

## **PREFACE**

This Report for the year ended 31 March 2010 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 commercial tax, state excise duty, taxes on vehicles, land revenue, other tax receipts, mining receipts and other non-tax receipts of the State.

The cases mentioned in this report are those which came to notice in the course of test audit of records during the year 2009-10 as well as those noticed in earlier years but not covered in the previous years' Reports.

## OVERVIEW

This Report contains 57 paragraphs including two reviews relating to non/short levy of tax, interest, penalty, etc. involving ₹ 1,469.91 crore. Some of the major findings are mentioned below:

### I. General

The total receipts of the State Government for the year amounted to ₹ 41,394.67 crore against ₹ 33,577.21 crore for the previous year. Fifty seven *per cent* of this was raised by the State through tax revenue (₹ 17,272.77 crore) and non-tax revenue (₹ 6,382.04 crore). The balance 43 *per cent* was received from the Government of India as State share of divisible union taxes (₹ 11,076.99 crore) and grants-in-aid (₹ 6,662.87 crore).

(Paragraph 1.1)

Test check of records of commercial tax, state excise, motor vehicles tax, stamp duty and registration fee, land revenue, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2009-10 revealed under-assessment/short levy/loss of revenue amounting to ₹ 3,366.12 crore in 28,674 cases.

(Paragraph 1.5.1)

### II. Commercial Tax

Non-recovery of tax of ₹ 102.28 crore from closed units.

(Paragraph 2.11)

Short-realisation of tax of ₹ 94.50 lakh due to application of incorrect rates of tax.

(Paragraph 2.12)

Non/Short levy of tax resulted in short realisation of tax of ₹ 2.26 crore.

(Paragraph 2.13)

Non-levy of tax on sales incorrectly treated as tax-free resulted in non-realisation of tax of ₹ 2.20 crore.

(Paragraph 2.14)

Non/Short levy of entry tax resulted in non-realisation of revenue of ₹ 92.81 lakh.

(Paragraph 2.15)

### **III. State Excise**

Non-realisation of excise duty of ₹ 11.69 crore on unacknowledged export/transport of foreign liquor/beer.

**(Paragraph 3.7)**

Non-realisation of excise duty and penalty of ₹ 1.35 crore in inadmissible wastage of spirit, liquor and beer.

**(Paragraph 3.8)**

Non-realisation of excise duty due to non-disposal of spirit/foreign liquor-₹ 2.52 crore.

**(Paragraph 3.9)**

Non-levy of penalty of ₹ 1.15 crore for non-maintenance of minimum stock of spirit at distilleries.

**(Paragraph 3.10)**

### **IV. Taxes on Vehicles**

Tax and penalty of ₹ 14.93 crore was not realised on 3,893 vehicles.

**(Paragraph 4.7)**

Levy of tax at incorrect rate on private service vehicles resulted in non-realisation of revenue of ₹ 87.58 lakh including penalty.

**(Paragraph 4.8)**

Failure of detect delay in payment of tax resulted in non-realisation of penalty of ₹ 25.24 lakh.

**(Paragraph 4.11)**

### **V. Land Revenue**

A review of “**Land revenue receipts in Madhya Pradesh**” revealed the following:

- Absence of cross verification between Tahsil and Collectorate records in diversion cases, resulted in non-raising/short raising of demand and consequential non-realisation of revenue of ₹ 82 crore.

**(Paragraph 5.2.7)**

- Non-realisation of revenue of ₹ 66.09 crore due to absence of time limit for instituting RRCs after demands have been established.

**(Paragraph 5.2.8)**

- Non-realisation of lease rent of ₹ 1.51 crore due to lack of provision of time limit for executing of lease deed after allotment of *nazul* land.

**(Paragraph 5.2.9)**

- Non-realisation of revenue of ₹ 6.63 crore due to non-recovery of provisional premium and ground rent and non-finalisation of the cases of allotment of land.

**(Paragraph 5.2.10)**

- Non-existence of monitoring mechanism for execution of sanctions resulted in loss of ground rent of ₹ 6.89 lakh.

**(Paragraph 5.2.11)**

- Absence of any monitoring mechanism at Collectorate level resulted in non-realisation of process expense of ₹ 5.03 crore.

**(Paragraph 5.2.13)**

- There was loss of revenue of ₹ 59.13 crore due to allotment of land at throw away prices in contravention of Revenue Code guidelines.

**(Paragraph 5.2.16)**

- Non-raising of demand of installment of premium resulted in non-realisation of ₹ 132.50 crore.

**(Paragraph 5.2.17)**

- Non-levy of interest resulted in non-realisation of ₹ 2.70 crore.

**(Paragraph 5.2.18)**

- Land diverted for commercial purposes was treated as residential resulting in short realisation of rent/premium of ₹ 1.38 crore.

**(Paragraph 5.2.20)**

- The exchequer was deprived of revenue of ₹ 28.09 crore due to non-levy/deposit of service charge and interest.

**(Paragraph 5.2.26)**

## **VI. Stamp duty and registration fee**

Incorrect determination of market value/delay in disposal of cases referred to the Collector resulted in short levy/non-realisation of revenue of ₹ 8.51 crore.

**(Paragraph 6.2)**

Evasion of duty of ₹ 2.23 crore on instruments executed by the colonisers/developers.

**(Paragraph 6.3)**

Short levy of stamp duty and registration fee of ₹ 1.60 crore on lease/sub-lease.

**(Paragraph 6.4)**

Short levy of stamp duty and registration fee of ₹ 1.46 crore on instruments of power of attorney due to incorrect application of rates.

**(Paragraph 6.5)**

Non-realisation of stamp duty and registration fee of ₹ 1.29 crore due to non-reimbursement by NVDA.

**(Paragraph 6.6)**

## **VII. Entertainment duty**

Non-recovery of entertainment duty from cable operators resulted in non-realisation of revenue of ₹ 32.77 lakh.

**(Paragraph 7.2)**

Non-levy of entertainment duty on cinema houses resulted in non-realisation of revenue of ₹ 29.15 lakh.

**(Paragraph 7.3)**

## **VIII. Electricity duty**

A review of “Levy and collection of electricity duty, fees and cess” revealed the following:

- Blocking of revenue due to irregular retention of Government money by DISCOMs ₹ 997.39 crore.

**(Paragraph 8.2.8.1)**

- Inaction of the department resulted in non-levy of electricity duty of ₹ 3.73 crore.

**(Paragraph 8.2.8.2)**

- Absence of provision for submission of check list to verify the electrical consumption resulted in short realisation of duty of ₹ 10.97 crore.

**(Paragraph 8.2.9)**

- Absence of any time limit for periodical assessment of dutiable and non-dutiable consumption resulted in non-levy of duty and cess of ₹ 6.92 crore.

**(Paragraph 8.2.11)**

- Lack of provision for security deposit resulted in non-levy of duty of ₹ 3.15 crore.

**(Paragraph 8.2.12)**

**Non-Tax Revenue**

**IX. Mining receipts**

Non/Short realisation of revenue of ₹ 295.35 crore on account of rural infrastructure and road development tax from holders of mining lease.

**(Paragraph 9.10)**

Tax collected but not deposited in Government account- ₹ 133.18 crore.

**(Paragraph 9.11)**

Short realisation of royalty of ₹ 7.74 crore.

**(Paragraph 9.12)**

Short payment of contract money on due date resulted in short realisation of revenue of ₹ 3.62 crore.

**(Paragraph 9.14)**

## CHAPTER - I GENERAL

### 1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Madhya Pradesh during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States 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:

(₹ in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	<b>Revenue raised by the State Government</b>					
	• Tax revenue	9,114.70	10,473.13	12,017.64	13,613.50	17,272.77
	• Non-tax revenue	2,208.20	2,658.46	2,738.18	3,342.86	6,382.04
	<b>Total</b>	<b>11,322.90</b>	<b>13,131.59</b>	<b>14,755.82</b>	<b>16,956.36</b>	<b>23,654.81</b>
2.	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	6,341.35	8,088.54	10,203.50	10,767.14	11,076.99 <sup>1</sup>
	• Grants-in-aid	2,932.54	4,474.15	5,729.41	5,853.71	6,662.87
	<b>Total</b>	<b>9,273.89</b>	<b>12,562.69</b>	<b>15,932.91</b>	<b>16,620.85</b>	<b>17,739.86</b>
3.	<b>Total receipts of the State (1 and 2)</b>	<b>20,596.79</b>	<b>25,694.28</b>	<b>30,688.73</b>	<b>33,577.21</b>	<b>41,394.67</b>
4.	<b>Percentage of 1 to 3</b>	<b>55</b>	<b>51</b>	<b>48</b>	<b>50</b>	<b>57</b>

The above table indicates that during the year 2009-10, the revenue raised by the State Government was 57 per cent of the total receipts (₹ 41,394.67 crore) against 50 per cent in the preceding year. The balance 43 per cent of receipts during 2009-10 was from the Government of India.

