection of tax, keeping of records, production of records and furnishing of information, issue of tax invoices, bills of sale, credit notes and debit notes, seals and unaccounted stocks.

The KVAT Act provides for levy of penalty up to Rs. 2,000/- for failure to maintain proper records and up to Rs. 5,000/- for non-production of records and non-furnishing of information in accordance with the requirement of the Act. However, in these cases minimum penalty has not been prescribed.

2.2.15 Internal audit

The internal audit wing (IAW) was functioning in the department up to 2004-05. On introduction of VAT the IAW was abolished leaving it vulnerable to the risk of control failure.

After this was brought to notice, the department stated that action is being initiated to constitute IAW at all the divisional VAT offices.

2.2.16 Conclusion

The above points reveal that the prevailing mechanism to conduct and monitor the main areas of levy and collection of tax viz., scrutiny and verification of returns, non-filing of returns, collection of tax, audit of dealers accounts is not adequate to ensure proper collection of taxes.

¹⁰ JCCT (Appeals)-1, Bangalore, JCCT(Appeals)-2, Bangalore, JCCT(Appeals)-3, Bangalore, Malnad Division, Shimoga, JCCT(Appeals), Mysore, JCCT(Appeals), Gulbarga and JCCT(Appeals), Davangere.

2.2.17 Recommendations

In view of the observations made in the review, Government may consider implementation of following recommendations:

- prescribing a minimum percentage of dealers for reassessment and time frame for completion of re-assessment.
- amending KVAT Act to allow input tax credit on capital goods subject to the condition that the dealer shall not claim depreciation on the part of the value of capital goods which represents the amount of KVAT paid on such capital goods.
- reviving the internal audit wing.

2.3 Other audit observations

Scrutiny of assessment records of sales tax revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax, interest and penalty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Assessing Authorities (AAs) are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including reviving and strengthening of internal audit.

2.4 Non-observance of provisions of the Acts/Rules

The Central Sales Tax Act (CST Act) 1956, the Karnataka Sales Tax Act (KST Act) 1957 and the rules made thereunder provide for:

- (i) determination of total and taxable turnover;*
- (ii) levy of tax on sales/purchases of goods at prescribed rate;*
- (iii) levy of interest/penalty on belated payment of tax;*
- (iv) exemption/concessional rate of tax on notified goods/transactions subject to prescribed conditions;and*
- (v) reduction of tax paid on purchases from tax payable on sales.*

The AAs while finalising the assessment did not observe some of the above provisions in cases as mentioned in paragraphs 2.4.1 to 2.4.8. This resulted in non/short levy/non-realisation of tax/interest/penalty of Rs. 3.34 crore.

2.4.1 Short levy of tax

Under the KST Act, tax is leviable on the purchases/sales at the rates mentioned in the relevant schedules to the Act. In the case of goods not specified in any of the schedules, tax is leviable as on unspecified goods. Under the CST Act 1956, tax at specified rates is levied on interstate sale of goods.

Test check of the records of 10 sales tax offices (STO) in three districts¹¹ between April 2007 and November 2008 revealed that while finalising 19 assessments of 19 dealers for the years 1998-99, 2000-01, 2001-02 and 2003-04 to 2005-06, the AAs either applied incorrect rates of tax on taxable turnover or assessed taxable turnover to a lesser extent. These were due to misclassification of goods and transactions, extending the benefit of concessional rate given under certain notifications to ineligible cases, etc. This resulted in short levy of tax of Rs. 1.20 crore

¹¹ Bangalore (Rural), Bangalore(Urban), Dakshina Kannada.

on taxable turnover of Rs. 9.35 crore. A few illustrative cases are mentioned below:

(Rupees in lakh)					
Sl. No.	District (number of cases)	Assessment year (month of assessment)	Audit of observation	Turnover involved	Tax levied short
1.	Bangalore (Urban) (1)	2004-05 (January 2008)	Against taxable turnover of Rs. 246.61 lakh reported by the dealer in his annual return, the AA levied tax on a turnover of Rs. 100.33 lakh. This resulted in escapement of turnover of Rs. 146.28 lakh from levy of tax.	146.28	15.26
2.	Dakshina Kannada (1)	2004-05 (March 2008)	Concessional rate of four <i>per cent</i> tax on sale of HSD ¹² , prescribed under the notification dated 30 March 2002 was cancelled with effect from 1 August 2004. However, tax was levied between August 2004 and March 2005 at four <i>per cent</i> instead of 20 <i>per cent</i> .	81.21	12.99

After the cases were brought to notice, the Government/department reported revision of assessments and recovery of Rs. 19.44 lakh in five cases. Action taken in the remaining cases has not been received (November 2009).

2.4.2 Incorrect levy of concessional rate of tax

Under the CST Act, in the case of sales made to a registered dealer, subject to furnishing of a declaration in form C, tax leviable shall be at the concessional rate of four *per cent* or the rate applicable to the sale or purchase of such goods inside the State whichever is lower. However, tax leviable on interstate sale of goods not supported by C forms shall be at the rate of 10 *per cent* or at the rate applicable for sale or purchase of such goods inside the State whichever is higher.

Test check of the records of a STO in Bangalore (Rural) district in April 2008 revealed that while finalising an assessment of a dealer for the year 2000-01, tax at the rate of four *per cent* was levied on a turnover of Rs. 1.71 crore as interstate sales to registered dealers. However, it was noticed that sales were made by the assessee to a dealer whose registration had already been cancelled and hence the levy of tax at the concessional rate was incorrect. This resulted in short levy of tax of Rs. 20.13 lakh.

The case was reported to the CCT in May 2008 and the Government in April 2009; their reply has not been received (November 2009).

¹² High speed diesel.

2.4.3 Excess/incorrect reduction of tax

Under the KST Act, where goods are sold under a brand name by a trade mark holder or brand name holder or any other dealer having the right as proprietor or otherwise to use the said name or trade mark either directly or through another on his own account or through others, exclusively to a marketing agent or distributor or wholesaler or any other dealer, subsequent sale of such goods by the latter shall also be liable to tax under the Act and the tax so payable shall be reduced by the amount of tax already paid on the sale of such goods by the former. However, the amount of additional tax and cess paid by the former were not eligible for reduction. Further, no reduction of tax was admissible in respect of goods which are sold or transferred to outside the State.

Test check of the records of STO in Bangalore (Urban) district in June 2008 revealed that while finalising the assessment of a dealer¹³ for the years 2003-04 and 2004-05 in March 2007 reduction of tax of Rs. 2.25 crore and Rs. 2.41 crore respectively was allowed by the AA. Of these, reduction of tax of Rs. 33.48 lakh was allowed twice, once as tax paid on closing stock of the year 2003-04 and again on the opening stock of the year 2004-05. In addition reduction of Rs. 6.45 lakh on the goods transferred to outside the State during 2003-04, additional tax of Rs. 23.37 lakh and cess of Rs. 36.95 lakh paid by the first dealer for both the years were allowed. This resulted in excess/incorrect tax reduction of Rs. 1 crore.

The case was reported to the CCT in July 2008 and the Government in May 2009; their reply has not been received (November 2009).

2.4.4 Non/short levy of resale tax

Under the KST Act, from 1 April 2002, every registered dealer was liable to pay resale tax at the rate of 1.5 *per cent* on such portion of the total turnover which is not liable to tax under other provisions of the Act, after allowing such deductions as are admissible under the Act.

Test check of the records of five STOs in two districts¹⁴ between April and December 2008 revealed that while finalising eight assessments of seven dealers for the years 2003-2004 and 2004-05, resale tax was either not levied or levied short on the turnover of Rs. 19.07 crore. This was due to incorrect grant of exemption, incorrect determination of turnover, etc. This resulted in non-levy of resale tax of Rs. 19.96 lakh.

After the cases were brought to notice, the Government/department reported revision of assessments and recovery of Rs. 14.37 lakh in three cases. In respect of the remaining cases, reply has not been received (November 2009).

2.4.5 Excess collection of tax

Under the KST Act, a registered dealer is prohibited from collecting any amount by way of tax in excess of that specified in the Act. Where any

¹³ exclusive wholesaler for 'Akai' brand electronic goods.

¹⁴ Bangalore (Urban) and Hassan.

collection is made in excess of the tax due to the Government the same is required to be remitted to the Government account. Also, the AA shall forfeit such amount to the Government. The excess tax collected and remitted by the dealer, but not forfeited by the AA will stand at the credit of the dealer in the books of the department.

Test check of the records of six STOs in Bangalore (Rural) and Bangalore (Urban) districts between April and July 2008 revealed that while finalising seven assessments of seven dealers for the years 2003-04 and 2004-05, tax of Rs. 10.80 crore was levied. Against this, the dealers had collected tax of Rs. 11.09 crore. The excess tax collected by the dealers amounted to Rs. 29.10 lakh. Of this only Rs. 7.70 lakh was forfeited by the AAs concerned. Non/short forfeiture of tax collected in excess amounted to Rs. 21.40 lakh.

After the cases were brought to notice, the AAs concerned accepted audit observations in three cases involving Rs. 14.89 lakh and issued notices for forfeiture of excess tax collected. In respect of remaining cases, reply has not been received (November 2009).

The cases were reported to the CCT between May and September 2008 and the Government in April 2009; their reply has not been received (November 2009).

2.4.6 Non-levy of additional tax

Under the KST Act, every registered dealer was liable to pay additional tax at the rate of one *per cent* of taxable turnover except where such turnover relates to sale of industrial inputs. Further, in accordance with the clarification issued by the State level 'Authority for Clarification and Advance Rulings' constituted by the CCT under the KST Act, the additional tax is leviable on any sales turnover even though tax is exempted by way of any notification.

Test check of records of three STOs in Bangalore (Rural) and Bangalore (Urban) districts between April and June 2008 revealed that while finalising six assessments of five dealers for the years 2003-04 and 2004-05, additional tax was not levied on a turnover of Rs. 20.81 crore. Of these, in two cases benefit of notification granting exemption of tax was incorrectly extended to additional tax while in other four cases additional tax was omitted to be levied. The non-levy of additional tax amounted to Rs. 20.81 lakh.

After the cases were brought to notice, the Government/department reported revision of assessments and recovery of Rs. 1.06 lakh in two cases. In respect of the remaining cases reply has not been received (November 2009).

2.4.7 Non-levy of cess

Under the KST Act, with effect from 1 February 2004, in addition to the tax payable on sale or purchase effected by any dealer, there shall be levied and collected, Road Cess at the rate of 10 *per cent* of tax for the purpose of establishing a Road Maintenance Fund. Similarly, with effect from 1 February 2004, in addition to the tax payable on sale or purchase effected by any dealer, there shall be levied and collected, Infrastructure cess at the rate of 5 *per cent* of tax for the purpose of various infrastructure projects across the

State, equity investment in Bangalore Mass Rapid Transit Limited and establishing a Mukhya Manthri Grameena Rasthe Abhivruddhi Nidhi.

Test check of the records of three STOs in three districts¹⁵ between April and August 2008 revealed that while finalising five assessments of five assessees for the year 2004-05 between April and December 2007, cess of Rs. 20.39 lakh was omitted to be levied on tax of Rs. 1.36 crore levied.

After the cases were brought to notice, the Government/department reported revision of assessments and recovery of Rs. 7.63 lakh in three cases. In respect of the remaining cases reply has not been received (November 2009).

2.4.8 Non-levy of interest

Under the KST Act, tax or any other amount due is required to be paid within the prescribed time and, in the case of final assessments, this is to be paid within 21 days from the date of serving of demand notice. In case of default in making payments, the assessee is liable to pay interest at the rate of two *per cent* per month up to 31 March 2005 and at the rate of 1.25 *per cent* thereafter.

Test check of the records of five STOs in three districts¹⁶ between October 2007 and December 2008 revealed that 14 dealers, against whom demand notices were served between December 2000 and October 2007, paid tax of Rs. 62.09 lakh between October 2006 and March 2008 after delay ranging from 3 to 77 months. However, interest of Rs. 11 lakh was not levied by the AAs concerned.

After the cases were brought to notice, the Government/department accepted audit observation in respect of five cases involving Rs. 2.88 lakh and recovered Rs. 1.18 lakh in two of them. In the remaining cases reply has not been received (November 2009).

¹⁵ Bangalore (Rural), Bangalore (Urban), Bellary.

¹⁶ Bangalore (Urban), Davangere, Hassan.

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of records in the Motor Vehicles Department, conducted during the year 2008-09, disclosed underassessment of tax amounting to Rs. 2.76 crore in 154 cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short levy of lifetime tax on migrated motor vehicles	38	1.29
2.	Non/short levy of lifetime tax on motor vehicles converted from transport to non-transport series	25	0.35
3.	Non/short levy of lifetime tax	37	0.23
4.	Short levy of tax on fleet owners	3	0.21
5.	Non-levy of quarterly tax	16	0.16
6.	Short levy of tax due to incorrect classification	4	0.08
7.	Other irregularities	31	0.44
Total		154	2.76

During the year 2008-09, the department accepted underassessments of tax of Rs. 3.06 crore in 135 cases and, of that, recovered Rs. 93.82 lakh in 63 cases pointed out in the earlier years.

After issue of a draft paragraph, Government reported (September 2009) recovery of entire amount of Rs. 7.35 lakh in one case.

A few illustrative audit observations involving Rs. 1.35 crore are given in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of records relating to levy of taxes on motor vehicles revealed cases of non/short levy of tax and composition sum as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the officers are pointed out in audit each year but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit.