<sup>1</sup> For details please see statement No. 11: "Detailed accounts of revenue by minor heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2009-10. Figures under the head "0021-Taxes on income other than corporation tax - Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

**1.1.2** The following table presents the details of tax revenue raised during the period from 2005-06 to 2009-10:

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Tax/VAT on sales, trade etc.	4,508.42	5,261.41	6,045.07	6,842.99	7,723.82	(+) 12.87
2.	State excise	1,370.38	1,546.68	1,853.83	2,301.95	2,951.94	(+) 28.24
3.	Stamp duty and Registration fee	1,009.48	1,251.10	1,531.54	1,479.29	1,783.15	(+) 20.54
4.	Taxes on goods and passengers	578.58	744.60	916.44	1,332.57	1,332.88	(+) 0.02
5.	Taxes on vehicles	556.02	634.30	702.62	772.56	919.01	(+) 18.96
6.	Taxes and duties on electricity	842.27	714.55	626.08	343.06	2,146.49	(+) 525.69
7.	Land revenue	77.16	132.21	129.15	338.84	180.03	(-) 46.87
8.	Other taxes on income and expenditure - tax on professions, trades, callings and employments	153.08	163.81	185.02	172.29	203.92	(+) 18.36
9.	Other taxes and duties on commodities and services	14.15	19.55	20.10	20.28	19.21	(-) 5.28
10.	Hotel receipts	5.37	4.92	7.79	9.67	12.20	(+) 26.16
11.	Taxes on immovable property other than agricultural land	(-) 0.21	-	-	-	0.12	-
<b>Total</b>		<b>9,114.70</b>	<b>10,473.13</b>	<b>12,017.64</b>	<b>13,613.50</b>	<b>17,272.77</b>	

The following reasons for variation were reported by the concerned departments:

**State excise-** The increase of 28.24 *per cent* was stated to be due to increase in receipt of licence fee of country liquor shops.

**Stamp duty and registration fee-** The increase of 20.54 *per cent* was stated to be mainly due to increase in sale of non-judicial stamps.

**Taxes on vehicles-** The increase of 18.96 *per cent* was attributed to computerisation and intense campaign for recovery and also due to revision in rates of tax.

**Taxes and duties on electricity-** The increase of 525.69 *per cent* was stated to be due to the recovery and deposit of outstanding revenue of the last two years during the current year.



**Land revenue--** The decrease of 46.87 *per cent* was stated to be due to less receipts of land revenue.

**Tax on professions, trades, callings and employment-** The increase of 18.36 *per cent* was attributed to the increase in salaries following the recommendations of the Sixth Pay Commission.

**Hotel receipts-** The increase of 26.16 *per cent* was attributed to the expiry of exemption period of new hotels.

The other Departments did not inform (December 2010) the reasons for variation, despite being requested (April 2010).

**1.1.3** The following table presents the details of major non-tax revenue raised during the period 2005-06 to 2009-10:

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Non-ferrous mining and metallurgical industries	815.31	923.91	1,125.39	1,361.08	1,590.47	(+) 16.85
2.	Forestry and wildlife	490.40	536.50	608.89	685.60	802.00	(+) 16.98
3.	Miscellaneous general services	21.30	736.58	374.60	380.17	399.12	(+) 4.98
4.	Other non-tax receipts	152.02	159.30	220.17	580.56	2,068.46	(+) 256.29
5.	Interest receipts	527.20	132.73	206.98	163.29	1,284.03	(+) 686.35
6.	Other administrative services	67.20	59.55	68.15	55.58	80.94	(+) 45.63
7.	Major and medium irrigation	29.57	29.82	37.42	37.08	56.75	(+) 53.05
8.	Police	26.16	24.26	25.03	23.63	41.98	(+) 77.66
9.	Public works	53.08	16.39	20.33	21.74	27.37	(+) 25.90
10.	Medical and public health	11.73	20.88	21.93	20.88	21.84	(+) 4.60
11.	Co-operation	14.23	18.54	29.29	13.25	9.08	(-) 31.47
<b>Total</b>		<b>2,208.20</b>	<b>2,658.46</b>	<b>2,738.18</b>	<b>3,342.86</b>	<b>6,382.04</b>	

The following reasons for variation were reported by the concerned Departments:

**Non-ferrous mining and metallurgical industries-** The increase of 16.85 *per cent* was stated to be due to revision of royalty on major minerals and constant vigil and monitoring by the Department.

**Other non-tax receipts-** The increase of 256.29 *per cent* was stated mainly due to increase in receipts on account of electricity produced from Sardar Sarovar Project.

**Interest receipts-** The increase of 686.35 *per cent* was stated mainly due to increase in receipts of interest on loan to Madhya Pradesh Electricity Board.

**Co-operation-** The decrease of 31.47 *per cent* was stated to be due to decrease in audit fee and weak financial position of co-operative societies.

The other departments did not inform (December 2010) the reasons for variation, despite being requested (April 2010).

## 1.2 Response of the Departments/Government towards audit

The succeeding paragraphs 1.2.1 to 1.2.6 discuss the response of the Departments/Government towards audit observations/recommendations.

### 1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

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

Inspection reports issued up to December 2009 disclosed that 15,608 paragraphs involving ₹ 9,862.06 crore relating to 5,040 IRs remained outstanding at the end of June 2010 as mentioned below along with the corresponding figures for the preceding two years.

	June 2008	June 2009	June 2010
Number of outstanding IRs	6,251	6,201	5,040
Number of outstanding audit observations	19,693	19,731	15,608
Amount involved (₹ in crore)	5,255.99	5,319.01	9,862.06

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned below:

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
(1)	(2)	(3)	(4)	(5)	(6)
1.	Commercial Tax	Taxes/VAT on sales, trade etc.	848	3,799	713.64
2.	Energy	Electricity duty	76	275	1,833.81
3.	State excise	Entertainment tax	204	333	18.28
		Excise duty	336	1,065	596.74

(1)	(2)	(3)	(4)	(5)	(6)
4.	Revenue	Land revenue	1,584	4,282	2,683.27
5	Transport	Taxes on motor vehicles	350	1,780	314.59
6	Stamps and registration	Stamp duty and registration fee	635	1,606	126.75
7	Mines and geology	Royalty and rent	294	1,009	2,654.81
8.	Forest and environment	Forest produce receipts	353	629	846.24
9.	Food and civil supplies	Other non-tax receipts	122	267	17.22
10.	Agriculture		140	317	16.30
11.	Co-operative		98	246	40.41
<b>Total</b>			<b>5,040</b>	<b>15,608</b>	<b>9,862.06</b>

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 197 IRs issued up to December 2009. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

**It is recommended that the Government takes suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.**

### 1.2.2 Departmental audit committee meetings

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2009-10 and the paragraphs settled are mentioned below:

(₹ in crore)

Head of revenue	Number of meetings held	Number of paragraphs settled	Amount
Commercial tax	05	585	24.10
Mining	02	186	7.90
Stamp duty and registration fees	03	365	15.08
State excise	02	171	60.54
Land revenue	01	138	26.85
Forest	03	164	108.51
<b>Total</b>	<b>16</b>	<b>1,609</b>	<b>242.98</b>

Above table shows that the settlement of outstanding paragraphs has not been satisfactory in the case of Mining and State Excise Departments. This was mainly due to non-production of relevant records by the Departments during the audit committee meetings.

### 1.2.3 Non-production of records to audit for scrutiny

The programme of local audit of Commercial Tax, Motor Vehicle Tax, State Excise, Stamp duty and Registration fee, Land Revenue and Mining Receipts offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2009-10, as many as 539 assessment files, registers and other relevant records relating to 83 offices were not made available to audit. In 192 cases, tax involved was ₹ 106.31 crore and in the remaining cases the tax effect could not be computed. Year-wise break up of such cases are given below:

(₹ in crore)

Name of Department No. of offices	Year in which it was to be audited	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained	Revenue involved
Commercial Tax 13	2009-10	192	192	106.31
Motor Vehicle Tax 05	2009-10	13	-	-
State Excise 04	2009-10	12	-	-
Stamps and Registration 13	2009-10	23	-	-
Land Revenue 42	2009-10	274	-	-
Mining 06	2009-10	25	-	-
<b>Total</b>		<b>539</b>	<b>192</b>	<b>106.31</b>

### 1.2.4 Response of the Departments to the draft audit paragraphs

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

79 draft paragraphs (clubbed into 57 paragraphs) included in this Report were sent to the Principal Secretaries/Secretaries of the concerned Departments. Their replies have not been received (December 2010).

The paragraphs pertaining to these Departments have been included in this Report without the response of the Departments.

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

The Report of the Comptroller & Auditor General of India for the year ended 31 March 2009 (Revenue Receipts) was laid on the table of *Vidhan Sabha* on 12 March 2010. Reports for the years 2005-06 to 2007-08 have been partly discussed by the Public Accounts Committee (PAC). The recommendations of the PAC have been received for Audit Reports pertaining to different years.

Action taken reports (ATN) on the PAC recommendations upto 1992-93 have been received. In respect of Audit Reports for 1993-94 and thereafter, ATNs have not been received from the concerned Departments although instructions of November 1994 issued by the State Legislature Affairs Department stipulate that these should be issued within six months from the date of recommendations by the PAC.

### 1.2.6 Compliance with the earlier Audit Reports

During the years between 2004-05 and 2008-09, the Departments/Government accepted audit observations involving ₹ 869.19 crore of which only ₹ 12.60 crore has been recovered till 31 March 2009 as mentioned below:

(₹ in crore)

Year of the Audit Report	Total money value of the Report	Accepted money value	Amount recovered
2004-05	41.96	13.24	0.28
2005-06	85.85	32.56	2.42
2006-07	318.57	288.61	1.93
2007-08	623.43	421.89	4.86
2008-09	1,339.50	112.89	3.11
<b>Total</b>	<b>2,409.31</b>	<b>869.19</b>	<b>12.60</b>

### 1.3 Analysis of the mechanism for dealing with the issues raised by audit

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last 10 years in respect of **one Department** is evaluated and included in each Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Forest Department** to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 1999-2000 to 2008-09.

### 1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last six years, paragraphs included in these reports and their status as on 31 March 2010 are tabulated below:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value
upto 2003-04	603	1,788	77,763.46	51	158	15,181.66	18	117	1,278.26	636	1,829	91,666.86
2004-05	636	1,829	91,666.86	55	205	22,142.42	27	199	5,266.01	664	1,835	1,08,543.27
2005-06	664	1,835	1,08,543.27	151	554	41,559.28	123	534	52,311.75	692	1,855	97,790.80
2006-07	692	1,855	97,790.80	27	74	8,325.05	71	257	12,465.99	648	1,672	93,649.86
2007-08	648	1,672	93,649.86	64	161	16,112.22	130	451	31,719.24	582	1,382	78,042.84
2008-09	582	1,382	78,042.84	46	128	20,773.85	155	386	28,209.91	473	1,124	70,606.78
2009-10	473	1,124	70,606.78	73	229	39,820.90	126	335	15,347.98	420	1,018	95,079.70

Out of 335 paragraphs cleared during the year 2009-10, 171 paragraphs were cleared by the field audit parties in compliance of the orders/norms issued by the AG and by the staff at headquarters on the basis of replies received from the Department. Remaining 164 paragraphs were settled in Audit Committee meetings held with the joint efforts made by the AG and the Department.

### 1.3.2 Assurance given by the Department/Government on the issues highlighted in the Audit Report

#### 1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned below:

(₹ in crore)

Year of AR	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1999-2000	06	6.94	01	0.58	-	-
2000-01	08	10.63	01	1.00	-	-
2001-02	02	8.46	-	-	-	-
2002-03	04	4.86	02	4.16	-	-
2003-04	03	0.89	-	-	-	-
2004-05	02	4.00	-	-	-	-
2005-06	01	7.00	01	7.00	-	-

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2006-07	01	36.50	01	36.50	27.59	27.59
2007-08	02	0.83	01	0.73	-	-
2008-09	Review on Forest receipts in MP	222.67	--	0.27	--	--

For monitoring the recovery in audit observations, inspection of subordinate offices is conducted by the Additional Principal Chief Conservator of Forest/Chief Conservator of Forest from time to time. Besides, review of audit paragraphs is performed by the Principal Chief Conservator of Forest (Finance/Budget).

As shown in the above table, recovery of ₹ 27.59 crore was made during 2006-07 which is abysmal. In respect of upto date position of recoveries in other accepted cases, the department has not furnished the required information (December 2010).

### 1.3.2.2 Action taken on the recommendations accepted by the Departments/Government

The draft performance reviews conducted by the AG are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. These reviews are also discussed in an exit conference and the Department's/Government's views are included while finalising the reviews for the Audit Reports.

The following paragraphs discuss the issues highlighted in the review on the Forest Department featured in the last 10 Audit Reports including the recommendations and action taken by the Department on the recommendations accepted by it as well as the Government.

Year of AR	Name of the Review	Number of recommendations	Details of the recommendations accepted	Status
1999-2000	Collection and disposal of <i>tendu patta</i>	Recommendations not included in the reviews.		
2000-01	Extraction and disposal of timber			
2002-03	Forest offences in Madhya Pradesh	02	-	Specific comments on recommendations have not been furnished by the Department (December 2010).
2008-09	Forest receipts in Madhya Pradesh	08	-	Specific comments on recommendations have not been furnished by the Department (December 2010).

## **1.4 Audit planning**

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia include critical issues in government revenues and tax administration i.e. budget speech, white paper on state finances, reports of the Finance Commission (state and central), recommendations of the taxation reforms committee; statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year 2009-10, the audit universe comprised of 983 auditable units, of which 458 units were planned, of which 449 units were audited during the year 2009-10 which is 45.68 *per cent* of the total auditable units.

Besides the compliance audit mentioned above, two performance reviews were also taken up to examine the efficacy of the tax administration of these receipts.

## **1.5 Results of audit**

### **1.5.1 Position of local audit conducted during the year**

Test check of the records of 449 units of Commercial tax, State excise, Motor vehicles, Forest and other Departmental offices conducted during the year 2009-10 revealed underassessment/short levy/loss of revenue aggregating ₹ 3,366.12 crore in 28,674 cases. During the course of the year, Departments accepted underassessment and other deficiencies of ₹ 1,738.52 crore involved in 18,071 cases which were pointed out in audit during 2009-10. The Departments collected ₹ 4.64 crore in 1,940 cases during 2009-10.

### **1.5.2 This Report**

This report contains 57 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) including two reviews on Land revenue receipts and Electricity duty, fees and cess relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 1,469.91 crore. The Departments/Government have accepted audit observations involving ₹ 942.89 crore out of which ₹ 3.26 crore has been recovered. The replies in the remaining cases have not been received (December 2010). These are discussed in succeeding chapters II to IX.



## CHAPTER - II COMMERCIAL TAX

### 2.1 Tax administration

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Commissioner of Commercial Tax (CCT) is the head of the department. The Department is divided in four zones, each headed by Zonal Additional Commissioners. Each zone comprises of the divisional offices headed by 13 divisional Deputy Commissioners (DC). Under these divisions, there are 78 circle offices headed by the Commercial Tax Officers/Assistant Commissioners (CTO/AC).

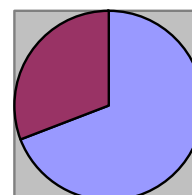
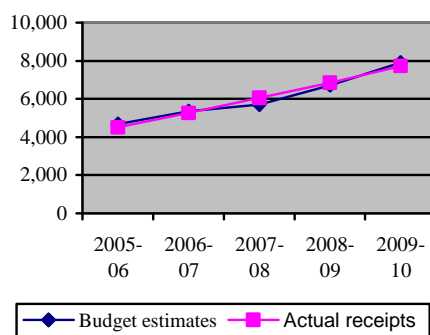
### 2.2 Trend of receipts

Actual receipts from VAT during the last five years 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual Commercial Tax/VAT receipts vis-a-vis total tax receipts
2005-06	4,676.00	4,508.42	(-) 167.58	(-) 3.58	9,114.70	49.46
2006-07	5,357.00	5,261.41	(-) 95.59	(-) 1.78	10,473.13	50.24
2007-08	5,700.00	6,045.07	(+) 345.07	(+) 6.05	12,017.64	50.30
2008-09	6,720.00	6,842.99	(+) 122.99	(+) 1.83	13,613.50	50.27
2009-10	7,894.11	7,723.82	(-) 170.29	(-) 2.16	17,272.77	44.72

Receipts from VAT increased from ₹ 4,508.42 crore in 2005-06 to ₹ 7,723.82 crore in 2009-10 - an increase of 71.32 per cent. However, the share of VAT in total receipts declined from 50.30 per cent in 2007-08 to 44.72 per cent in 2009-10.



■ Total Tax receipts (2009-10)  
■ VAT receipts (2009-10)

### 2.3 Assessee profile

The Department reported that during 2009-10 there were 2,16,555 (Provisional) registered dealers, of which approximately 20,588 were large tax payers and 1,95,967 were small tax payers. All registered dealers having turnover upto ₹ 20 lakh or paying annual tax upto ₹ 10,000 are required to file annual returns where as other dealers are required to file quarterly returns. In case of dealers who failed to furnish returns, advance tax notices are issued by the competent officer. The Department further informed that the number of returns received is not maintained at the Departmental headquarters. Thus, a vital monitoring mechanism is absent in the Department.

### 2.4 Cost of VAT per assessee

It was stated by the Department that such data is not available.