3.3 Non-observance of provisions of the Acts/Rules

The Karnataka Motor Vehicles Taxation (KMVT) Act, 1957 and the KMVT Rules, 1957 provides for:

- (i) levy of tax on transport vehicles and lifetime tax on non-transport vehicles at rates prescribed in the Schedule;*
- (ii) composition of offence for non-payment of tax; and*
- (iii) conditional exemption from payment of tax for the period a vehicle is declared for non-use to the registering authority.*

The Regional Transport Officers had not followed the above provisions in cases as mentioned in paragraphs 3.3.1 to 3.3.4. This resulted in non/short levy of tax and composition sum of Rs. 1.35 crore.

3.3.1 Short levy of lifetime tax

Under the KMVT Act 1957, lifetime tax levied under the Act shall be paid by the registered owner. Lifetime tax for non-transport vehicles is levied as per the rates prescribed in part A5¹ of the schedule. The rates of lifetime tax were revised from 1 April 2003 to be a percentage of the cost of the vehicle while the pre-revised rates were fixed amounts based on the engine capacity of the vehicle. Every regional transport office (RTO) maintains a 'B' register to monitor the payment of taxes.

Test check of the 'B' registers during 2008-09 revealed that lifetime tax of Rs. 1.07 crore in respect of 792 motor cars was short levied. The short levy was due to levy of tax at pre-revised rates, allowing ineligible concession, etc. The RTOs stated that the levy at pre-revised rates was on the ground that these vehicles were registered prior to 1 April 2003. Their contention was not correct since rates of lifetime tax were revised from 1 April 2003 and hence revised rates were applicable in these cases. Details are mentioned below:

¹ Part A5 – part of the Schedule prescribes lifetime tax in respect of cars, omnibuses and private service vehicles.

Sl. No.	Number of Offices/ vehicles	Audit observations	(Rupees in lakh)		
			Leviable	Levied	Short levy
1.	37 ² RTOs (503)	RTOs incorrectly levied tax at pre-revised rates in respect of 503 vehicles migrated from other States to Karnataka between April 2007 and March 2008 on the ground that they were registered prior to 1 April 2003.	131.27	65.99	65.28
2.	25 ³ RTOs (265)	265 vehicles were converted from transport to non-transport vehicles between April 2003 and May 2008. However, lifetime tax was levied at pre-revised rates instead of revised rates resulting in short levy of lifetime tax.	84.02	48.57	35.45
3.	RTO, Bangalore East (10)	The Inspectors of motor vehicles had, during inspections in 2007-08, found 10 vehicles registered in other States plying in Karnataka without payment of lifetime tax and levied the same. However, lifetime tax had been levied at pre-revised rates resulting in short levy of lifetime tax.	2.80	1.25	1.55
4.	RTO, Bangalore (North) (4)	As per the provisions of the Act, central Government employees could pay tax at Rs. 187.50 per quarter instead of lifetime tax in respect of cars owned by them. In case of four vehicles, the employees of autonomous bodies were allowed to pay tax at annual rate of Rs. 825 per annum instead of levying lifetime tax at nine <i>per cent</i> of the cost of the vehicle.	1.29	0.03	1.26
5.	RTO, Bangalore (Central) (3)	Three Government vehicles exempted from payment of tax purchased by participants in an auction were re-registered in February 2007. However, lifetime tax was paid at pre-revised rates instead of revised rates.	1.49	0.39	1.10
6.	RTO, Bangalore (Central) (1)	Tax was levied short by RTO inadvertently.	6.53	4.96	1.57
7.	RTO, Hospet (5)	Tax was levied short by RTO inadvertently.	7.24	5.86	1.38
Total			234.64	127.05	107.59

² Bagalkot, Bailhongal, Bangalore (Central), Bangalore (East), Bangalore (Electronic city), Bangalore (Jnanabharathi), Bangalore (K.R. Puram), Bangalore (North), Bangalore (South), Bangalore (West), Bangalore (Yelahanka), Belgaum, Bellary, Bidar, Bijapur, Chamarajanagar, Chikkodi, Chickmagalur, Davanagere, Dharwad, Gokak, Gulbarga, Hassan, Haveri, Honnavar, Karwar, Kolar, Madikeri, Managalore, Mysore (East), Puttur, Raichur, Ramanagara, Sirsi, Tumkur, Udipi, Yadgir.

³ Bangalore (Jnanabharathi), Bangalore (K.R. Puram), Bangalore (South), Bangalore (Yelahanka), Bagalkot, Bidar, Bijapur, Chickmagalur, Davanagere, Gadag, Gulbarga, Hassan, Haveri, Honnavar, Karwar, Kolar, Koppal, Madikeri, Mangalore, Mysore (East), Puttur, Sakleshpura, Shimoga, Sirsi, Tumkur.

After these cases were brought to notice, the Government reported (September 2009) issue of notices in all the cases and recovery of Rs. 28.02 lakh in respect of 241 vehicles relating to 39 RTOs⁴.

3.3.2 Non-demand of tax

Under the KMVT Act 1957, the tax levied is to be paid in advance, for a quarter, half-year or year, within fifteen days from the commencement of such period. In case of short payment of tax, the taxation authority may after notice to the registered owner and giving him an opportunity of being heard recover the difference in tax. Non-payment of tax constitutes an offence and the KMVT Rules 1957 provide for composition of the offence on payment of a sum at 20 *per cent* of the arrears of tax due.

Test check of records of six RTOs⁵ between March and December 2008 revealed that in respect of 37 vehicles, tax of Rs. 4.25 lakh had not been paid for different periods between February 2005 and January 2009. No action had been taken by the Department to raise demand and recover the taxes due. On composition of these cases, a sum of Rs. 85,000 was also realisable.

After these cases were brought to notice, the Government reported (September 2009) issue of notices in all the cases and recovery of Rs. 1.93 lakh in respect of 21 vehicles relating to three RTOs⁶.

3.3.3 Short levy of tax

Under the KMVT Rules 1957, when a motor vehicle is registered in the State, the registering authority shall issue a taxation card indicating the rate of tax payable. Tax for different classes of vehicles shall be levied at rates prescribed in the schedule to the KMVT Act, 1957.

Test check of the records of six RTOs between May and December 2008 revealed that tax of Rs. 13.62 lakh in respect of 37 vehicles had been levied short for the periods between October 2005 and February 2009 as given below:

Sl. No.	Name of the RTO/ARTO (Number of vehicles)	Audit observation	(Rupees in lakh)		
			Leviable	Levied	Short levy
1.	Bagalkot (18)	Tax on 'trax toofan' vehicles was leviable on the basis of floor area of 4.90 sq.mt. as per Transport Commissioner's circular dated January 2006. RTO, Bagalkot, incorrectly registered these vehicles with floor area of 4.70 square metres resulting	4.62	4.43	0.19

⁴ Bagalkot, Bailhongal, Bangalore (Central), Bangalore (East), Bangalore (Electronic city), Bangalore (Inanabharathi), Bangalore (K.R. Puram), Bangalore (North), Bangalore (South), Bangalore (West), Bangalore (Yelahanka), Belgaum, Bellary, Bidar, Bijapur, Chickmagalur, Chikkodi, Davanagere, Dharwad, Gadag, Gokak, Hassan, Haveri, Honnavar, Hospet, Karwar, Kolar, Madikeri, Mangalore, Mysore (East), Puttur, Raichur, Ramanagara, Sakleshpura, Shimoga, Sirsi, Tumkur, Udupi, Yadgir.

⁵ Chamarajanagara, Mysore (East), Nelamangala, Puttur, Raichur, Ramanagara.

⁶ Nelamangala, Mysore (East), Raichur.

Sl. No.	Name of the RTO/ARTO (Number of vehicles)	Audit observation	(Rupees in lakh)		
			Tax		
			Leviable	Levied	Short levy
		in short levy of tax.			
After these cases were brought to notice, the Government reported (September 2009) recovery of Rs. 18,510 in respect of all the vehicles.					
2.	Bangalore (Central) (12)	Tax on private service vehicles was leviable on the basis of floor area. In RTO, Bangalore (Central), it was noticed that 12 'Swaraj Mazda T-3500 BS III' vehicles were registered as private service vehicle. Floor area had been recorded as ranging from 11.7 to 12.78 square metres as against floor area of 13.5 square metres adopted in respect of other vehicles of the same model registered in the same RTO. This resulted in short levy of tax.	16.03	12.05	3.98
After these cases were brought to notice, the Government reported (September 2009) recovery of Rs. 2.33 lakh in seven cases and filing of charge sheet in the balance five cases.					
3.	Bangalore Central (2), Honnavar (1), Kolar (1)	In the schedule to the KMVT Act, different rates ⁷ of tax are prescribed in respect of contract carriages. It was noticed that tax had been levied at lower rates resulting in short levy of tax.	14.68	5.38	9.30
After this was brought to notice, the Government reported (September 2009) recovery of Rs. 1.32 lakh in respect of two vehicles in RTO, Bangalore (Central) and issue of notice in respect of one vehicle in RTO, Kolar.					
4.	Bangalore (Yelahanka) (1), Gokak (2)	Tax was levied at incorrect rates/pre-revised rates resulting in short levy of tax.	1.14	0.99	0.15
After this was brought to notice, the Government reported (September 2009) recovery of Rs. 8,800 in respect of two vehicles in ARTO, Gokak.					
Total (37)			36.47	22.85	13.62

3.3.4 Non-levy of tax on violation of conditions of surrender

Under the KMVT Act 1957, motor vehicles registered in the State are exempted from payment of tax for the period during which the vehicles are not intended to be used on roads. For obtaining the exemption, the registered owner of the motor vehicle is required to furnish to the registering authority a declaration of non-use specifying the place where it is garaged along with details of payment of taxes up to the date of surrender of the documents. According to the notification issued in August 2003, the regional transport officer or any other officer authorised in this behalf shall have the power to inspect the motor vehicle at the place where it is intimated to have been kept to satisfy himself about the identity and non-use of the vehicle. If on such inspection, the motor vehicle is not found at the declared place, exemption from payment of tax for the entire period of non-use shall not be available.

⁷ Rate of tax varies depending on whether the contract carriage complies with minimum seating capacity based on wheel base of the vehicle prescribed in Rule 151 (2) of Karnataka Motor Vehicle Rules or the vehicle complies with provisions of Central Motor Vehicle Rules.

Test check of the records of Bangalore (Yelahanka) and Hospet RTOs between February and August 2008 revealed that declarations of non-use of five registered motor vehicles were accepted between April 1999 and December 2003 by the Department. However, during inspection by the concerned Inspectors of Motor Vehicles between February 2004 and February 2008, the vehicles were not found at the declared place of garage. Consequently, they had become ineligible for exemption from payment of tax. The tax from the date of surrender to March 2008 worked out to Rs. 9.08 lakh, but no action had been taken to raise demand and recover the same.

After these cases were brought to notice, the Government reported (September 2009) recovery of Rs. 1.24 lakh in respect of three vehicles of RTO, Bangalore (Yelahanka) and issue of demand notices by RTO, Hospet in respect of two vehicles.

CHAPTER-IV: LAND REVENUE

4.1 Results of audit

Test check of records in the Land Revenue offices, conducted during the year 2008-09, disclosed underassessments of revenue amounting to Rs. 11.25 crore in 36 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of conversion fine/compounding fine	18	5.29
2.	Other irregularities	18	5.96
Total		36	11.25

During the year 2008-09, the department accepted underassessments of Rs. 1.75 crore involved in 70 cases and, of that, recovered Rs. 64 lakh in 40 cases pointed out in the earlier years.

After the issue of a draft paragraph, the department recovered the entire amount of Rs. 19 lakh in one case.

A few illustrative audit observations involving Rs. 1.38 crore are given in the following paragraphs.

4.2 Audit observations

Scrutiny of assessment records of land revenue revealed cases of non/short levy of conversion fine and compounding fine as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the officers are pointed out in audit each year but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit.

4.3 Non-observance of provisions of the Acts/Rules

The Karnataka Land Revenue (KLR) Act, 1964 provides for:

- (i) levy of conversion fine in cases of diversion of agricultural land for non-agricultural purposes;*
- (ii) levy of compounding fine in cases of unauthorised diversion of agricultural land for non-agricultural purposes*

The department had not followed the above provisions in cases as mentioned in paragraphs 4.3.1 and 4.3.2. This resulted in non/short levy of conversion fine/compounding fine of Rs. 1.38 crore.

4.3.1 Non-levy of conversion fine

Under the KLR Act 1964, if any land assessed or held for the purpose of agriculture is diverted or used for any other purpose, permission of the Deputy Commissioner (DC) is required. The DC may refuse or grant permission for such diversion subject to payment of a conversion fine and such conditions as he may think fit. Conversion fine is leviable at the rate prescribed under the Rules with reference to the place in which the land is situated and purpose for which the land is put to use. The same provisions apply *mutatis mutandis* in case of diversion of non-agricultural land held for specific purpose to another non-agricultural purpose.

Test check of the records of the DCs, Bellary and Belgaum and Tahsildar, Haliyal between August 2008 and November 2008 revealed that in eight cases of diversion of 311 acres and 37.13 guntas of agricultural land/gomal¹ land for non-agricultural purposes (mining/industrial) between June 2005 and April 2007, conversion fine of Rs. 95.13 lakh though leviable was not levied.

After the cases were brought to notice, the DC, Bellary stated in August 2008 that the conversion fine would be recovered from the concerned. Reply in respect of the remaining two districts has not been received (November 2009).

The cases were reported to the Government in March 2009; their reply has not been received (November 2009).