### 2.5 Arrears in assessment

The details of assessments relating to sales tax/VAT, profession tax, entry tax, luxury tax, tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed during the year and pending cases at the end of each year during 2007-08, 2008-09 and 2009-10 as furnished by the Commercial Tax Department are mentioned below:

Name of tax		Opening balance	New cases due for assessment during the year	Total assessments due	Cases disposed during the year	Balance at the end of the year	Percentage of column 5 to 4
(1)		(2)	(3)	(4)	(5)	(6)	(7)
<b>Commercial Tax Department</b>							
Sales tax/VAT	2007-08	3,63,487	2,81,575	6,45,062	3,41,769	3,03,293	52.98
	2008-09	3,03,293	3,41,838	6,45,131	3,78,096	2,67,035	58.61
	2009-10	2,67,035	3,53,048	6,20,083	3,72,161	2,47,922	60.02
Profession tax	2007-08	1,15,513	1,45,481	2,60,994	1,33,479	1,27,515	51.14
	2008-09	1,27,515	1,50,048	2,77,563	1,53,188	1,24,375	55.19
	2009-10	1,24,375	1,40,241	2,64,616	1,57,938	1,06,678	59.69
Entry tax	2007-08	1,85,094	2,23,297	4,08,391	2,19,980	1,88,411	53.87
	2008-09	1,88,411	2,36,999	4,25,410	2,55,054	1,70,356	59.95
	2009-10	1,70,356	2,29,913	4,00,269	2,48,537	1,51,732	62.09
Luxury tax	2007-08	698	1,007	1,705	1,007	698	59.06
	2008-09	698	1,330	2,028	1,364	664	67.26
	2009-10	664	1,026	1,690	1,052	638	62.25
Tax on works contracts	2007-08	3,501	3,211	6,712	2,965	3,747	44.17
	2008-09	3,747	5,160	8,907	6,366	2,541	71.47
	2009-10	2,541	6,273	8,814	6,183	2,631	70.15

Thus, there has been decrease in disposal of assessment cases relating to luxury tax and tax on works contracts during 2009-10 as compared to the previous year.

## 2.6 Cost of collection

The gross collection in respect of commercial tax/VAT, expenditure incurred on collection as furnished by the concerned Department and the percentage of expenditure to gross collection during the years 2007-08, 2008-09 and 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for 2008-09 are mentioned below:

(₹ in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
1.	Commercial Tax/VAT	2007-08	6,045.07	60.36	1.00	0.88
		2008-09	6,842.99	96.23	1.41	
		2009-10	7,723.82	85.33	1.10	

The above table indicates that the percentage of expenditure on collection in respect of commercial tax/VAT was more than the all India average percentage for the year 2008-09.

**The Government needs to take appropriate measures to bring down the cost of collection.**

## 2.7 Analysis of collection

The department informed that the analysis of collection is not maintained in the headquarters as well as in the subordinate offices.

## 2.8 Impact of audit

During the last five years, audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 436.81 crore in 4,747 cases. Of these, the department/Government had accepted audit observations in 1,237 cases involving ₹ 102.14 crore and had since recovered ₹ 2.95 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	95	1,099	38.58	29	1.05	--	--
2005-06	91	789	94.84	43	33.67	07	0.71
2006-07	75	623	66.37	149	15.33	07	0.95
2007-08	106	1,002	55.99	519	12.12	22	0.47
2008-09	102	1,234	181.03	497	39.97	14	0.82
<b>Total</b>	<b>469</b>	<b>4,747</b>	<b>436.81</b>	<b>1,237</b>	<b>102.14</b>	<b>50</b>	<b>2.95</b>

The percentage of recovery as compared to the accepted cases has been abysmal over the last five years. We have brought this glaring issue to the notice of the head of the Department as well as the Finance Secretary of the Government.

### **2.9 Working of internal audit wing**

In pursuance of the Government orders dated 11 October 1982, 15 posts (5 Assistant Commissioners, 5 Commercial Tax Officers and 5 Assistant Commercial Tax Officers) were sanctioned for internal audit in the Department. However, due to constant increase in the number of registered dealers and assessment cases, establishment of check posts and deployment of available staff in revenue work, system of internal audit is not working at present in the Department.

### **2.10 Results of audit**

Test check of the records of 90 units relating to Commercial Tax/VAT revealed underassessment of tax and other irregularities involving ₹ 365.51 crore in 1,237 cases which fall under the following categories.

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of tax.	398	117.22
2.	Application of incorrect rate of tax.	180	10.72
3.	Incorrect determination of taxable turnover.	121	8.63
4.	Incorrect grant of exemption/deduction/set off.	203	152.78
5.	Other irregularities.	335	76.16
	<b>Total</b>	<b>1,237</b>	<b>365.51</b>

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 122.70 crore in 551 cases, which were pointed out in audit during the year 2009-10. An amount of ₹ 2.11 crore was realised in 107 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 112.71 crore highlighting important audit findings are mentioned in the following paragraphs.

## 2.11 Non-recovery of tax from closed units

Two regional<sup>1</sup> and three circle<sup>2</sup> offices

A dealer holding eligibility certificate (EC) for exemption from payment of tax is required to keep his industrial unit running during the period of eligibility and also for a period of five years from the date of expiry of the period of eligibility, failing which the EC shall be cancelled by the District/State level Committee (DLC/SLC) empowered to issue the EC. The amount of tax exemption availed of by the dealer shall be recovered. If the circumstances warrant, such cancellation may be given retrospective effect.

We observed between January and October 2009 that out of six dealers, assessed/re-assessed between December 2007 and March 2009, holding EC for exemption from payment of tax, five dealers failed to keep their industrial units running during the period of eligibility while one dealer closed his industrial unit within five years after expiry of the eligibility period. The assessing authorities (AAs), however, did not take any action to refer the matter to the DLC/SLC for cancellation of ECs of such dealers.

This resulted in non-recovery of tax benefit of ₹ 102.28 crore which was availed of by the dealers upto the period between 2001-02 and 2005-06.

After we pointed out the cases, the AAs in case of three dealers stated (between March and September 2009) that action would be taken after verification. In one case it was stated (August 2009) that action is being taken for cancellation of the EC. In another case, it was stated (January 2009) that the power to cancel the EC vests with the Industries Department (ID). The reply does not explain why the AA did not refer the matter to the ID for requisite action. In the remaining one case it was stated (October 2009) that the EC could not be cancelled with retrospective effect as has been held in several judicial decisions. The reply is not in consonance with the condition stipulated in the exemption notification and no judicial decision was furnished in support of the contention.

We reported the matter to the Commissioner, Commercial Tax (CCT), Madhya Pradesh and the Government between March and November 2009; their replies have not been received (December 2010).

<sup>1</sup> Dewas and Shajapur.  
<sup>2</sup> Gwalior (2) and Sagar.

## 2.12 Application of incorrect rate of tax

Six circle<sup>3</sup> offices

The Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (Adhiniyam) and the MP VAT Act read with the Central Sales Tax (CST) Act, 1956 and notifications issued thereunder specify the rates of commercial tax and VAT leviable on different commodities.

We observed between December 2004 and March 2009 that in case of 11 dealers, assessed between April 2003 and March 2009 for the period 2001-02 to 2006-07, tax on the sales turnover of ₹ 5.52 crore was levied at incorrect rates.

This resulted in short levy of tax of ₹ 94.50 lakh including interest/penalty as detailed below:

(₹ in lakh)

Sl. No.	Name of Auditee unit/ No. of cases	Assessment period	Rate applicable/ applied (per cent)	Amount of short levy of tax	Observations	Reply of the Department/ further observations
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	RAC, Circle I <u>Jabalpur</u> 01	2005-06	<u>13.8</u> 4.0	75.94	Under entry no.50 of Part-III of Schedule-II to the Adhiniyam, towers are liable to tax at the rate of 13.8 per cent, whereas the AA levied tax on the sale of towers at the rate of four per cent treating the commodity as Iron & Steel. This resulted in short realisation of tax of ₹ 75.94 lakh.	After we pointed out, the AA stated that the dealer manufactured and sold galvanised steel structurals. Reply is not acceptable because from the sales agreement with different purchasing parties and balance sheet it was evident that the dealer had sold towers and parts/components thereof and not galvanised steel structurals. The Superintendent, Central Excise, Range-II, Jabalpur has also confirmed the same.
2.	CTO, Circle VI, <u>Indore</u> 01  CTO, Circle III, <u>Jabalpur</u> 01	2006-07  2006-07	<u>12.5</u> 4.0	4.66	Under MP VAT Act, batteries and invertors are taxable at the rate of 12.5 per cent. In two cases the AAs levied tax on the sale of batteries and invertors incorrectly at the rate of four per cent. This resulted in short levy of tax of ₹ 4.66 lakh.	After we pointed out, the AAs stated that the dealer sold UPS and mobiles which are taxable at the rate of four percent. Reply is contrary to the facts on record.