4.3.2 Non/short levy of compounding fine

Under the KLR Act 1964, if any land assessed or held for the purpose of agriculture is to be diverted or used for any other purpose, permission of the

¹ Land reserved by Government for pasture.

DC is required. In cases of unauthorised diversion, the DC may summarily evict the occupant. Further, under the Act, the DC may compound such diversion or use, on payment of the amount (compounding fine) at prescribed rate.

4.3.2.1 Test check of records of the DC, Mysore in July 2004 and November 2008 revealed that seven orders were issued between February 2000 and July 2007 relating to conversion of 15 acres and 29.5 guntas of agricultural land for non-agricultural purposes (residential/non-residential). During inspection conducted before granting permission for conversion, the department had noticed unauthorised constructions (house/shed/temple/hotel/shop) to an extent of 42,228 square feet and levied compounding fine of Rs. 1.93 lakh against Rs. 12.03 lakh leviable at the rates prescribed by the Government. This resulted in short levy of compounding fine of Rs. 10.10 lakh.

4.3.2.2 Cross-verification of the details of quarrying leases granted between December 2006 and April 2008 by the Department of Mines and Geology in 51 cases covering 62 acres and 25 guntas of land with the records of the DCs, Belgaum and Shimoga between August and December 2008 revealed that permission to divert the land for non-agricultural purposes had not been obtained from the concerned DC. In these cases of unauthorised diversion, compounding fine leviable was Rs. 32.73 lakh, which was not levied.

After these cases were brought to notice, the DC, Mysore stated in November 2008 that compounding fine levied short would be recovered. Reply in respect of DCs, Belgaum and Shimoga has not been received (November 2009).

The cases were reported to the Government in March 2009; their reply has not been received (November 2009).

CHAPTER-V: STAMPS AND REGISTRATION FEES

5.1 Results of audit

Test check of the documents registered in the offices of the sub-registrars, conducted during the year 2008-09, disclosed underassessments of stamp duty and registration fees amounting to Rs. 326.53 crore in 44 cases, under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Levy and collection of stamp duty and registration fees (A review)	01	260.76
2.	Loss of stamp duty and registration fee due to suppression of facts	02	63.91
3.	Short levy of stamp duty and registration fee	22	1.57
4.	Short levy due to undervaluation of properties	10	0.13
5.	Other irregularities	09	0.16
Total		44	326.53

During the course of the year 2008-09, the department accepted underassessments of Rs. 22.47 lakh and recovered the entire amount in nine cases including seven cases which were pointed out in the earlier years.

After the issue of a draft paragraph, the department recovered the entire amount of Rs. 9.37 lakh in one case.

A review on **Levy and collection of stamp duty and registration fees** (Rs. 260.76 crore) and few illustrative audit observations involving Rs. 325.83 crore are mentioned in the succeeding paragraphs.

5.2 Review on Levy and collection of Stamp Duty and Registration Fee

Highlights

No rules prescribing the procedures for conducting inspection of public offices were framed. As such, the department was unaware of any leakage/evasion of revenue on instruments presented before the officers in-charge of public offices.

(Paragraph 5.2.8.2)

Absence of a system of co-ordination with various agencies to ensure realisation of proper duty led to non-realisation of revenue of Rs. 215.44 crore.

(Paragraph 5.2.9)

Leakage of revenue due to non-execution of lease deeds subsequent to revision of mining plans in nine cases amounted to Rs. 2.49 crore.

(Paragraph 5.2.10)

Incorrect classification of bonds led to short levy of stamp duty of Rs. 42.65 crore.

(Paragraph 5.2.13.1)

5.2.1 Introduction

Receipts from stamp duty and registration fees in the State are regulated under The Indian Stamp Act (IS Act) 1899, The Registration Act 1908, The Karnataka Stamp Act (KS Act) 1957 and the rules made thereunder¹. Every instrument chargeable with duty shall be stamped before or at the time of execution. Under the KS Act, every person having by law authority to receive evidence and every person in-charge of a public office, before whom any instrument chargeable with duty is produced, in the performance of his functions, shall impound the same if it appears to him that such instrument is not duly stamped. The instrument so impounded shall be sent in original to the District Registrar. The KS Act empowers authorised officers² to enter and inspect any premises (not being a residential premises) and seize documents if they are not duly stamped. If upon such inspection, the officer is of the opinion that the instrument chargeable with duty is not duly stamped, he shall require the person to pay the duty or the amount required to make up the same and also penalty not exceeding five times the amount of deficient duty thereof.

¹ Rates of stamp duty prescribed under IS Act are applicable in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, debentures, proxies and receipts (Items listed under entry 91 of Union list). Rates of stamp duty prescribed under KS Act are applicable in respect of documents other than those specified in entry 91 of Union list (lease, licence, conveyance etc.).

² Deputy Commissioner or an Assistant Commissioner or any officer not below the rank of a Sub-Registrar authorised by the Deputy Commissioner or Chief Controlling Revenue Authority.

5.2.2 Organisational set up

The levy of stamp duty, registration fees, penalty and other dues under the KS Act and Registration Act is administered by Stamps and Registration Department headed by the Inspector General of Registration and Commissioner of Stamps (IGRCS). The Department functions under the administrative control of the Principal Secretary to Government, Revenue Department.

The IGRCS is assisted by three Deputy Inspectors General of Registration (DIGR), three Assistant Inspectors General of Registration, 33 District Registrars (DRs) and 233 Sub-Registrars (SRs). The levy and collection of stamp duty and registration fees on instruments is done by DRs and SRs. Four Regional Commissioners (RC) under the administrative control of the Revenue Department are the appellate authority in respect of orders passed by DR in respect of undervaluation cases referred to DR or suo motu review taken up by DR.

5.2.3 Audit objectives

The review was conducted with a view to examine the:

- efficiency and effectiveness of the system and procedures relating to collection of stamp duty and registration fees;
- extent of compliance with the prescribed rules and procedures; and
- adequacy of internal audit system for timely detection of errors for initiating suitable remedial measures.

5.2.4 Scope and Methodology of audit

The review was conducted by test check of records in IGRCS office, two RC offices³, 13 DR offices⁴ and 26 SR offices⁵ for the period from 2003-04 to 2007-08 covering 36.91 *per cent* of the total revenue realised under the Head of Account '0030 Stamps and Registration Fee'. Selection of the units was based on the revenue realised, volume of transactions, arrears of revenue and potential risks. The review was conducted between October 2008 and May 2009. The documents registered in SR offices and cases of undervaluation and suo motu review in DR offices were selected for scrutiny by adopting systematic random sampling method. Information in respect of instruments which are not compulsorily registerable was obtained from various agencies to verify the proper realisation of stamp duty.

5.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Revenue Department and IGRCS in providing necessary information and

³ Bangalore, Mysore.

⁴ Bangalore (Rural), Basavanagudi, Belgaum, Dharwad, Gandhinagar, Jayanagar, Kolar, Mandya, Mangalore, Mysore, Rajajinagar, Shivajinagar, Tumkur.

⁵ Anekal, Basavanagudi, Belgaum, Devanahalli, Dharwad, Gandhinagar, Gokak, Hubli, Jayanagar, Kengeri, Kolar, Krishnarajapuram, Kunigal, Malur, Mandya, Mangalore City, Mangalore Taluk, Mysore (North), Mysore (South), Nelamangala, Peenya, Rajajinagar, Shivajinagar, Srirangapatna, Tumkur, Yelahanka.

records for audit. An entry conference was held with IGRCS in October 2008 wherein the scope of audit, methodology and audit objectives including sampling were explained to the Department. The draft review report was forwarded to the Government and the Department in May 2009 and was discussed in the exit conference held in July 2009 with the Principal Secretary to Government, Revenue Department and the IGRCS. The replies of the Government received during the exit conference and at other points of time have been appropriately included in the respective paragraphs.

5.2.6 Trend of revenue

The Karnataka Budget Manual stipulates that in the preparation of the budget, the aim is to achieve as close an approximation to the actuals as possible. It is therefore, essential that not merely should all items of revenue and receipts that can be foreseen be provided but also only so much and no more should be provided as is expected to be realised, including past arrears, in the budget year.

The Budget Estimates (BE), actual realisation of revenue, variation in receipts over BE, percentage of variation and percentage of growth over previous years in respect of stamp duty and registration fee for the years 2003-04 to 2007-08 were as under:

(Rupees in crore)				
Year	Budget Estimates (BE)	Actuals	Percentage of variation of actuals over BE	Percentage of growth over previous year
1	2	3	4	5
2003-04	1,354.00	1,355.69	(+) 0.12	(+) 21.55 ⁶
2004-05	1,600.00	1,759.84	(+) 9.99	(+) 29.81
2005-06	2,180.00	2,212.20	(+) 1.48	(+) 25.70
2006-07	2,586.11	3,205.80	(+) 23.96	(+) 44.91
2007-08	4,400.00	3,408.83	(-) 22.53	(+) 6.33

There was an increase in actual realisation of revenue as compared to budget estimates for the years 2003-04 to 2006-07. Department attributed increase in number of transactions of properties for increase in revenue for 2003-04 to 2006-07 and ban on registration of revenue sites for the decrease in revenue realisation during 2007-08. Though files relating to preparation of estimates were called for, the same were not made available to audit.

5.2.7 Arrears of revenue

The Department had prescribed a Management Information System (MIS) (which included a format prescribed to indicate the arrears of revenue) to be sent monthly by each DR to the IGRCS. However, the information when called for from the IGRCS was obtained from the DRs, indicating that the information in MIS was not being consolidated at IGRCS office.

⁶ Revenue realised during the year 2002-03 was Rs.1,115.35 crore.

As per the information furnished by the Department, Rs. 77.65 crore was pending collection as on 31 March 2008.

Audit observed that the closing balances of all years did not tally with the opening balances of the next year. Thus, figures furnished were not reliable and needed reconciliation. After this was brought to notice, the department stated (July 2009) that the figures would be reconciled after obtaining correct closing balance and opening balance of each DR.

Audit findings

System deficiencies

5.2.8 Inspections

5.2.8.1 Inspection of registering offices

There is no separate Internal Audit Wing (IAW) in the department. Karnataka Registration Rules, 1965, provides for inspection of the registering offices by DRs, IGRCS and Inspectors (Headquarters Assistant). Every DR is required to inspect 50 *per cent* of the offices of SRs in his district at least once a year while the Inspectors are required to inspect all the SRs once a year. The IGRCS was also required to inspect at least one SR in each district and fifty *per cent* of the offices of DRs every year.

As per the information furnished, 1,658 units were required to be inspected by DRs and Inspectors during the period 2003-04 to 2007-08 against which only 697 units were covered resulting in shortfall of 961 units as mentioned below:

Year	Number of units to be inspected	Number of units covered in inspection	Shortfall	Percentage
2003-04	316	107	209	66.14
2004-05	331	140	191	57.70
2005-06	331	128	203	61.33
2006-07	331	146	185	55.90
2007-08	349	176	173	49.57
Total	1,658	697	961	57.96

The shortfall in inspection ranged between 49.57 *per cent* and 66.14 *per cent* during the period 2003-04 to 2007-08. The shortfall in inspection was attributed to inadequate staff.

5.2.8.2 Absence of rules for conducting inspection of public offices

As per Section 67 of the KS Act, authorised officers⁷ may require every public officer⁸ for production of the records, registers, books, etc., for inspection

⁷ Any person authorised in writing by the Deputy Commissioners.

⁸ Officer in-charge of an office created by the Constitution of India or by any statute and vested with the power or charged with the duty of acting in execution or in enforcement of law.

which may tend to secure any duty. Further, Section 67-B of the KS Act, empowers authorised officers to enter and inspect any premises (not being a residential premises) and seize documents if they are not duly stamped. If upon such inspection, the officer is of the opinion that the instrument chargeable with duty is not duly stamped, he shall require the person liable to pay the proper duty or the amount required to make up the same and also penalty not exceeding five times the amount of deficient duty thereof.

It was noticed in audit that no rules prescribing the procedures for conducting the inspections had been framed. No inspections were conducted during 2003-04 to 2007-08. As such, the department was not aware of any leakage of revenue due to evasion of stamp duty on instruments not required to be presented for registration.

After this was brought to notice of the department, the IGRCS stated (July 2009) that rules would be framed to enable effective implementation of the provision and to minimise the leakage of revenue towards stamp duty.

5.2.9 Absence of a system of co-ordination with various agencies to ensure realisation of proper duty

Audit noticed that the department had not prescribed any returns to obtain data periodically regarding instruments chargeable with duty and details of duty realised thereon when presented before the officers-in-charge of public offices. There was no co-ordination between Stamps and Registration Department and other departments, local bodies, etc., before whom documents⁹ chargeable with stamp duty were presented. As such, the department could not monitor the realisation of proper stamp duty.

Audit obtained data from various institutions/boards/Government undertakings/Public sector banks which revealed non/short realisation of stamp duty of Rs. 213.14 crore and registration fee of Rs. 2.30 crore during 2003-04 to 2007-08 as mentioned in the succeeding paragraphs.

5.2.9.1 Non-realisation of stamp duty on conveyance relating to industrial machinery

As per article 20(5) of the Schedule to the KS Act, stamp duty at five *per cent* of the market value was leviable on conveyance relating to industrial machinery.

As per the information obtained from the offices of the Commissioners of Central Excise, Bangalore-III Commissionerate and Mysore, nine companies¹⁰ manufacturing industrial machinery had sold industrial machinery valued at Rs. 339.53 crore during the years 2003-04 to 2007-08. The total stamp duty payable amounted to Rs. 16.98 crore which was not realised.

⁹ acknowledgements, amalgamation orders, bonds, certificates of sale, clearance list, conveyance relating to industrial machinery, debentures, leases, licences, share certificates.

¹⁰ M/s Bangalore Integrated Systems, M/s Bharat Fritz Werner, M/s Hightemp Furnaces Limited, M/s HMT (Machine Tools Division) Limited, M/s Naetek Ferrocast Private Limited, M/s Shantala Spherocast Private Limited, M/s Thermit Alloys Private Limited, M/s Triveni Engineering Industries, M/s Vijay Technocrats.

5.2.9.2 Non/short realisation of stamp duty in respect of certificates of shares

As per Article No.16 of the Schedule to the KS Act, stamp duty on certificate or other document evidencing the right or title of the holder thereof to any share in or of any incorporated company or other body corporate or to become proprietor of share in or of any such company or body was leviable at one rupee for every one thousand rupees or part thereof of the value of the share including the amount of premium, if any.

Audit noticed that there was no co-ordination between the department and the Registrar of Companies (RoC)/Securities and Exchange Board of India (SEBI) to obtain information regarding issuing of shares, amount realised or to be realised thereunder on a periodic basis so as to monitor the stamp duty payable thereon.

As per the information obtained from RoC, SEBI and Government undertakings, it was noticed that during the years 2003-04 to 2007-08, 19 Government undertakings¹¹, 23 incorporated companies¹² and two banks¹³ issued 1,12,77,01,840 shares valued at Rs. 14,834.12 crore. The total stamp duty payable on the certificates of shares issued amounted to Rs. 14.83 crore against which Rs. 6 lakh was paid by one bank and Rs. 60,000 was paid by one Government undertaking. This resulted in non/short realisation of stamp duty of Rs. 14.77 crore.

After this was brought to notice, Mangalore Electricity Supply Company Limited, Karnataka Silk Industries Corporation Limited and D. Devaraj Urs Backward Classes Development Corporation remitted the entire duty of Rs. 10.03 lakh, Rs. 4.49 lakh and Rs. 1.30 lakh in March, July and August 2009 respectively. Reply in respect of the other cases has not been received (November 2009).

¹¹ Bangalore Mass Rapid Transit System Limited (now Bangalore Metro Rail Corporation Limited), Bharat Earth Movers Limited, B. R. Ambedkar Development Corporation Limited, Cauvery Neeravari Nigama Limited, D. Devaraj Urs Backward Classes Development Corporation Limited, Gulbarga Electricity Supply Company Limited, Karnataka Fisheries Development Corporation, Karnataka Food and Civil Supplies Corporation Limited, Karnataka Handlooms Development Corporation Limited, Karnataka Land Army Corporation, Karnataka Minorities Development Corporation Limited, Karnataka Neeravari Nigama Limited, Karnataka Road Development Corporation Limited, Karnataka Silk Industries Corporation Limited, Karnataka State Tourism Development Corporation Limited, Karnataka Togari Abhivruddhi Mandalli Limited, Karnataka Women Development Corporation Limited, Krishna Bhagya Jala Nigama Limited, Mangalore Electricity Supply Company Limited.

¹² Advanta India Limited, Bal Pharma, Biocon Limited, Brigade Enterprises Limited, Daksha Info Services Private Limited, Deccan Gold Mines Limited, GMR Infrastructure Limited, Gokaldas Exports Limited, Indus Fila Limited, Khoday's Systems, Manjushree Extrusions Limited, Mindtree Consulting Limited, On Mobile Global Limited, Opto Circuits India Limited, Page Industries Limited, Powersoft Global Solutions Limited, Royal Orchid Hotels Limited, Shree Renuka Sugars Limited, Sobha Developers Private Limited, Tata Coffee Limited, Transworks IT Services (India) Private Limited, United Breweries Limited, Vivimed Labs Limited.

¹³ ING Vysya Bank, Karnataka Bank.

5.2.9.3 Non/short realisation of stamp duty in respect of Bonds

Article 27 of IS Act prescribed levy of stamp duty on debentures being a marketable security¹⁴. According to Section 2(12) of Companies Act, 1956, “debenture” includes bond. As per circular issued by SEBI in September 2003, bonds (debt instruments) are to be listed in stock exchanges. The rate of stamp duty for debenture was seven rupees fifty paise for every rupees 500 or part thereof in excess of rupees 1,000 up to 29 February 2004 and three rupees seventy-five paise for every rupees 500 or part thereof in excess of rupees 1,000 from 1 March 2004.

As per the information obtained from three companies¹⁵, 29,955 bonds were issued during 2003-04 to 2007-08 valued at Rs. 749.55 crore and the stamp duty of Rs. 7.49 crore was realisable from the companies. However, only one company paid only Rs. 2 lakh against Rs. 3.74 crore payable. This has resulted in non/short realisation of stamp duty of Rs. 7.47 crore.

5.2.9.4 Non/short realisation of stamp duty in respect of clearance list

As per Article 18-A of the Schedule to the KS Act, stamp duty in respect of ‘Clearance List’¹⁶ was leviable at one rupee for every ten thousand rupees or part thereof of the value of the security at the time of its purchase or sale, as the case may be.

As per the information obtained from Bombay Stock Exchange (BSE), Mumbai and National Stock Exchange Limited (NSE), Mumbai, 19 trade members¹⁷ having registered offices in Karnataka were registered with them. The total turnover of these trade members relating to trading of marketable securities in BSE and NSE for the years 2003-04 to 2007-08 was Rs. 1,43,537.20 crore and stamp duty payable worked out to Rs. 14.35 crore which was not realised.

Further, it was noticed that 29 trade members had their registered offices outside the State of Karnataka and had 622 branches in Karnataka. The turnover relating to transactions of branches situated in Karnataka could not be ascertained. Hence, the stamp duty realisable could not be computed.

5.2.9.5 Non/short realisation of stamp duty in respect of licences

As per Article 32-A of the Schedule to the KS Act, ‘Licence of immovable or movable property’ granted by owner or authority for rent or fee or by whatever name it is called is liable to duty. The minimum rate of stamp duty on licences was five *per cent* of the fee realised.

¹⁴ Marketable security means a security of such description capable of being sold in any stock exchange in India or the United Kingdom.

¹⁵ Cauvery Neeravari Nigama Limited, Karnataka State Financial Corporation, Karnataka State Industrial Investment and Development Corporation Limited.

¹⁶ A list of transactions relating to contracts either maintained by an association or an individual or required to be submitted to the Clearing House of an association in accordance with the rules or bye-laws of the association and shall include all the transactions pertaining to sale as well as purchase of marketable securities.

¹⁷ Trade member means a member of BSE/NSE who is authorised to do trading activities.

Information obtained from State Excise Department, Transport Department and Bangalore Development Authority (BDA) revealed that they had issued licences for manufacture and sale of liquor, driving licences and licences for occupation of commercial complexes respectively during 2005-06 to 2007-08 and had realised licence fee of Rs. 517.89 crore. The minimum stamp duty realisable thereon was Rs. 25.89 crore against which stamp duty of Rs. 3,550 only was realised in respect of licences issued by BDA. This resulted in non/short realisation of stamp duty of Rs. 25.89 crore.

5.2.9.6 Non/short realisation of stamp duty in respect of leases

Article 30 (1) of the Schedule to the KS Act stipulates levy of stamp duty on 'lease of immovable property' granted by owner or authority for rent or fine or premium or for money advanced or for money advanced in addition to rent or fee or by whatever name it is called. The stamp duty was to be determined considering the average annual rent reserved or lump sum advance paid, if any, and the term for which lease was given. As per the provisions of the KS Act, lease of immovable properties include any instrument by which tolls of any description are let. Under the Registration Act 1908, lease of immovable property for any term exceeding one year is required to be compulsorily registered.

Information obtained from the National Highway Divisions, Karnataka State Industrial Investment and Development Corporation Limited (KSIIDC), Forest Department and Department of Mines and Geology (DMG) revealed non/short realisation of stamp duty of Rs. 17.71 crore and registration fees of Rs. 2.30 crore in respect of 163 lease agreements as mentioned below:

- The National Highways Division, Chitradurga executed a lease agreement in 2007-08 to collect tolls on Hagari Bridge and the consideration of lease amounted to Rs. 1.08 crore. However, the lease agreement was not registered. The stamp duty payable as per KS Act was Rs. 8 lakh against which the agreement was executed on stamp paper of Rs. 100 only. This resulted in short realisation of stamp duty of Rs. 8 lakh and registration fee of Rs. 1 lakh.
- 40 lease documents were executed during the years 2005-06 to 2007-08 by 17 divisions of Forest department for diversion of 2,821.759 hectares of forest land for different periods ranging from 10 to 30 years. Of these, 25 lease documents were registered and the remaining documents were not registered. The net present value¹⁸ of Rs. 209.26 crore was collected from the lessees for grant of lease in all the 40 cases. Stamp duty of Rs. 16.63 crore and registration fee of Rs. 2.13 crore were leviable against which stamp duty of Rs. 41.92 lakh and registration fee of Rs. 66,000 were realised. This resulted in non/short realisation of stamp duty of Rs. 16.21 crore and registration fee of Rs. 2.12 crore due to omission to consider net present value for levy of stamp duty in respect of such leases.

¹⁸ An amount collected at the prescribed rates for diversion of forest land for non-forestry purposes as per the Forest Conservation Act, 1980.

- 30 lease agreements executed during the years 2005-06 to 2007-08 by the KSIIDC for a consideration of Rs. 16.99 crore for occupation of its premises for a period of three years were not registered. The agreements were executed on stamp paper of Rs. 100 each. Stamp duty of Rs. 85 lakh and registration fee of Rs. 17 lakh leviable was not realised.
- 82 lease agreements were executed by the DMG during the years 2006-07 and 2007-08 for a consideration of Rs. 11.43 crore for quarrying ordinary sand for a period of one year. However, the stamp duty realisable amounting to Rs. 57 lakh had not been realised.

5.2.9.7 Non/short realisation of stamp duty in respect of acknowledgements

As per Article 1 of the Schedule to KS Act, stamp duty leviable for 'acknowledgement of a letter, article, document, parcel, package or consignment, of any nature or description whatsoever or by whatever name called, given by a person, courier company, firm, or body of persons whether incorporated or unincorporated to the sender of such letter, article, document, parcel, package or consignment' was Re. 1 for every Rs. 100 or part thereof of the amount charged therefor.

As per the information collected from South-Western Railways and four Commissionerates¹⁹ of service tax (in respect of couriers and goods transport operators by road) for the years 2005-06 to 2007-08, the charges collected by them from the senders for delivery of the parcels, etc., amounted to Rs. 11,597.48 crore²⁰. The acknowledgements issued by them attracted minimum stamp duty of Rs. 115.97 crore which was not realised.

After the above cases involving non/short realisation were brought to the notice of the Department, the IGRCS replied that they had addressed the Government (Revenue Department) to notify the public offices under Section 33 of KS Act and had sought sanction from Government for additional posts of DIGR to man their enforcement cell. It was further stated that the DRs had been directed to conduct inspection in respect of these cases.

5.2.10 Leakage of revenue due to non-execution of lease deeds subsequent to revision of mining plans

Section 27 of the KS Act stipulates that in the case of lease of mines granted by or on behalf of the Government in which royalty is received as rent, it shall, for the purpose of levy of stamp duty, be sufficient to have royalty claimable under such lease estimated by the Deputy Commissioner having regard to all the circumstances of the case. As per the circular of 1990 issued by the Commerce and Industries Department, the DMG computes the estimated

¹⁹ Bangalore, Belgaum, Mangalore, Mysore.

²⁰ The total revenue earnings from parcel/luggage/consignment was furnished by the South Western Railway Zone, Hubli. In respect of couriers and goods transport operators, the total revenue has been computed with reference to the data on service tax paid by them as obtained from the Commissioner of Service Tax, Bangalore and the Chief Commissioner of Central Excise & Service Tax, Mysore.

royalty realisable from a mining lease and indicates the same in the lease deed executed which is considered for levy of stamp duty.

Test check of records of the DMG revealed that nine mining lease agreements were executed between December 2003 and March 2007. Stamp duty of Rs. 1.22 crore and registration fees of Rs. 13 lakh was paid based on the consideration of Rs. 13.57 crore, being the anticipated average annual royalty mentioned in the lease deeds. Thereafter, the mining plan had been revised for enhancing the extraction of ore. The consideration based on the increased anticipated royalty mentioned in revised mining plan amounted to Rs. 43.92 crore. However, revised lease deeds based on the enhanced consideration on account of revision of mining plan were not executed. This resulted in escapement of stamp duty of Rs. 2.19 crore and registration fees of Rs. 30 lakh on the enhanced consideration due to differential royalty.

After this was brought to the notice of the department, the department stated that the DMG had been addressed to execute supplementary lease deed in such cases to enable collection of differential stamp duty and registration fees.

5.2.11 Disposal of cases selected for suo motu review

Section 45(A)(3) of the KS Act provides for DR to suo motu call for the instrument within two years from the date of registration and examine the correctness of the market value of the property and the duty payable thereon. However, no specific time limit has been prescribed in the KS Act for disposal of cases taken up for suo motu review. The KS Act provides for the IGRCS to suo motu call for and examine the records relating to the orders passed by the DRs within five years from the date of order passed by the DR.

It was noticed in audit that IGRCS had not selected any case for suo motu review during 2003-08. No targets were fixed by the IGRCS prescribing the minimum number of cases to be taken up for suo motu review by DR. During 2003-04 to 2007-08, four²¹ out of 33 DRs had not selected any cases for suo motu review.