<sup>3</sup> Gwalior, Indore-IV and XIV, Jabalpur-I and III, Neemuch

(1)	(2)	(3)	(4)	(5)	(6)	(7)
3.	CTO, Circle XIV, <u>Indore</u> 01	2006-07	<u>12.5</u> 4.0	3.53	As per CCT, MPs circular dated 31 July 2006 acrylic sheets are taxable at the rate of 12.5 per cent. The AA in one case, however, levied tax on acrylic sheets at the rate of four per cent. This resulted in short levy of tax of ₹ 3.53 lakh.	After we pointed out, the AA stated that tax was levied after verifying purchase/sale bills. In view of the CCT's circular <i>ibid</i> , rate charged in the purchase/sale bills was also incorrect. Therefore, reply is not acceptable.
4.	CTO Circle II, <u>Neemuch</u> 01	2001-02 2003-04 2004-05 2005-06	<u>13.8</u> 9.2	3.00	As per entry no. 54 of part-III of schedule-II to the <i>Adhiniyam</i> , television and parts thereof are liable to tax at the rate of 13.8 per cent. In one case the AA levied tax on the sale of TV and parts thereof at the rate of 9.2 per cent incorrectly. This resulted in short levy of tax of ₹ 3 lakh.	After we pointed out, the AA stated that as the dealer held EC, therefore short levy of tax would have no impact on the exchequer. The reply is not relevant as it was an omission on the part of the AA to levy tax at the correct rate with a consequent omission of non-adjustment of the amount of short levy of tax against the quantum of exemption specified in the EC.
5.	CTO, Circle III, <u>Jabalpur</u> 02	2001-02 2004-05	<u>13.8</u> 9.2	2.56	RCC pipes are included in cement pipes which are taxable at the rate of 13.8 per cent under entry no. 17 of Part-III of Schedule-II to the <i>Adhiniyam</i> . The AA in case of two dealers of RCC pipes levied tax at the rate of 9.2 per cent instead of 13.8 per cent. This resulted in short levy of tax of ₹ 2.56 lakh.	After we pointed out, the AA replied that tax was levied correctly at the rate of 9.2 per cent. Reply is not acceptable because RCC pipes are manufactured out of cement and are therefore, included in goods made of cement for which there is a specific entry.
6.	CTO, Circle-I, <u>Gwalior</u> 01	2004-05	<u>13.8</u> 4.6, 9.2	2.45	Tax on sale of timber, ply and <i>sunmica</i> was levied at the rate of 4.6/9.2 per cent treating the goods as packing boxes which was not correct because from the record it was evident that the dealer had sold timber, ply and <i>sunmica</i> severally. This resulted in short realisation of tax of ₹ 2.45 lakh.	After we pointed out, the AA stated that the dealer manufactured and sold packing boxes. Reply is contradictory to the facts on record.
7.	CTO, Circle III, <u>Jabalpur</u> 01	2004-05	<u>9.2</u> 4.6	1.71	LCO is liable to tax at the rate of 9.2 per cent being unspecified commodity under part IV of Schedule-II. The AA, however, levied tax at the rate of 4.6 per cent. This resulted in short of levy of ₹ 1.71 lakh.	After we pointed out, the AA stated that the dealer sold LCO and not heavy creosote oil. Reply is not relevant in view of the CCT's order dated 1 August 1998 which holds that LCO is taxable at the rate of 9.2 per cent.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
8.	CTO, Circle-III, Jabalpur 01	2006-07	9.2 4.6	0.65	As per CCT, MP's order dated 28 January 2002 craft paper is included in all kinds of paper and is taxable at the rate of 9.2 per cent. In case of one dealer the AA levied tax on the sale of craft paper at the rate of 4.6 per cent. This resulted in short levy of ₹ 64,847.	After we pointed out, the AA stated that the craft paper was sold for packing purpose; therefore tax was correctly levied at the rate of 4.6 per cent. Reply is not acceptable in view of the CCT's order <i>ibid</i> .
	<b>Total</b>			<b>94.50</b>		

We reported the matter to the CCT, MP and the Government between March 2005 and January 2010; their replies have not been received (December 2010).

### 2.13 Non/short levy of tax

#### 2.13.1 Four regional<sup>4</sup> and five circle<sup>5</sup> offices

The *Adhinyam* provides that every dealer, who in the course of his business purchases any goods without paying tax thereon, shall be liable to pay purchase tax on the purchase price of such goods at the concessional rate of four per cent or at prescribed lower rate, except in case of goods specified in Schedule III, if, after such purchase the goods are used or consumed in the manufacture or packing of other goods for sale.

We observed between February 2008 and October 2009 that in case of 11 dealers, assessed between January 2007 and March 2009 for the periods 2003-04 to 2005-06, purchase tax on goods valued at ₹ 13.01 crore was either not levied or was levied at incorrect rate. This resulted in non/short levy of tax of ₹ 1.94 crore including minimum penalty/interest of

₹ 37.75 lakh as shown below:

(₹ in crore)

Sl. No.	Our observation	Purchase value	Rate of tax applicable (per cent)	Amount of non/short levy of tax (penalty/ interest)
(1)	(2)	(3)	(4)	(5)
1.	In case of one dealer, purchase tax on high speed diesel (HSD) specified in Schedule III, was levied incorrectly at the concessional rate of 4.6 per cent (including surcharge) instead of prescribed rate.	5.52	28.75	1.33
Reply of the AA is awaited.				

<sup>4</sup> Bhopal, Chhindwara, Gwalior and Satna.  
<sup>5</sup> Gwalior (2), Indore and Ujjain (2).



(1)	(2)	(3)	(4)	(5)
2.	In case of nine dealers purchase tax was not levied on raw material/packing material purchased without payment of tax and used in the manufacture/packing of other goods for sale.	3.61	4.6	0.20 (0.38)
		2.82	1	
		0.10	4	
<p>The AAs in case of two dealers raised demand of ₹ 3.97 lakh (between January 2009 and February 2010), out of which ₹ 2.82 lakh was adjusted against the cumulative quantum of exemption (February 2010), while in case of four dealers it was stated (between November 2008 and October 2009) that action would be taken after verification. In case of one dealer the AA stated (October 2008) that the purchased goods were tax paid. We do not agree with the reply because on verification of the records of the selling dealers we found that the goods were purchased against declarations without payment of tax. In one case it was stated (October 2009) that purchase tax is not leviable on packing material. We do not find the reply in consonance with the provisions of the Act. In case of one dealer, reply of the AA is awaited.</p>				
3.	A dealer purchased <i>ghee</i> without paying tax thereon and consumed the same in the manufacture of <i>ayurvedic</i> medicines. However, 51 <i>per cent</i> of the medicines so manufactured were not sold but transferred to other States. Accordingly, 51 <i>per cent</i> of the stock of <i>ghee</i> so purchased was liable to purchase tax at the prescribed full rate but the AA levied purchase tax thereon at the concessional rate of 4.6 <i>per cent</i> .	0.96	8	0.03
The AA adjusted ₹ 4,01,717 against the cumulative quantum of exemption (June 2010).				

### 2.13.2 Two regional<sup>6</sup> and five circle<sup>7</sup> offices

The *Adhiniyam* provides for levy of tax at concessional rate of four *per cent* on the sale of goods meant for use as raw material in the manufacture of tax free goods for sale, but if the purchasing dealer uses them contrary to the specified purpose, he shall pay tax in respect of such goods at the rate equal to the difference between the prescribed full rate and the concessional rate.

We observed between March 2008 and December 2009 that in case of seven dealers, assessed between October 2006 and January 2009 for the periods 2003-04 to 2006-07, there was non/short levy of tax of ₹ 31.74 lakh as shown below:

<sup>6</sup> Ratlam and Satna.

<sup>7</sup> Bhopal, Gwalior, Indore (2) and Satna.

(₹ in lakh)

Sl. No.	Our observation	Amount of non/short levy of tax	Department's reply	Our comments
1.	During 2004-05 and 2005-06 the dealer purchased molasses aggregating ₹ 1.17 crore after paying tax at the concessional rate of 4.6 per cent and used the same in the manufacture of tax-free liquor which was not sold but transferred to other States. As the very purpose/condition of selling the goods manufactured out of molasses was defeated, tax on molasses was leviable at the full rate of 23 per cent instead of the concessional rate. However, tax on molasses at the differential rate of 18.4 per cent was neither paid by the dealer nor levied by the AA.	21.45	In the case of 2004-05, the AA stated that action would be taken after verification (November 2008). In the case of 2005-06, the AA stated that manufactured goods (liquor) was tax-free. (October 2009).	Final action is awaited.  Reply is not relevant as we pointed out short payment/levy of purchase tax on the raw material (molasses) and not on the manufactured goods (liquor), keeping in view of provisions of Act relating to purchase tax.
2.	In case of three dealers, there was mistake in computation of tax.	3.16	Action would be taken after verification. (between January and December 2009).	In one case the CCT, MP intimated (November 2010) that ₹ one lakh had been deposited. In other two cases final action is awaited.
3.	The dealer was allowed a deduction of ₹ 33.37 lakh on account of sale of spares and electrodes to the wholly exempted units. Scrutiny revealed that during the relevant period there was no sale of the said goods. The incorrect grant of deduction involved tax effect of ₹ 3.07 lakh at the rate of 9.2 per cent.	3.07	Action would be taken after verification. (March 2008).	Final action is awaited.
4.	Although water tank is liable to tax at the rate of 4.6 per cent, the AA failed to levy tax on sale of water tanks valued at ₹ 60.82 lakh.	2.80	The AA raised demand of ₹ 2.80 lakh and adjusted the same against the cumulative quantum of exemption (December 2008).	-
5.	The AA allowed levy of tax on the sale of electrical goods of ₹ 27.56 lakh at concessional rate of 4.6 per cent under a notification dated 4 May 2000. Scrutiny revealed that the said notification was not applicable in the case of the assessee dealer. This resulted in short realization of tax of ₹ 1.26 lakh at the differential rate of 4.6 per cent.	1.26	The AA raised demand of ₹ 1.26 lakh (April 2009).	Recovery particulars are awaited.