Test check of the suo motu review cases disposed of during 2003-04 to 2007-08 revealed the following:

- In five DRs²², 27 cases were selected for suo motu review beyond two years from the date of registration which was in contravention to the provisions of the Act. Of these, 19 cases were pending adjudication as of May 2009.
- A considerable delay was noticed in disposal of the cases in 13 DRs. Audit selected 303 cases by systematic random sampling method and noticed that time taken to dispose the cases ranged from 10 days to 176 months from the date of initiation of suo motu proceedings. The age-wise analysis is mentioned below:

²¹ Bellary, Bidar, Gulbarga, Kodagu.

²² Bangalore (Rural), Gandhinagar, Jayanagar, Mandya, Shivajinagar.

Cases disposed of	Number of cases
Within 03 months	93
Between 03 months and 06 months	40
Between 06 months and 01 year	63
Between 01 year and 02 years	66
Between 02 years and 03 years	11
Between 03 years and 05 years	06
Between 05 years and 10 years	01
Beyond 10 years	23

After this was brought to the notice of the department, the IGRCS issued a circular on 30 June 2009 prescribing targets for suo motu review by DRs and also instructed to dispose of cases as far as possible within 90 days from the date of initiation of proceedings. IGRCS further stated that self prescribed targets would be fixed for selection of cases for suo-motu review and the cases disposed of in 2-3 hearings.

5.2.12 Disposal of appeal cases

Under the KS Act, any person aggrieved by an order of the DR can prefer an appeal within two months from the date of communication of order. As per provisions of the Limitation Act, 1963, delay in preferring appeal can be condoned if the appellate authority is satisfied with the cause mentioned for not preferring the appeal within the specified period. Prior to 1 April 2003, the Divisional Commissioners were responsible for disposal of appeal cases. From 1 April 2003 to 4 January 2007, DIGRs were entrusted the work of disposal of appeal cases and from 5 January 2007, the RCs²³ have been again entrusted with the work of disposal of appeal cases. However, no time limit has been fixed for disposal of appeal cases.

5.2.12.1 As per the information furnished by three RC offices²⁴, 862 cases were pending adjudication as on 31 March 2008. Year-wise analysis of the pending cases is given below:

Year	Number of cases pending
1997-98 to 2002-03	274
2003-04	135
2004-05	176
2005-06	123
2006-07	73
2007-08	81

5.2.12.2 Further information furnished by two RCs²⁵ revealed that time taken to dispose of 142 cases ranged from 1 month 27 days to 11 years 6 months. Age-wise analysis is given below:

²³ Divisional Commissioners were re-designated as Regional Commissioners.

²⁴ Bangalore, Belgaum, Gulbarga.

²⁵ Bangalore, Mysore.

Cases disposed of	Number of cases
Within 03 months	06
Between 03 months and 06 months	31
Between 06 months and 01 year	23
Between 01 year and 02 years	22
Between 02 years and 03 years	07
Between 03 years and 05 years	06
Between 05 years and 10 years	44
Beyond 10 years	03

Thus, it would be seen from the above that there has been a considerable delay in disposal of the cases by DIGRs/RCS.

In the absence of a mechanism for early disposal of cases, the revenue significance is adversely affected in those cases in the above RCS.

5.2.12.3 Test check of 142 cases disposed of during 2003-04 to 2007-08 revealed that appeal in respect of 120 cases had been preferred after a delay ranging from 3 days to 11 years after the prescribed period. Of these, in 71 cases, there were no explicit orders for condonation of delay.

After this was brought to the notice of the department, the IGRCS stated that the matter would be taken up with the Government for prescribing time limit for disposal of appeal cases.

Compliance Deficiencies

5.2.13 Assessments

5.2.13.1 Short levy of stamp duty due to misclassification of bonds

Bond comes under the meaning of securities as per Section 2(16-A) of IS Act, read with Section 2(h) of the Securities Control (Regulation) Act, 1956. According to Section 2(12) of Companies Act, 1956, “debenture” includes bonds. As per SEBI’s Circular²⁶, it was mandatory that all bonds shall be issued and traded in demat form and such bonds shall be listed in stock exchanges. Therefore, bonds are capable of being sold in NSE/BSE. A promissory note is an instrument containing an unconditional undertaking to pay a certain sum of money only to the bearer, which does not fall within the definition of securities.

During the course of audit, it was noticed that, seven²⁷ banking companies have issued Bonds in the nature of promissory notes valued at Rs. 11,413.20 crore and paid stamp duty on bonds at the rate applicable to the promissory notes amounting to Rs. 48.49 crore. Audit scrutiny revealed that these bonds were marketable securities and were transferable by endorsement and delivery. Further, they could not be redeemed during their tenure. Therefore, they had essential features of debentures and stamp duty of Rs. 91.14 crore should have been levied. Thus, the incorrect classification of instrument resulted in short levy of stamp duty amounting to Rs. 42.65 crore.

²⁶ Circular No. SEBI/MRD/SE/AT/36/2003/30/09 dated 30.09.2003.

²⁷ Canara Bank, Corporation Bank, ING Vysya Bank, Karnataka Bank Limited, State Bank of Mysore, Syndicate Bank, Vijaya Bank.

After this was brought to the notice of the department, the IGRCS stated that the matter would be pursued with the banking companies. Further progress in the case has not been intimated (November 2009).

5.2.13.2 Short levy of stamp duty and registration fees due to undervaluation

Under the KS Act, if the registering officer while registering any instrument has reason to believe that the market value of the properties has not been truly set forth, he shall estimate the market value and upon payment of duty on such market value, register the document. Further, market value of properties is determined in accordance with the guidelines published by the Government from time to time for the purpose of levy of stamp duty and registration fee.

In SRs, Peenya and Jayanagar, five documents were registered for a consideration of Rs. 9.21 crore between March 2005 and June 2007, on which stamp duty of Rs. 56.20 lakh and registration fees of Rs. 6.27 lakh were levied. However, as per the guidelines issued by the Government, market value of the properties worked out to Rs. 12.14 crore and stamp duty of Rs. 69.98 lakh and registration fees of Rs. 7.72 lakh were leviable in these cases. Thus, undervaluation of the properties resulted in short levy of stamp duty of Rs. 13.78 lakh and registration fee of Rs. 1.45 lakh.

After this was brought to the notice of the department, the IGRCS directed the concerned DRs to initiate recovery proceedings under the KS Act and Registration Act.

5.2.13.3 Short levy of stamp duty and registration fee

Audit scrutiny of 10 documents registered in three SRs revealed short levy of stamp duty of Rs. 2.07 lakh and registration fee of Rs. 90,000 as detailed below:

Sl. No.	Name of the SR	No. of documents	(Rupees in lakh)	
			Stamp duty	Registration fee
1.	Peenya	01	1.33	0.15
An instrument involving undervaluation of two properties located in the same area were referred to DR, Rajajinagar by SR, Peenya in April 2006. Of these, the value of one property was enhanced while the value of other was omitted to be enhanced. This resulted in short levy of stamp duty of Rs. 1.33 lakh and registration fee of Rs. 15,000.				
2.	Mysore (South)	01	-	0.75
In lease deed registered in January 2007, registration fee of Rs. 75,000 leviable on refundable security deposit of Rs. 75 lakh was not levied.				
3.	Mysore (North)	08	0.74	-
In respect of eight documents relating to 'joint development agreement' and 'general power of attorney for development purposes' registered between April and June 2007, stamp duty was levied at pre-revised rates/incorrect rates, resulting in short levy of stamp duty of Rs. 74,000.				
Total		10	2.07	0.90

After this was brought to the notice of the Department, the IGRCS stated that in respect of Sl.No.1, the case would be taken for up suo-motu review under Section 53-A of KS Act and in respect of other cases, the concerned DRs have been directed to initiate recovery proceedings under Section 46-A of the KS Act.

5.2.14 Other irregularities

5.2.14.1 Remittances

In terms of Karnataka Financial Code, 1958 (KFC), all Government moneys received shall be paid in full without undue delay, in any case, within two days into the Government treasury for being credited to the appropriate head of account. As per KFC, reconciliation of remittance with treasury figures was to be done within one month after the close of the month.

Test check of remittances revealed the following:

- In three²⁸ SRs, in seven cases, delay upto 39 days in remittance of cash involving Rs. 59,000 beyond the prescribed period was noticed.
- In seven²⁹ SRs, there were delays upto 10 days in remittance of demand drafts/pay orders amounting to Rs. 36.02 lakh.
- In 18³⁰ SRs, in 938 cases of remittances into banks involving Rs. 24.32 crore, delay upto 185 days in realisation of money into Government account was noticed.
- In seven³¹ SRs, reconciliation of remittances in respect of 132 months was not done. In SR, Mandya, in respect of 19 months, there was a delay upto 11 months 17 days beyond the prescribed period.

After this was brought to the notice of the Department, the IGRCS stated that necessary remedial measures would be taken up to avoid delay in remittances.

5.2.14.2 Central Valuation Committee

Government in August 2003 formed the Karnataka Stamp (Constitution of Central Valuation Committee (CVC) for estimation, publication and revision of market value guidelines of properties) Rules, 2003. The Sub-committees formed for each district were required to publish the intention of such estimation or revision and after considering all such suggestions and objections received from the public, process the guideline market values. The DR were required to forward the guideline values determined by the sub-committee to the CVC along with his remarks. The CVC was required to take final decision on the estimation of the market value after considering the suggestions made by the sub-committees and Registrars as far as possible and the approved statements were required to be published.

In respect of eight taluks in Mandya district, for the year 2005-06, the revision of guideline values by sub-committee recommended by the DR was sent to the CVC between March 2005 and February 2007. The same were not considered for approval by CVC since the procedure of publishing the intention of such revision in newspapers calling for public opinion/objection before finalisation

²⁸ Hubli, Kunigal, Nelamangala.

²⁹ Anekal, Jayanagar, Yelahanka, Tumkur, Kengeri, Belgaum, Gokak.

³⁰ Anekal, Belgaum, Devanahalli, Gandhinagar, Indiranagar, Jayanagar, Kengeri, Kolar, Malur, Mangalore (City), Mangalore (Taluk), Mysore (North), Mysore (South), Nelamangala, Peenya, Rajajinagar, Srirangapatna, Yelahanka.

³¹ Dharwad, Gandhinagar, K.R. Puram, Mandya, Mysore (South), Rajajinagar, Yelahanka.

had not been adhered to. However, no action was taken by the Department to rectify the procedural lapses and revise and publish the revised guideline values. The guideline market values were next revised and made effective from 1 March 2008, i.e., after a delay of three years. Stamp duty and registration fees were levied as per guideline values published in December 2001 for the period March 2005 to February 2008. Thus, delay in revising guideline market values resulted in foregoing of revenue to the Government.

After this was brought to the notice of the Department, the IGRCS stated that the matter would be examined.

5.2.15 Conclusion

There was no system in the department to obtain data periodically from the Officers in-charge of public offices to ensure realisation of proper duty on instruments presented before them. There was no co-ordination between stamps and registration department and other departments, local bodies, etc., before whom documents liable to stamp duty were presented. As such, the department could not monitor the realisation of proper stamp duty. In the absence of rules prescribing the procedures for conducting inspections of public offices, the department had not conducted any inspections and consequently the department was unaware of any leakage of revenue due to evasion of stamp duty and registration fee on instruments liable to duty.

5.2.16 Recommendations

The Government may consider:

- installing a system in the department for co-ordination with various departments/agencies to monitor realisation of proper stamp duty and registration fee on instruments presented before them.
- framing rules prescribing the procedures for conducting inspections to prevent any leakage of revenue due to evasion of stamp duty on instruments not required to be presented for registration.
- prescribing a mechanism for early disposal of appeal cases.
- setting up of an IAW to ensure timely detection and correction of errors in levy and collection of stamp duty and registration fee.

5.3 Other audit observations

Scrutiny of records relating to levy of stamp duty and registration fee revealed cases of non-detection of suppression of facts and evasion of stamp duty and short levy of stamp duty and registration fees as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of the offices are pointed out each year in audit, not only do the irregularities persist; but these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit.

5.4 Non-observance of provisions of the Acts/Rules

The Karnataka Stamp Act, 1957 provides:

- (i) that all facts affecting chargeability to duty are to be mentioned in the instrument and any person who executes any instrument which does not set forth all the facts affecting the amount of duty shall be punishable with a penalty not exceeding five times the deficient duty;*
- (ii) levy of stamp duty and registration fees on documents on the guideline market value published by the department or the consideration stated in the document, whichever is more; and*
- (iii) levy of stamp duty and registration fees on different instruments at rates prescribed in the Schedule to the Act.*

The Sub-Registrars had failed to detect suppression of facts resulting in evasion of stamp duty and had not followed the above provisions in cases as mentioned in paragraphs 5.4.1 to 5.4.5. This resulted in non/short levy of stamp duty and registration fees of Rs. 65.07 crore.

5.4.1 Leakage of stamp duty

As per the KS Act 1957, stamp duty on an agreement of sale is Rs. 100 when possession of the property is not given and same as a conveyance when possession of the property is delivered. As per the explanation to article 5(e) of the Schedule to the KS Act, when reference of a power of attorney (GPA) granted separately by the seller to the purchaser in respect of the property which is the subject matter of the sale agreement is made in the agreement, the possession of the property is deemed to have been given. Stamp duty on a GPA given for development or sale was Rs. 1.50 lakh when the market value of the property exceeded Rs. 10 crore. The consideration and all other facts and circumstances affecting the amount of duty chargeable on an instrument shall be fully and truly set forth therein. Section 61(a) of the KS Act provides that any person, who with intent to defraud the Government, executes any instrument in which all the facts and circumstances required to be set forth are not fully and truly set forth, shall be punishable with fine which may extend to five times the amount of the deficient duty thereof.

5.4.1.1 In SR, Devanahally, a sale agreement and a GPA were executed by two persons on 27 December 2007 in respect of converted land measuring 86 acres 24.50 guntas with a market value of Rs. 116.87 crore. The executants did not mention the fact of execution of GPA in the sale agreement though these were executed on the same day and presented for registration to two different registering authorities in the same office. The two documents were

levied stamp duty of Rs. 100 and Rs. 1.5 lakh treating them as separate instruments of sale agreement without possession and GPA. Stamp duty of Rs. 8.76 crore and registration fee of Rs. 1.17 crore were leviable on this transaction in view of explanation in the schedule. The Department did not detect the suppression of facts by the executants which resulted in loss of revenue to Government. Besides, penalty of Rs. 43.75 crore was leviable for suppression of facts. Further, the said agreement was cancelled vide cancellation deed registered on 27 August 2008 and stamp duty of Rs. 200 levied thereon. As per article 14 of the KS Act, stamp duty leviable on a cancellation deed is the same as the duty levied on the original instrument. Hence, stamp duty leviable on cancellation deed was Rs. 8.76 crore.

5.4.1.2 In SR, Mysore (North), two sale agreements and two GPAs were registered on 25 January 2008. Stamp duty of Rs. 100 each on the sale agreement and GPAs were levied. The purchaser, “an employees’ co-operative society” was the same in both the agreements. The fact of execution of the GPA in favour of the President of the employees co-operative society was not mentioned in both the agreements for sale. The stamp duty and registration fee leviable on these two agreements for sale on the market value of the property of Rs. 3.01 crore was Rs. 22.58 lakh and Rs. 3.01 lakh in view of the explanation in the schedule. Besides, penalty of Rs. 1.13 crore for suppression of facts affecting chargeability to duty at five times the deficit stamp duty was also leviable. The Department did not detect the suppression of facts leading to loss of revenue to Government.

After this was brought to the notice of the Department, the Department reported that the cases had been referred to the concerned DRs to initiate action under section 46A of the Act.

5.4.2 Evasion of stamp duty

Under the KS Act, 1957, stamp duty on various instruments is leviable as per the Schedule to the Act. Section 28 of the KS Act stipulates that the consideration and all other facts and circumstances affecting the chargeability of any instrument with the amount of duty shall be fully and truly set forth in the instrument. Further, under the provisions of the Act, Government constituted committees for estimation of guideline market values of properties and the same were published from time to time for the purpose of levy of stamp duty and registration fee. As per the instructions contained in the guideline market value published in October 2005, agricultural land converted for residential purposes had to be valued at 50 *per cent* more than the value of the agricultural land.

Test check of the records of Sub-Registrar, Peenya in November 2008 revealed that a sale deed conveying 15 acres of agricultural land for a consideration of Rs. 1.50 crore was registered in April 2006. Market value of the property was determined at Rs. 4.05 crore at the rate of Rs. 27 lakh per acre for agricultural land as per guideline value published and stamp duty of Rs. 34.34 lakh and registration fee of Rs. 4.05 lakh were levied. Another sale deed relating to a site formed in the above land was registered in April 2007. Recitals in the second document revealed that the land conveyed in the first document had been converted for non-agricultural purposes (residential) between November 2003 and July 2004. However, the fact of conversion was

concealed in the first sale deed. The value of the converted land conveyed worked out to Rs. 6.07 crore and stamp duty of Rs. 51.48 lakh and registration fee of Rs. 6.07 lakh were leviable. Thus, suppression of facts resulted in short levy of stamp duty of Rs. 17.14 lakh and registration fees of Rs. 2.02 lakh. Besides, maximum penalty of Rs. 85.70 lakh was also leviable for suppression of facts in the instrument.

After the case was brought to the notice of the department, the department reported in June 2009 that action had been initiated under section 46 A of the KS Act and section 80A of the Registration Act, 1908 for recovery of deficient duty and fees respectively.

The matter was reported to the Government in May 2009; their reply has not been received (November 2009).

5.4.3 Short levy of stamp duty and registration fee

Under the KS Act, 1957, stamp duty on instruments is leviable at rates prescribed in the Schedule to the Act. In case of immovable properties, stamp duty is levied on the consideration mentioned in the instrument or the guideline market value published by the Government, whichever is higher.

Test check of the records of two Sub-Registrar's offices between March and October 2008 revealed that the consideration for levy of stamp duty and registration fees was incorrectly computed resulting in short levy of stamp duty of Rs. 7.63 lakh and registration fees of Rs. 90,000 as mentioned below:

Office	Document number/ Date of execution	Market value	Stamp duty			Registration fees		
			Leviable	Levied	Short levy	Leviable	Levied	Short levy
			(Rupees in lakh)					
SRO, Jayanagar	3894/07-08 (Exchange deed) 25.01.08	202.39	17.00	10.89	6.11	2.02	1.30	0.72
As per the KS Act, stamp duty in respect of an exchange deed is leviable on the market value of the property of greatest value among the properties exchanged. As per the recitals of an exchange deed registered in January 2008, the area of both the properties (A & B) exchanged was same, that is, 3,240 square feet and were located in the same area. Stamp duty had been accordingly levied on the market value of one of the properties. Audit scrutiny in October 2008 revealed that the extent of property A was 3,564 square feet as per recitals of the document and that of property B was 5,059.80 square feet as per a map appended to the document. Hence, stamp duty and registration fee had to be levied on the market value of property B which was larger. Levy of stamp duty on market value of property for 3,240 square feet resulted in short levy of stamp duty and registration fees.								
SRO, Nelamangala	9593/06-07 (Conveyance) 19.02.07	43.00	3.64	2.12	1.52	0.43	0.25	0.18
The property conveyed was 3 acres and 4 guntas of dry agricultural land in survey numbers 1/2, 1/3 and 113/2. The market value of the property as per the guideline values was Rs. 43 lakh computed at Rs. 15 lakh per acre for survey number 1/2 and 1/3 and Rs. 8 lakh per acre for survey number 113/2. However, stamp duty and registration fees were levied on the consideration of Rs. 25 lakh cited in the instrument resulting in short levy of stamp duty and registration fees.								
Total			20.64	13.01	7.63	2.45	1.55	0.90

After the cases were brought to the notice of the Department, it was reported in June 2009 that action had been initiated in both the cases under section 45(A)(3) of the KS Act and section 80A of the Registration Act for recovery of deficient duty and fees respectively.

The cases were referred to the Government in May 2009; their reply has not been received (November 2009).

5.4.4 Short levy of stamp duty and registration fee on lease deeds

Under the KS Act, 1957, stamp duty on lease deeds is leviable at prescribed rates on the average annual rent based on the period of lease and consideration for lease.

Test check of the records of Bangalore (Shivajinagar) and Hubli Sub-Registrar's offices between October 2007 and June 2008 revealed that four lease deeds were registered between August 2006 and July 2007. The stamp duty and registration fee leviable in these cases were Rs. 9.03 lakh and Rs. 1.84 lakh respectively. However, due to incorrect computation of consideration, stamp duty of Rs. 3.28 lakh and registration fee of Rs. 82,000 were only levied in these cases. This resulted in short levy of stamp duty of Rs. 5.75 lakh and registration fees of Rs. 1.02 lakh.

After the cases were brought to the notice of the Department, it was reported in June 2009 that stamp duty of Rs. 5.07 lakh and registration fees of Rs. 92,000 had been recovered in respect of three documents and in respect of the remaining one case, action had been initiated under section 46A of the KS Act and section 80A of the Registration Act for recovery of the deficient duty and fees.

The cases were referred to the Government in May 2009; their reply has not been received (November 2009).

5.4.5 Short levy of registration fee

The Registration Act, 1908 prescribes fees in respect of various documents presented for registration. From 1 April 1998, when power of attorney is given to a person other than the father, mother, wife or husband, son or daughter in relation to the executant authorising such person to sell immovable property, registration fee is leviable at one *per cent* of the market value of the property which is the subject-matter of power of attorney.

Test check of the records of six Sub-Registrar's offices³² between July 2007 and April 2008 revealed that 17 documents relating to power of attorney executed between April 2006 and October 2007 were registered levying stamp duty of Rs. 2,000. Audit scrutiny revealed that the power of attorney was given to the brother, that is, a person other than father, mother, wife or husband, son or daughter in relation to the executant authorising such person to sell immovable property and hence was liable to stamp duty at one *per cent* of the market value of the properties mentioned therein. The registration fees leviable on the properties worked out to Rs. 5.08 lakh on the market value of Rs. 5.08 crore. This had resulted in short levy of registration fees of Rs. 5.06 lakh.

After the cases were brought to the notice of the Department, it was reported in June 2009 that Rs. 85,000 had been recovered in four cases by three offices³³.

The cases were referred to the Government in May 2009; their reply has not been received (November 2009).

³² Bangalore (Basavanagudi), Bangalore (Hebbal), Bangalore (South), Bangalore (Srirampuram), Mangalore city and Mangalore taluk.

³³ Bangalore (Hebbal), Bangalore (South), Bangalore (Srirampuram).

CHAPTER-VI: OTHER TAX RECEIPTS

6.1 Results of audit

Test check of records in the Commercial Taxes Department, State Excise Department and Electricity Tax Department conducted in audit during the year 2008-09, disclosed underassessments of tax amounting to Rs. 40.88 crore in 78 cases, under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
	Betting tax		
1.	Short payment of totalisator tax due to incorrect allowance of composition benefit	1	33.87
2.	Non-levy of penalty and other irregularities	2	0.04
	Total	3	33.91
	Tax on entry of goods		
1.	Non/short levy of tax	21	2.46
2.	Non-levy of penalty	8	0.30
3.	Incorrect grant of exemption	2	0.14
4.	Non-forfeiture of tax collected in excess	1	0.02
	Total	32	2.92
	Karnataka Agricultural Income Tax		
1.	Non/short levy of tax due to incorrect carry forward and set-off of loss/depreciation	22	1.80
2.	Non/short levy of interest/penalty	6	0.29
	Total	28	2.09
	State Excise		
1.	Non-levy of penalty	4	0.80
2.	Non-levy of interest on arrack rental	1	0.52
3.	Non/short levy of licence fee	2	0.07
4.	Non-levy of duty	3	0.01
5.	Other irregularities	3	0.33
	Total	13	1.73
	Electricity tax		
1.	Non-realisation of inspection fee due to non-conducting of annual periodical inspection of high tension installations	1	0.22
2.	Short levy due to incorrect application of rate of annual periodical inspection fee	1	0.01
	Total	2	0.23
	Grand Total	78	40.88

During the year 2008-09, the department accepted underassessments of tax amounting to Rs. 9.37 crore in 251 cases and recovered Rs. 7.26 crore in 218 cases pointed out in the earlier years.

A few illustrative audit observations involving Rs. 44.33 lakh are given in the following paragraphs.

6.2 Audit observations

Scrutiny of assessment records of entry tax revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax and interest as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the AAs are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including reviving and strengthening of internal audit.

6.3 Non-observance of provisions of the Acts/Rules

The Karnataka Tax on Entry of Goods (KTEG) Act 1979 and rules made thereunder provide for;

- (i) levy of entry tax on notified goods at prescribed rate;*
- (ii) levy of interest on belated payment of tax;*
- (iii) exemption/concessional rate of tax subject to prescribed conditions.*

The AAs while finalising the assessments did not observe some of the above provisions in cases as mentioned in paragraphs 6.3.1 and 6.3.2. This resulted in non/short levy/non-realisation of tax/interest of Rs. 44.33 lakh.

6.3.1 Non/short levy of entry tax

Under the KTEG Act 1979, on entry of petroleum products and sewing machinery into a local area, tax is leviable at the rates notified from time to time.

Test check of the records of four STOs in three districts¹ between November 2008 and January 2009 revealed that five dealers caused entry of petroleum products and sewing machinery valued at Rs. 4.49 crore during the years 2002-03, 2005-06 and 2006-07 into the local area. However, while finalising the assessments of these cases between May 2007 and March 2008, three AAs omitted to levy entry tax of Rs. 21.27 lakh.

The cases were reported to the CCT between December 2008 and January 2009 and the Government in April 2009; their reply has not been received (November 2009).

6.3.2 Non-levy of interest for belated payment of entry tax

Under the KTEG Act 1979, every dealer is required to pay the full amount of tax payable on the basis of turnover computed by him for the preceding month within 20 days after the close of that month. In case of default beyond 10 days after that period, the assessee is liable to pay interest at the rate of two *per cent* of the tax payable for every month or part thereof during which such default is continued.

Test check of the records of five STOs in four districts² between September 2007 and January 2009 revealed that eight dealers delayed the

¹ Bangalore (Urban), Belgaum, Dharwad.

² Bangalore (Rural), Bangalore (Urban), Hassan, Mysore.

payment of monthly/annual taxes amounting to Rs. 38.28 lakh ranging between 15 to 59 months for the years 2002-2003 to 2005-06. However, the concerned AAs omitted to levy interest of Rs. 23.06 lakh.

After the cases were brought to notice, the AAs concerned issued notices in five cases involving Rs. 15.37 lakh and recovered Rs. 12.11 lakh in two of them. Replies in remaining cases are yet to be received (November 2009).

The cases were reported to the CCT between November 2007 and March 2009 and the Government in April 2009; their reply has not been received (November 2009).