We reported the matter to the CCT, MP and the Government between March 2006 and January 2010; their replies have not been received (December 2010).

## 2.14 Non-levy of tax on sales incorrectly treated as tax free/ exempted

Six regional<sup>8</sup> and eleven circle<sup>9</sup> offices

The *Adhiniyam* and the MP VAT Act read with the CST Act and notifications issued thereunder prescribe rates of commercial tax leviable on different commodities except those specified under Schedule I of the *Adhiniyam*/Act or exempted from whole of tax through notifications.

We observed between January 2008 and November 2009 that in 26 cases of 21 dealers, assessed between January 2007 and March 2009 for the periods 2000-01 to 2006-07, the AAs did not levy tax on sales turnover of ₹ 39.41 crore of taxable commodities like high density polyethylene (HDPE)/poly propylene (PP) fabrics, *ayurvedic* medicines, cotton bandage etc. incorrectly treating them as tax free goods or exempted from tax. This resulted in non-levy of tax of ₹ 2.20 crore including interest as shown below:

(₹ in lakh)

Sl. No.	No. of dealers No. of cases	Commodity	Nature of sale	Turnover	Rate of tax applicable (per cent)	Amount of tax not levied
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	14 18	HDPE/PP fabrics	Intra-State	3,042.93	4.6	198.63
			Inter-State (without C forms)	571.43	10	
			Inter-State (with C forms)	37.61	4	
In case of two dealers the AA stated (October 2009) that action would be taken after verification. In case of four dealers it was stated (between February and November 2009) that HDPE fabrics is a kind of cloth, hence tax-free under Schedule I of the <i>Adhiniyam</i> . In case of two dealers it was stated (October and November 2009) that as per order of the Commissioner, Sales Tax, MP issued under Section 42-B of the repealed MPGST Act, HDPE fabric is a kind of cloth. We do not agree with the contention of the AAs because MP High Court <sup>10</sup> has held that HDPE fabric is not a kind of cloth but it is covered in plastic goods. In case of six dealers it was stated (between February and November 2009) that HDPE fabric is exempted from tax under notification no. 68 dated 24 August 2000. Reply does not correctly interpret the said notification which exempts all varieties of cloth and not HDPE fabric, which is plastic goods.						
2.	01 02	Potato <i>khapta</i> <sup>11</sup>	Intra-State	17.00	4	10.22
			Inter-State (without C forms)	95.35	10	
The AA stated (August 2009) that action would be taken after verification.						
3.	01 01	Chemical fertilizer	Intra-State	110.35	4.6	5.08
The AA stated (April 2008) that action would be taken after verification.						

<sup>8</sup> Indore (5) and Jabalpur.

<sup>9</sup> Bhopal, Gwalior (2), Indore (5), Jabalpur (2) and Ujjain.

<sup>10</sup> M/s Raj Pack Well Ltd. v/s Union of India [1990 (50) - ELT- 201 (MP)].

<sup>11</sup> Chips of potato.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4.	02 02	Cotton rolled/gauze bandage	Intra-State	35.75	9.2	3.29
In case of one dealer the AA stated (January 2008) that besides cotton bandage, the dealer also sold loose cloth which is tax free under Schedule I of the <i>Adhiniyam</i> . We do not agree with the reply because on verification from the registration certificate (RC) of the dealer we found that his business was to manufacture and sell "rolled/gauze bandage" for which "cloth" was recorded as raw material. In another case it was stated (May 2009) that the dealer sold cloth as such without any processing thereon. We do not agree with the reply because from a review of the audited manufacturing account of the dealer we found that he was engaged in the production of cotton bandage by consuming/processing cotton, chemical, fuel etc.						
5.	01 01	Silk sarees	Intra-State	7.88	13.8	1.09
The AA stated (October 2009) that action would be taken after verification.						
6.	01 01	Readymade garments	Intra-State	16.87	4	0.98
The AA stated (September 2008) that action would be taken after verification.						
7.	01 01	Ayurvedic medicines	Intra-State	6.03	9.2	0.55
The AA replied (December 2008) that the dealer sold life saving drugs exempted under the notification dated 27 March 2001. Reply does not correctly interpret the said notification as it does not include ayurvedic medicines as life saving drugs.						

We reported the matter to the CCT, MP and the Government between April 2008 and January 2010; their replies have not been received (December 2010).

### 2.15 Non/Short levy of entry tax

Eleven regional offices<sup>12</sup> and 18 circle offices<sup>13</sup>

Under the MP *Sthaniya Kshetra Me Maal Ke Pravesh Par Kar Adhiniyam*, 1976 and rules and notifications issued thereunder, entry tax (ET) is leviable at the specified rates on the goods entering into a local area for consumption, use or sale therein.

We observed between May 2008 and December 2009 that in case of 36 dealers assessed/re-assessed between July 2007 and March 2009 for the periods 2004-05 to 2006-07, ET on goods like yarn, pulses, plant and machinery, motor vehicles, HSD, coal, furnace oil, timber etc. valued at ₹ 61.71 crore was either not levied or was

levied at incorrect rate on their entry into local area. This resulted in non/short realisation of ET of ₹ 92.81 lakh including interest and penalty of ₹ 14.84 lakh.

After we pointed out the cases, the AAs recovered ₹ 1.93 lakh (September and December 2009) in case of two dealers. In one case the CCT, MP intimated (November 2010) that demand for ₹ 81,993 alongwith penalty of an equal amount had been raised. In case of 24 dealers it was stated (between May 2008 and December 2009) that action would be taken after verification.

<sup>12</sup> Chhindwara, Guna, Indore, Itarsi, Jabalpur, Mandasaur, Sagar, Satna(3), and Ujjain.

<sup>13</sup> Chhindwara, Guna, Gwalior (3), Indore (4), Jabalpur (2), Katni, Naugaon, Neemuch, Sagar, Shahdol and Ujjain (2).

In remaining cases of nine dealers the departmental replies and our comments thereon are as follows:

Sl. No.	Name of auditee unit/ No. of dealers	Commodity	Departmental reply	Our comments
1.	CTO I, <u>Ujjain</u> 01	<i>Tuwar</i> (pulses)	The pulses purchased during 1 June 2004 to 31 March 2005 were exempted from ET. (February 2009)	We do not agree with the reply because the notification dated 23 April 2002, exempting pulses from ET, was in force only up to 31 May 2004.
2.	CTO III, <u>Gwalior</u> 01 RAC, <u>Mandsaur</u> 01	Raw material and incidental goods	The goods entered in the factory situated on railway's land and as per various judicial decisions <sup>14</sup> , railway sidings are not covered in local area. Therefore, ET was not leviable. (November 2008 and March 2010).	We do not agree with the reply because the said decisions do not discuss as to why the railway sidings are not included in a local area. However, the MP Board of Revenue, in two cases <sup>15</sup> , has categorically held that railway sidings and rail lines are covered in local area.
3.	<u>RAC, Satna</u> 01 CTO II, <u>Neemuch</u> 01	Tractor	As per entry no. 9 of Schedule I of the <i>Adhiniyam</i> , tractor is tax-free. (January and July 2009).	We do not agree with the reply because no such entry existed in Schedule I of the <i>Adhiniyam</i> during the relevant periods.
4.	CTO III, <u>Gwalior</u> 01	Tractor	Tractor parts are exempted from ET vide notification dated 30 April 2002. (October 2009).	The reply is not specific as our observation pertains to tractors and not to tractor parts. Moreover, tractors are not covered under the said notification.
5.	CTO XIII, <u>Indore</u> 01	Yarn	Yarn purchased for use as raw material was exempted from ET under notification dated 6 September 2001. (October 2009).	We do not agree with the reply because notification dated 6 September 2001 exempts raw materials meant for use in the manufacture of yarn and not the yarn itself.
6.	<u>RAC, Itarsi</u> 01	HSD	The dealer purchased light diesel oil (LDO), which is different from diesel, therefore ET was not leviable at enhanced rate under notification dated 26 December 2001. (November 2009).	Fact however remains that the word 'diesel' in the notification dated 26 December 2001 includes both LDO and HSD.
7.	CTO VI, <u>Indore</u> 01	HDPE and LDPE	HDPE/LDPE purchased for consumption as raw material, was ET paid. (June 2009).	Fact however remains that HDPE/LDPE, purchased for consumption, belongs to Schedule III of the Act, therefore can not be regarded as ET paid.

We reported the cases to the CCT, MP and the Government between May 2008 and January 2010; their replies have not been received (December 2010).

<sup>14</sup> M/s Jai Prakash Associates Ltd. v/s State of MP and others [(2006)-8 STJ-415]  
M/s Naval Ispat *Udhyog*, Kharsia v/s CST, MP [(1990) 23 VKN 537].