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Results of audit

Test check of records of the concerned departmental offices, conducted during the year 2008-09, disclosed non/short recovery of receipts amounting to Rs. 62.42 crore in 76 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Receipts of the Public Works Department (A review)	1	0.00
Forestry and Wildlife			
1.	Non/short levy and non-recovery of lease rent	6	26.85
2.	Non/short recovery of forest development tax	9	0.22
3.	Other irregularities	24	21.22
Total		39	48.29
Mineral Receipts			
1.	Short levy of royalty	8	12.91
2.	Non/short levy of interest/penalty	5	0.14
3.	Other irregularities	6	0.64
Total		19	13.69
Minor Irrigation			
1.	Non/short raising of demands for water rate/penal water rate	7	0.38
Total		7	0.38
Other Administrative Services			
1.	Non/short raising of demands for fuel and maintenance charges	10	0.06
Total		10	0.06
Grand Total		76	62.42

During the course of the year 2008-09, the departments accepted audit observations involving Rs. 45.24 crore in 91 cases and recovered Rs. 56.10 lakh in 28 cases pointed out in the earlier years.

A review on **Receipts of the Public Works Department** and few illustrative audit observations involving Rs. 19 lakh are mentioned in the following paragraphs.

7.2 Review on Receipts of the Public Works Department

Highlights

There were huge variations between Budget Estimates and actual realisation indicating that the BEs were unrealistic.

(Paragraph 7.2.6)

Fixation of concessional lease rent by Government in respect of properties leased to non-charitable private bodies/individuals resulted in foregoing of revenue of Rs. 1,205.97 crore.

(Paragraph 7.2.8)

Non-levy of centage charges and Establishment, Tools and Plant (ETP) charges resulted in loss of revenue of Rs. 19.30 crore.

(Paragraph 7.2.11)

7.2.1 Introduction

Public Works Department (PWD) is responsible for road works including maintenance of National Highways, State Highways and major district roads and construction and maintenance of Government Buildings. It also undertakes constructions under the Deposit Contribution works¹. The receipts of the PWD mainly comprise revenue from rent and lease of residential and non-residential properties, sale of tender forms, collection of charges for use of inspection bungalow and travelers bungalow, etc. Besides, revenue in the form of centage charges², establishment, tools and plant (ETP) charges³, fines also called as 'liquidated damages' for delay in completion of work are also realised in PWD.

Public Works Receipts are classified under three major heads of accounts, namely, '1054-Roads & Bridges' relating to agency charges, etc., of roads and bridges, '0216-Housing' relating to rents recovered in respect of Government residential buildings and '0059-Public works' relating to revenues of all other activities not covered under the above two heads of account. The receipts of PWD are governed by the provisions contained in the Karnataka Public Works Accounts (KPWA) Code and Karnataka Public Works Department (KPWD) Code.

7.2.2 Organisational set up

The PWD is headed by a Principal Secretary and a Secretary. At field level, the Department has three Zones, namely, Communication and Buildings (C&B) South Zone, C&B North Zone and National Highways (NH). Each Zone is headed by a Chief Engineer. The Zonal offices consist of 'Circles' and

¹ Execution of works on behalf of local bodies or other departments of Government and others after receiving deposits in advance against such works.

² Charges leviable at prescribed rates for services rendered by PWD (other than actual execution of works) to other departments of Government/other Governments/others.

³ Charges leviable at prescribed rates for works executed by PWD to other Governments.

'Divisions'. The Divisions are under the control of Circles and Circles are under the control of Zones. Each Circle is headed by a Superintending Engineer. The Divisions are headed by Executive Engineers (EE). There are 13 Circle offices (2 under NH, 5 under South Zone and 6 under North Zone) and 52 Divisions (7 under NH, 26 under South Zone and 19 under North Zone). In addition, World Bank aided 'Karnataka State Highways Improvement Project' (KSHIP) is implemented for up-gradation/rehabilitation of State Highways and is headed by a Project Director. Besides, the Office of the Chief Architect is engaged in preparation of designs and drawings.

7.2.3 Audit objectives

The review was undertaken to ascertain:

- the effectiveness of the system for assessment, collection/recovery of revenue in relation to the provisions envisaged in the departmental codes/manuals; and
- whether the codal provisions and departmental instructions were properly observed.

7.2.4 Scope and audit methodology

The records of all the three zonal offices and 12 divisions⁴ were test checked for the period 2003-04 to 2007-08. In addition, the records of the Project Director, KSHIP and Chief Architect were also test checked. The review was conducted between March and May 2009.

7.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Public Works Department in providing necessary information and records for audit. An entry conference was held with the Secretary to Government, Public Works Department in February 2009, wherein the scope of audit, methodology and audit objectives including sampling were explained. The draft review was forwarded to the Government in May 2009 and discussed in the exit conference held in July 2009. The Secretary to Government, Public Works Department represented the Government.

7.2.6 Financial Performance

The Karnataka Budget Manual stipulates that in the preparation of the budget, the aim is to achieve as close an approximation to the actuals as possible. It is therefore, essential that the estimates should show only the amounts actually expected to be received during the budget year including the arrears, if any that would be realised within that year and also receipts of a fluctuating nature after careful analysis of all abnormal factors in addition to normal conditions.

⁴ No. 1 and No. 2 Buildings Division, Bangalore, ESI Buildings Division, Bangalore, R&B Special Division, Bangalore, PWD Divisions at Bangalore, Chitradurga, Dharwad, Mangalore and Mysore and NH Divisions at Bangalore, Chitradurga and Mangalore.

The budget estimates (BEs), actual realisation of revenue, variations in receipts over BEs and percentage of variation for the years 2003-04 to 2007-08 were as under:

Year	(Rupees in crore)					
	0059 – Public works		1054- Roads & Bridges		0216- Housing ⁵	
	Budget	Actual/ Percentage of variation	Budget	Actual/ Percentage of variation	Budget	Actual/ Percentage of variation
2003-04	8.68	12.12/ (+)39.63	32.00	33.80/ (+)5.63	8.00	38.14/ (+)376.75
2004-05	9.11	14.00/ (+)53.68	171.24	13.83/ (-)91.92	8.09	10.75/ (+)32.88
2005-06	9.11	27.27/ (+)199.34	174.24	25.01/ (-)85.65	8.09	10.49/ (+)29.67
2006-07	13.65	31.32/ (+)129.45	174.24	24.18/ (-)86.12	11.29	10.25/ (-)9.21
2007-08	14.33	21.75/ (+)51.78	30.00	14.05/ (-)53.17	11.85	15.39/ (+)29.87

It may be noticed from the above that the percentage of variation between BEs and actuals ranged from (-) 91.92 to (+) 376.75 for the three heads of account.

The actual realisation under the Heads of Account 0059 and 0216 were consistently far higher than the estimates except under the Head of Account 0216 during 2006-07. The Department attributed the increase in realisation of revenue in 2003-04 under 0216 to recovery of arrears of rent.

The actual realisation under the Head of Account 1054 was consistently lesser than the estimates. It was noticed that budget estimates for 2006-07 were the same as those of 2005-06. Further, due regard to the actual realisation during previous years was not given. In respect of wide variations in realisation over BEs for the years 2004-05 to 2006-07, scrutiny revealed that a provision of Rs. 137 crore for 2004-05 and Rs. 140 crore each for 2005-06 and 2006-07 respectively was made in the budget towards 'Rural road development cess' against which no revenue was realised. Thus, there was a wide variation between BEs and actual collection which clearly indicates that BEs were not being prepared on realistic basis.

During the Entry Conference held with the Department in February 2009, the Secretary to Government stated that the final decision regarding levy and collection of cess for use of State PWD bridges was under consideration. He also directed the departmental officers to submit realistic budget proposals in future.

7.2.7 Arrears of revenue

As per the provisions of the Karnataka Financial Code (KFC) 1958, every Government servant responsible for collection of moneys due to Government should maintain the records of assessment, demand, recovery and outstanding balance of revenue (DCB) and the controlling officers of every department should closely watch the progress of realisation of revenue under their control.

⁵ Figures relate to head of account '0216-01-700-0-01 – Rents' to which rents are credited by the Public Works Department.

Out of 12 divisions test checked, in 3 divisions the outstanding rents recoverable in respect of occupants of PWD buildings as at the end of March 2008 amounted to Rs. 4.90 lakh.

Audit scrutiny revealed that though the divisions had maintained registers for watching recovery of rents, no returns had been prescribed by the Government to enable preparation of consolidated DCB. In the absence of this, audit could not ensure the effectiveness of controls exercised by the Department/Government in realisation of arrears of revenue and period to which such dues relate.

The Government stated (July 2009) that annual returns in this regard will be prescribed in future to obtain the information in relation to arrears of revenue and to keep watch over their recovery.

Audit Findings

System Deficiencies

7.2.8 Non-revision of lease rent

The KPWD Code envisages leasing out of Government lands and buildings to private bodies, associations, companies or individuals. Paragraph 206 thereof stipulates the following norms for fixation of annual rent in respect of lease of lands:

- a) Lease rent should be fixed based on the rates secured in the open auction.
- b) In cases where auctions are not held, the rates should be fixed in consultation with the jurisdictional Deputy Commissioners with reference to those obtainable in similar localities.
- c) The lease in each case should not be for more than five years at a time.

As per paragraph 354 of the KPWD Code, the lease rent per annum of a building occupied as residential quarters was seven *per cent* of the capital cost of the building. Lease rent in respect of lands and buildings leased by the department were being computed on the same basis while forwarding proposals to Government for grant of lease. The department computes the capital cost by adopting the guideline value published by the Revenue Department. Capital cost includes the cost of land and building thereon after allowing for depreciation.

7.2.8.1 Mention was made regarding determination of lower lease rent in paragraph 6.2 of Chapter VI in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2005 (Revenue Receipts) of Government of Karnataka. The foregoing of revenue of Rs. 513.40 crore on account of fixation of concessional lease rent in respect of lands leased to Bangalore Golf Club (BGC), Karnataka State Cricket Association (KSCA) for the period from 1 April 1999 to 31 March 2004 and Indu Muddappa, Indian Oil Corporation (IOC) dealer for the period from 1 April 1999 to 31 March 2005 was brought to notice of Government.

In this context, the Law Department in December 2003, in respect of fixation of rent for BGC, had opined “If the Government has to show a sizeable concession, there should be some public purpose, also involving a charitable or non-commercial aspect. The Golf Club activities do not come within the above parameters since the Club’s activities are commercial and profit-making and only affluent class of people can aspire to become its members. Therefore, the present nominal rent would be against public interest and may be constituted as an undue favour shown towards an affluent and influential group of persons”.

However, no action was taken by the Government to review and revise the rent in cases of the lease of land to lessees mentioned above. The further revenue foregone in respect of these cases amounted to Rs. 575.03 crore as indicated below:

(Rupees in crore)

Sl. No.	Name of the lessee and extent of area leased	Period under review	Guideline value fixed by Revenue Department			Lease rent to be levied ⁶	Lease rent fixed	Revenue foregone
			From	To	per square feet (In Rupees)			
1.	BGC 2629935 sq.ft.	1.4.04 to 31.3.08	April 2004	July 2004	3,400	20.86	0.01	390.36
			August 2004	October 2005	4,312	99.23		
			November 2005	April 2007	5,082	140.34		
			May 2007	March 2008	7,700	129.94		
			Total			390.37		
2.	KSCA 752499 sq.ft.	1.4.04 to 31.3.08	April 2004	July 2004	7,200	12.64	0.01	184.67
			August 2004	October 2005	6,930	45.63		
			November 2005	April 2007	8,470	66.92		
			May 2007	March 2008	12,320	59.49		
			Total			184.68		
Total								575.03

A committee constituted in July 2006 for revising the lease rent of lands leased to BGC was yet to finalise the revised lease rent. No action was initiated to review and revise lease rent in other cases where the lessees were not involved in activities of public interest.

7.2.8.2 Scrutiny of records in four test-checked divisions⁷ revealed that fixation of concessional rent while leasing Government lands/buildings for non-charitable commercial purposes in respect of four premises resulted in foregoing of revenue of Rs. 630.94 crore for the period from 1 April 2003 to 31 March 2008 as mentioned below:

⁶ $\{(Area * Guideline\ value * 7\%)/12\} * (No.\ of\ months).$

⁷ No.1 Buildings Division, Bangalore; No.2 Buildings Division, Bangalore; Special (R&B) Division, Bangalore and PWD Division, Mysore.

(Rupees in crore)

Sl. No.	Name of the organisation	Extent of land/ building leased and the period of lease	Lease rent to be realised	Amount of lease rent realised	Revenue forgone
1.	Bangalore Turf Club (BTC)	3217995 sq.ft 1.1.89 to 31.12.2009	525.62	0.92	524.70
2.	State Bank of India at JB Nagar complex	4687 sq.ft 5 years from 2002 to 2006	0.28 (1.4.03 to 31.12.06)	0.12	0.16
3.	Bhoomika interiors and Exterior decorators	2080 sq.ft 25 years from 2004	0.21	0.01	0.20
4.	Mysore Race Club Ltd. (MRC)	6707151 sq.ft 10 years from 1.4.96	105.96 (1.4.03 to 31.3.06)	0.08	105.88
Total			632.07	1.13	630.94

Fixation of concessional lease rent in respect of non-charitable and commercial activities not involving any public interest thus resulted in foregoing of a total revenue of Rs. 1,205.97 crore.

After this was brought to notice, the Government stated in May 2009 that no policies were laid down in respect of fixation of concessional lease rent.

7.2.8.3 The Government in September 2000 extended the lease to BTC for 20 years from 1 January 1989. The lease period should have ended by 31 December 2008 but while issuing the order, it was indicated as ending on 31 December 2009 thus extending benefit for one more year. The omission resulted in loss of revenue of Rs. 173.19 crore being the differential lease rent realisable for the year 2009.

7.2.8.4 The lease period of land leased to MRC expired on 31 March 2006. No action was taken either to renew the lease or to take possession of land immediately after the expiry of lease. The decision regarding extension of lease to MRC was pending with the Government. The lessee continued to hold possession of the land beyond the lease period without payment of lease rent. This resulted in non-realisation of lease rent of Rs. 96.36 crore from 1 April 2006 to 31 March 2009.

7.2.8.5 In case of default in payment of dues, Karnataka Value Added Tax Act, Karnataka Stamps Act, Karnataka Minor Mineral Concession Rules, etc., provide for levy of simple interest at 15 *per cent* per annum in respect of all amounts due to Government. However, there is no provision for levy of interest on belated payment of dues under the KPWA code.

The Government in September 2000 enhanced the annual lease rent of BTC from Rs. 5 lakh to Rs. 10 lakh from 1989 to 2000 and 10 *per cent* annual increase thereafter till 2009. It stipulated that the arrears should be paid immediately and annual rent should be paid in advance for subsequent years. However, the BTC continued to pay the annual lease rent at Rs. 5 lakh till 2005 and paid the arrears of Rs. 1.15 crore for the period from 1989 to 2005 in three instalments between May 2005 and April 2006. In the absence of

provision for levy of interest, the same could not be levied. The resultant revenue foregone amounted to Rs. 60 lakh for the period September 2000 to March 2006.

Compliance Deficiencies

7.2.9 Register of Properties

Register of Buildings and Property accounts showing the properties under the control of the division required to be maintained under Article 348 of KPWD Code was not maintained in PWD, Mysore. In absence of the same, audit could not ascertain the number of properties/buildings owned by this division and their proper utilisation.

7.2.10 Utilisation of assets

Audit noticed that land measuring 14 acres 39 guntas with building in respect of a Government factory⁸ was idle since 1998. Out of this, an area of 9 acres and 5 guntas (including the building) was leased in September 2005 to a private party for revival of the industry. In respect of the remaining 5 acres 34 guntas, proposals for lease/sale of land to a transport company were forwarded in July 2003 by the Transport Department to PWD. However, the proposal has not received the approval of Government even after six years and the land has remained unutilised. The resultant foregoing of rent for the period of three years from 2005-06 to 2007-08 amounted to Rs. 10.14 lakh.

7.2.11 Non-levy and recovery of Centage and ETP charges

7.2.11.1 Centage charges

Article 329 of KPWD code stipulates levy of centage charges at prescribed rates for services rendered⁹ by PWD (other than actual execution of works) to other departments of Government/other Governments/local bodies.

Review of records of 12 test-checked divisions revealed that the centage charges amounting to Rs. 17.19 crore in respect of 1,820 works were not levied for services rendered by PWD during 2003-04 to 2007-08 as mentioned below:

(Rupees in crore)		
Services rendered to	Number of works	Centage charges leviable
Other departments of Government	1,511	12.99
Local bodies	24	1.23
Others	285	2.97
Total	1,820	17.19

The department stated in May 2009 that the services were rendered to other departments of the Government and hence no centage charges were levied. The reply is not in consonance with the provisions of KPWD code which stipulates levy of centage charges for services rendered to other departments of Government also.

⁸ Government Brick Factory under the control of PWD, Bangalore Division.

⁹ Preparation and scrutiny of estimates (3%), audit of bills (3%) and supervision and check of measurements (6%).

7.2.11.2 ETP charges

As per Appendix E of KPWA code Volume-II, ETP charges are leviable for works executed by PWD for other Governments and non-Government bodies.

Audit scrutiny of the records of ESI Building Division, Bangalore revealed that ETP charges amounting to Rs. 2.11 crore were not levied in respect of 264 works executed for Employees' State Insurance Corporation during 2003-04 to 2007-08 though provisions for the same were made in the estimates of these works.

After this was brought to notice, the divisional officer stated that these charges would be recovered in consultation with higher authorities. However, further report in this regard has not been received (November 2009).

7.2.12 Delay in finalisation of Extension of Time (EoT)

As per clause 49.1 of the standard contract agreement, the contractor shall pay liquidated damages (LD) to the employer at the prescribed rate per day as included in the contract for each day of delay in completion of work, excluding the extended period, and the same shall not exceed 10 *per cent* of the contract price. The contracts entered into provide for adjustment of LD recovered in subsequent payments to contractor on approval of EoT.

No time limit has been prescribed for finalisation of EoT by the Steering Committee headed by the Principal Secretary, PWD. In respect of eight packages¹⁰ executed by KSHIP, 9 to 51 months had elapsed after the period stipulated for completion of these works. The LD recoverable at prescribed rates as computed in audit as per terms of contract was Rs. 16.20 crore against which the department had recovered only Rs. 2.26 crore including bank guarantee obtained which may lead to non/short recovery of LD leviable on a later date. The Project Director, KSHIP stated in May 2009 that EoT proposals were submitted to the Steering Committee which is yet to finalise the appropriate EoT in respect of these eight works.

7.2.13 Delay in revision of rent of a guest house

In respect of Cauvery guest house, Bangalore, Government fixed in August 2003 revised rates of rent¹¹ and the same was applicable for a period of one year only from the date of order. However, proposals for revision of rent for enhancement ranging from Rs. 20 to Rs. 200 per day for the subsequent periods submitted belatedly by the Department in January 2005 was approved by the Government in September 2006 after a lapse of almost 20 months. Government attributed (May 2009) the delay to administrative reasons. Delayed revision of rents resulted in foregoing of revenue of Rs. 10.92 lakh¹² at the minimum differential rate.

¹⁰ U6, M4, U10, BP1, U4BR, M4R, U3BR and M27.

¹¹ Rent was different for different classes of users.

¹² In respect of Cauvery guest house, 70 rooms * 780 days * minimum enhanced rate of Rs.20 per day.

7.2.14 Register of rents of buildings and lands

As per article 194 of KPWA code, register of rents of buildings and lands should be maintained in the divisional office to show, in separate parts, the monthly assessments, realisation and balance on account of rents of residential/non-residential buildings and lands.

Audit scrutiny revealed that:

- the registers were incomplete in four divisions¹³. The entries were not made for a period ranging from 24 to 60 months. Hence audit could not ascertain the correctness of the assessments, realisation and balances of rents;
- the treasury schedules were not obtained by Executive Engineers of three divisions¹⁴ for posting in the register. In PWD, Mangalore division, though the treasury schedules were obtained, the treasury figures were not reconciled.

After this was brought to notice, the divisional officers accepted to maintain the registers properly and to recover the outstanding dues.

7.2.15 Non-transfer of lapsed deposits to revenue

As per provisions of Article 399 of KPWA Code, balances of deposits in respect of completed works lying unclaimed in the deposits register for more than three complete account years and also deposits valuing less than Rs. 100 should be credited to Government account as lapsed deposits by following the procedure indicated thereunder. Further, refund of deposits already lapsed should be made only after being duly pre-audited by Accountant General (Accounts and Entitlement) (AG (A&E)).

It was observed that in eight divisions¹⁵ security deposits amounting to Rs. 2.18 crore were held under 'Civil Deposits' for over three years in respect of completed works as at the end of March 2008. These amounts should have been credited to revenue head '0059' but were still lying in deposits even though period of more than five years has elapsed as mentioned below:

(Rupees in crore)		
Period	Number of items	Amount
Above 5 years but below 10 years	319	1.34
Above 10 years	448	0.84
Total	767	2.18

In addition, refund of deposits more than three years old amounting to Rs. 30 lakh was made in 17 test-checked cases without pre-audit by the AG (A&E) since they were not lapsed to Government.

After this was brought to notice, the Chief Engineer, NH, reported in July 2009 adjustment of outstanding deposits to revenue head.

¹³ No.1 Buildings Division, Bangalore, ESI Buildings Division, Bangalore and PWD Division, Bangalore, PWD, Dharwad.

¹⁴ PWD Divisions at Bangalore, Dharwad and Chitradurga.

¹⁵ No.2, Buildings Division, Bangalore, PWD Bangalore, NH Chitradurga, PWD Chitradurga, PWD Dharwad, NH Mangalore, PWD Mangalore and PWD Mysore.

7.2.16 Remittances and reconciliation

As per Article 506 of KPWA Code, as soon as possible, after the expiry of the month, a monthly settlement should be effected with all treasuries in respect of the transactions of the entire division with them. Further, as per Article 507, the remittances made into treasury during each month should be reconciled with the monthly consolidated treasury receipt issued by the treasury officer.

In five test-checked divisions¹⁶, it was observed that the preparation of schedule of settlement with treasuries (SST) was in arrears ranging from 4 to 42 months for the period ending March 2009 and remittances amounting to Rs. 2.60 crore were shown as un-reconciled differences. Thus, the divisions did not ensure whether the resultant differences were only due to misclassification or otherwise. The divisional officers accepted to reconcile remittance and to update the preparation of SSTs.

7.2.17 Conclusion

Fixation of concessional rent while leasing Government lands/buildings for non-charitable commercial purposes resulted in foregoing of revenue. Reconciliation with treasury figures was in arrears indicating weak internal controls. There is no provision to levy interest on belated payment of dues.

7.2.18 Recommendations

Government may consider:

- evolving a system to provide for revision of lease rent based on the guideline market value for lease of Government properties; and
- providing for penal clause to act as a deterrent against delayed payment of dues.

¹⁶ KSHIP, Bangalore, ESI Buildings Division, Bangalore, PWD Division, Bangalore, PWD and NH Divisions at Chitradurga.

MINERAL RECEIPTS

7.3 Other audit observations

Scrutiny of assessment records of mineral receipts revealed cases of short levy of royalty and interest as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the officers are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit.

7.4 Non-observance of provisions of the Acts/Rules

The Mines and Minerals (Development and Regulation) Act, 1957 and the Karnataka Minor Mineral Concession Rules, 1994 provide for:

- (i) levy of royalty on minerals removed or consumed by the lessee; and*
- (ii) levy of interest for belated payment of dues.*

The AAs had not followed the above provisions in cases as mentioned in paragraphs 7.4.1 and 7.4.2. This resulted in short levy of royalty and interest of Rs. 19 lakh.

7.4.1 Short levy of royalty

As per the Mines and Minerals (Development and Regulation) Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or his agent at prescribed rates. Department of Mines and Geology levied the royalty on limestone used in the manufacture of cement on the quantity of limestone computed using the ratio of clinker production to limestone. The ratio of clinker production to limestone was fixed for each cement factory after tests with National Council for Cement and Buildings.

Test check of records of the Senior Geologist, Chitradurga in January 2009 revealed that in respect of a cement company holding a mining lease for limestone, royalty of Rs. 93.41 lakh was levied for the years 2005-06 and 2006-07 on the basis of limestone consumption computed by adopting the ratio of limestone to clinker production. Audit scrutiny revealed that the quantity of limestone despatched by the lessee from the leased area during the years was more than the limestone consumption computed. Royalty of Rs. 1.06 crore was leviable on the basis of quantity of limestone despatched. Non-consideration of quantity of limestone despatched resulted in short levy of royalty of Rs. 12.88 lakh as detailed below:

(Rupees in lakh)

Year	Quantity of limestone (in metric tonnes)		Royalty at Rs. 45 per metric tonne		
	Limestone despatched by lessee from leased area	Computed on the basis of ratio of limestone to clinker production	Leviable	Levied	Short levy
2005-06	87769.02	67517.25	39.49	30.38	9.11
2006-07	148458.83	140072.54	66.80	63.03	3.77
Total	236227.85	207589.79	106.29	93.41	12.88

The case was brought to the notice of the Senior Geologist, Chitradurga in January 2009 and reported to the Director of Mines and Geology in February 2009; reply has not been received (November 2009).

The matter was reported to the Government in May 2009; reply has not been received (November 2009).

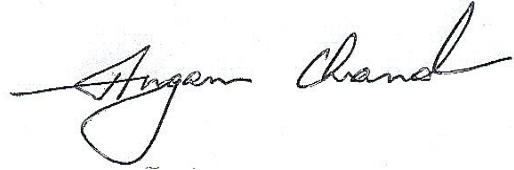
7.4.2 Short levy of interest on dead rent

As per the Karnataka Minor Mineral Concession Rules, 1994, a holder of a quarrying lease shall pay dead rent or royalty at the rates specified whichever is more, whether minor mineral is removed or consumed by him. The dead rent shall be paid in advance every six months. Accordingly, fifty per cent of the dead rent was payable on 1 April and the balance on 1 October of each year. The KMMC Rules also stipulate levy of interest at 15 *per cent* per annum on dues not paid from the sixtieth day after the expiry of date fixed for payment of such dues.

Test check of records of two Senior Geologists, Hassan and Koppal between June and August 2008 revealed that 25 quarrying leases had been idle during the period from 2000-01 to 2006-07. It was noticed that dead rent was not paid on the due dates in any of the cases. However, instead of levying interest from 1 June and 1 December of the relevant year, that is, sixtieth day from the date for payment of dead rent, the Department had levied interest from 1 April of succeeding year. This resulted in short levy of interest of Rs. 5.74 lakh.

After the cases were brought to notice, the Department reported in June 2009 that demand notices for recovery of interest short levied had since been issued.

The matter was reported to the Government in May 2009; reply has not been received (November 2009).



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