<sup>15</sup> M/s Simical Engineering Co. v/s Appellate Dy. CCT [(2004) 4 STJ 519]  
M/s Larsen and Tubro Ltd. v/s CCT [(2002) 35 VKN 50].

## 2.16 Non-realisation of profession tax

Under the MP *Vritti Kar Adhiniyam*, 1995, every person who carries on a trade either himself or by an agent or representative or who follows a profession or calling other than agriculture in MP shall be liable to pay profession tax (PT) at the rate specified in the Schedule of the Act. The Act further provides that such person liable to pay tax shall obtain a certificate of registration from the PT assessing authority in the prescribed manner.

On cross verification of information obtained from 30 circle offices<sup>16</sup> of Commercial Tax Department (CTD) with (i) lists furnished in respect of liquor licencees, cinema houses, video parlours and cable operators by the State Excise Department and (ii) lists of beauty parlours furnished by the Customs & Central Excise Department, we observed that 3,682 persons remained unregistered with the CTD under the Act for the years 2003-04 to 2008-09, although they were

liable to pay PT. This resulted in non-realisation of PT of ₹ 76.94 lakh at the rate ranging from ₹ 1,000 to ₹ 2,500 per annum.

We reported the matter to the CCT, MP and the Government in March 2010; their replies have not been received (December 2010).

## 2.17 Incorrect determination of turnover

Five regional offices<sup>17</sup> and two circle offices<sup>18</sup>

Under the *Adhiniyam* taxable turnover (TTO) is determined after deducting from the turnover, the sale price of tax paid goods and the amount of tax, included in the aggregate of sale prices. The *Adhiniyam* also provides for imposition of penalty of a sum not exceeding the amount of tax under-assessed in case of omission attributable to the assessee and penalty of a sum not exceeding five times of the tax evaded in case of furnishing false particulars by the assessee.

**2.17.1** We observed between September 2008 and November 2009 that while determining TTO of five dealers, assessed between June 2007 and March 2009 for the periods 2004-05 and 2005-06, four dealers were allowed deduction of sales of tax paid goods valued at ₹ 2.40 crore which was not admissible because the said goods purchased by the dealers from unregistered dealers/a place outside the State were not in the nature

of tax paid goods. In case of one dealer, deduction of ₹ 12 lakh in excess of admissible amount of tax paid sale was allowed incorrectly. Thus, TTO was under-determined by ₹ 2.52 crore. This resulted in non-levy of tax of ₹ 21.39 lakh including maximum penalty of ₹ 2.58 lakh.

<sup>16</sup> CTO, Indore (15); CTO, Gwalior (4); CTO, Ujjain (3); CTO, Mandsaur (2); CTO, Neemuch (2); CTO, Sagar (2); CTO, Shajapur and CTO, Tikamgarh.

<sup>17</sup> Indore (3), Morena and Satna.

<sup>18</sup> Indore and Jabalpur.

After we pointed out the cases, the AAs in case of four dealers stated (between September 2008 and November 2009) that action would be taken after verification. In one case it was stated (May 2009) that the deduction of tax paid sales was allowed after verification. Contention of the AA is not correct as we verified and confirmed that the goods sold were purchased from a dealer who was not registered during the relevant period.

**2.17.2** During test check of the records of two regional offices<sup>19</sup> and three circle offices<sup>20</sup> between January and December 2009 we observed that out of five dealers, assessed between January 2008 and March 2009 for the periods 2003-04 to 2006-07, turnover in case of four dealers was determined at ₹ 6.21 crore against the aggregate of sales of ₹ 6.91 crore recorded in their audited books of accounts/stock statement, while in one case the dealer deliberately misstated the opening stock in his books of accounts as ₹ 35 lakh against of ₹ 53 lakh. Thus, turnover aggregating ₹ 89 lakh was not assessed to tax and resulted in non-levy of tax of ₹ 13.92 lakh including minimum penalty of ₹ 6.75 lakh.

After we pointed out the cases, in one case the CCT, MP intimated (November 2010) that demand of ₹ 1.78 lakh alongwith penalty of an equal amount had been raised while in remaining cases the AAs stated (between January and December 2009) that action would be taken after verification.

**2.17.3** During test check of the records of two regional offices and one circle office between January and November 2009 we observed that in case of three dealers, assessed between January 2008 and January 2009 for the periods 2004-05 and 2005-06, incorrect determination of TTO to the extent of ₹ 2 crore resulted in non-levy of tax of ₹ 10.86 lakh as shown below:

Sl. No.	Name of auditee unit	Our observation	Department's reply/ our comments
(1)	(2)	(3)	(4)
1.	RAC, Satna	Although sale aggregating ₹ 99.29 lakh was not part of the gross turnover, the AA incorrectly allowed deduction thereof. Thus, TTO was under determined by ₹ 99.29 lakh. This resulted in non-levy of tax of ₹ 4.57 lakh.	The AA stated (August 2009) that action would be taken after verification.
2.	RAC, Satna	The AA allowed deduction of deemed sale of conveyor belt material and retreading material valued at ₹ 43.38 lakh treating them as consumable goods. This was not correct as the materials do not lose their identity during the process of retreading. Thus, TTO was under determined by ₹ 43.38 lakh. This resulted in non-levy of tax of ₹ 3.99 lakh.	The AA stated (January 2009) that during the process of repairing, conveyor belt solution loses its identity. Reply is not specific as our observation refers to conveyor belt material and retreading material and not to conveyor belt solution.

<sup>19</sup> Indore and Satna.

<sup>20</sup> Guna, Indore and Waidhan.

(1)	(2)	(3)	(4)
3.	CTO, Circle-X, Indore	The AA allowed deduction of ₹ 57.51 lakh on account of discount given by the dealer through credit notes for rate difference. This was not correct because such discount could not be treated as cash discount. Thus, TTO was less determined by ₹ 57.51 lakh. This resulted in non-levy of tax of ₹ 2.30 lakh.	The AA stated (November 2009) that action would be taken after verification.

**2.17.4** During test check of the records of four regional offices<sup>21</sup> and two circle offices<sup>22</sup> between December 2007 and November 2009 we observed that in case of seven dealers, assessed between December 2003 and January 2009 for the periods 2000-01 to 2001-02 and 2003-04 to 2005-06, although tax was not included in the aggregate of sale prices, the AAs, while determining TTO, allowed deduction of the amount of tax from turnover. This resulted in short levy of tax of ₹ 7.35 lakh including minimum penalty of ₹ 21,000.

After we pointed out the cases, in case of two dealers ₹ 80,132 was adjusted against the quantum of exemption (December 2008 and November 2010) while in another case ₹ 1.05 lakh was recovered (between November 2008 and June 2009).

In case of three dealers the AAs stated (between February and November 2009) that action would be taken after verification. In the remaining one case, the AA stated (February 2009) that the deduction allowed was correct. Reply is not acceptable because in order to determine the gross turnover, the amount of tax was deducted from the gross receipts and for determining TTO, the amount of tax was again deducted from the gross turnover so determined. Thus, we found that there was double deduction, which was not correct.

We reported the matter to the CCT, MP and the Government between March 2008 and January 2010; their replies have not been received (December 2010).

<sup>21</sup> Gwalior, Indore, Itarsi and Sagar.  
<sup>22</sup> Sagar and Waidhan.



## 2.18 Incorrect grant of set off

One Regional and two circle offices

A registered dealer, who purchases any tax paid goods which are specified as raw material or incidental goods in his RC and consumed or used in the manufacture of other goods for sale, shall be entitled to set off at a rate equal to the difference between the tax at full rate and the tax at concessional rate of four *per cent* or such other concessional rate as may be notified, on the quantum of price of goods so purchased. Notification dated 1 April 1995 prescribes the other concessional rate of *zero per cent* in respect of iron and steel of any category meant for use as raw material in the manufacture of other goods of the same or any other category of iron and steel.

We observed between December 2008 and December 2009 that four dealers, assessed between June 2007 and March 2009 for the periods 2004-05 and 2005-06, were incorrectly allowed set off of ₹ 9.14 lakh as shown below:

S. No.	Name of Unit No. of dealers	Period Month of assessment	Our observation in brief	Department's reply/ our comments
1.	RAC, Indore 01	2005-06 March 2009	Set off of ₹ 6.26 lakh was granted under notification dated 1 April 1995 in respect of tax paid copper bars/rods consumed in the manufacture of other goods. This was not correct because copper bars/rods are not covered under the said notification.	The AA stated (June 2009) that action would be taken after verification.
2.	CTO, Circle III, Jabalpur 02	2005-06 January 2009	Set off of ₹ 1.90 lakh was incorrectly granted in respect of tax paid cement as the same was not consumed by the dealer in the manufacture of other goods but was transferred to MP State Electricity Board.	The AA stated (November 2009) that action would be taken after verification.
3.	CTO, Circle I, Jabalpur 01	2004-05 June 2007 2005-06 September 2009	Set off of ₹ 98,000 was incorrectly granted in respect of tax paid furnace oil as the same was not specified as raw material or incidental goods in the RC of the dealer.	The AA stated (December 2008) that action would be taken after verification.

We reported the matter to the CCT, MP and the Government between March 2009 and January 2010; their replies have not been received (December 2010).

## 2.19 Grant of inadmissible input tax rebate

Three Regional and three circle offices

MP VAT Act provides that input tax rebate (ITR) shall be allowed to a registered dealer who purchases any goods, specified in Schedule II except goods specified in Part III from another registered dealer after payment of input tax. The Act also provides for grant of ITR to a dealer in respect of tax paid raw material purchased by him on or after 1 April 2005 and held in stock on 1 April 2006 for consumption or use in the manufacture of other goods for sale.

We observed between May and December 2009 that six dealers were granted inadmissible ITR of ₹ 30.28 lakh as shown below:

Sl. No.	Name of auditee unit No. of dealers	Period of assessment Month of assessment/ order	Our observation
(1)	(2)	(3)	(4)
1.	CTO, Circle V, Bhopal 01 CTO, Betul 01 RAC, Indore 01	2006-07 October 2008 to February 2009	The dealers purchased goods valued at ₹ 37.89 crore after payment of input tax of ₹ 1.65 crore. However, the AAs incorrectly computed and allowed ITR of ₹ 1.85 crore on the said purchase value. This resulted in grant of inadmissible ITR of ₹ 19.76 lakh.
In one case the AA accepted (December 2009) our observation. In the remaining two cases the AAs stated (September and November 2009) that action would be taken after verification.			
2.	RAC, Indore 01	Order passed in July 2006 under Section 73 of the VAT Act	In the accounting period 2005-06, the dealer purchased viscose fibre valued at ₹ 8.51 crore in respect of which he was allowed set off. This implies that the said goods were consumed in the manufacturing process during 2005-06 and accordingly nothing out of the said goods was in stock of the dealer on 1.4.2006. However, the AA allowed ITR of ₹ 7.73 lakh on viscose fibre of ₹ 1.93 crore, which was included in the said purchase value of ₹ 8.51 crore. This resulted in grant of inadmissible ITR of ₹ 7.73 lakh.
In reply to our observation the AA stated (May 2009) that ITR was allowed after proper verification. Reply is contradictory to the facts contained in the assessment order of the dealer for the period 2005-06.			

(1)	(2)	(3)	(4)
3.	<u>RAC, Chhindwara</u> 01	<u>2006-07</u> November 2008	The AA allowed ITR of ₹ 2.26 lakh in respect of Cadbury products valued at ₹ 18.09 lakh. This was not correct because the purchase/sale of Cadbury products was not accounted for in the audited and certified trading account of the relevant period.
The AA stated (December 2009) that ITR was allowed because the dealer purchased goods after payment of input tax. The reply does not explain why ITR was allowed in respect of goods that were not included in the purchases recorded in the audited trading account.			
4.	<u>CTO, Circle II, Ujjain</u> 01	<u>2006-07</u> January 2009	The AA incorrectly allowed ITR of ₹ 53,000 in respect of timber, which is specified in Part III of Schedule II of the Act and thus did not qualify for input tax rebate.
The AA stated (August 2009) that ITR was correctly allowed as the dealer purchased wood after payment of tax and used the same in the manufacture of furniture. The reply does not explain why ITR was allowed on wood, i.e. timber, which is specified in Part III of Schedule II of the Act.			

We reported the matter to the CCT, MP and the Government between July 2009 and February 2010; their replies have not been received (December 2010).

### 2.20 Non levy of surcharge

Four Regional<sup>23</sup> and one circle<sup>24</sup> offices

Section 10-A of the *Adhiniyam* provides for levy of surcharge on the amount of tax payable under the *Adhiniyam* at the rate of 15 per centum of such amount. MP High Court has held that surcharge shall be treated as part of the rate of tax for the purpose of determining the rate of tax applicable on inter-State sales under the CST Act.

We observed between July 2008 and February 2009 that in six cases of five dealers, assessed between June 2007 and January 2008 for the periods 2004-05 and 2005-06, the AAs failed to levy surcharge on the amount of tax of ₹ 1.10 crore payable on the sale and purchase of various goods. This resulted in non-

levy of surcharge of ₹ 16.57 lakh at the rate of 15 per centum of the tax amount.

After we pointed out the cases, the AA, in two cases, raised demand of ₹ 7.83 lakh (August 2008 and July 2010) out of which ₹ 6.83 lakh in one case was adjusted against the ceiling of monetary limit of exemption of the dealers. In two cases it was stated (between January and February 2009) that action would be taken after verification. In one case the AA stated (August 2008) that the dealer sold declared goods, therefore surcharge was not leviable. We do not agree with the contention of the AA because the dealer

<sup>23</sup> Indore (2) and Jabalpur (2).

<sup>24</sup> Indore.

sold cotton waste, which is not included in the category of declared goods enlisted in the CST Act. In one case, the AA contended (September 2008) that surcharge is not leviable in case of inter-State sale. Contention of the AA is not in consonance with the judicial decision<sup>25</sup> *ibid*.

We reported the cases to the CCT, MP and the Government between August 2008 and May 2009; their replies have not been received (December 2010).

### **2.21 Short levy of tax on intra-State sale incorrectly treated as inter-State sale**

Three circle offices <sup>26</sup>

As per the CST Act, sale of goods shall be deemed to take place in the course of inter-State trade, if the sale occasions the movement of goods from one State to another or is effected by a transfer of documents of title to the goods during their movement from one State to another. If the movement of goods commences and terminates in the same State it shall not be deemed to be a movement of goods from one State to another.

We observed between March 2008 and March 2009 that three dealers, assessed between October 2006 and January 2008 for the periods 2003-04 to 2005-06, sold minerals like bauxite, lime stone etc. valued at ₹ 1.42 crore to local registered dealers. The AAs,

however, while finalizing the assessments, incorrectly treated the local sale as inter-State sale on the basis of 'C' forms issued by the said local purchasing dealers and allowed levy of tax at the concessional rate of four *per cent*. This resulted in short levy of tax of ₹ 13.10 lakh at the differential rate of 9.8/5.2 *per cent*.

After we pointed out the cases, the AAs, in case of two dealers, stated (December 2008 and March 2009) that action would be taken after verification. In case of remaining one dealer, the AA did not offer any specific comment.

We reported the matter to the CCT, MP and the Government between May 2008 and April 2009; their replies have not been received (December 2010).

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<sup>25</sup> CST, MP v/s M/s Raymond Cement Works, Bilaspur [(1996) 29 VKN 472].  
<sup>26</sup> Jabalpur and Satna (2).

## 2.22 Incorrect grant of refund

Two Regional<sup>27</sup> and one circle<sup>28</sup> offices

Under the *Adhinyam*, any amount collected by any person by way of tax not payable under any provision of the *Adhinyam* shall be liable to forfeiture to the State Government.

We observed between September 2008 and August 2009 that four dealers, assessed between September 2008 and March 2009 for the periods 2004-05 and 2005-06, were liable to pay tax of ₹ 66.90 lakh but they collected

₹ 75.78 lakh by way of tax/surcharge. The AAs, instead of forfeiting the excess amount of tax of ₹ 8.88 lakh so collected by the dealers, incorrectly allowed refund of the same. This resulted in incorrect grant of refund of ₹ 8.88 lakh.

After we pointed out the cases, the AA in one case accepted the audit observation (March 2009). Further development has not been reported (December 2010). In two cases the AA stated (September 2008) that refund was correct as tax and surcharge was not shown as charged separately in the sales invoices. Fact, however, remains that excess tax collected in any manner, whether charged separately in the bills or otherwise, is liable to be forfeited. In the remaining one case, the AA stated (August 2009) that refund was correct because no tax/surcharge was shown as charged separately in the sales bills of tractors and tractor parts. For collection of tax at higher rate on the sale of leaf springs, he stated that the dealer deposited excess tax due to ignorance, therefore in view of decision of the Board of Revenue<sup>29</sup> the refund allowed was correct. We do not agree with the reply as it does not interpret the decision correctly. As per the decision, refund was allowed to such a dealer in whose case excess tax collection was not proved, whereas during scrutiny of the instant case, we found that the dealer collected surcharge and tax at higher rate which was not payable.

We reported the matter to the CCT, MP and the Government between November 2008 and October 2009; their replies have not been received (December 2010).

<sup>27</sup> Satna and Shajapur (2).

<sup>28</sup> Indore.

<sup>29</sup> M/s Rallis India Pvt. Ltd., Indore v/s CST, MP [(1999) 32 VKN 254].

### 2.23 Incorrect grant of exemption

One Regional and two circle offices

As per exemption notification dated 6 October 1994 a new industrial unit engaged in repacking of goods is not eligible for exemption. The MP High Court has held that bottling of LPG is not a process of manufacture but it is repacking of goods. Under the notification, benefit of exemption from payment of tax is available to the extent of maximum cumulative quantum of tax specified in the EC.

We observed between December 2007 and September 2009 that three dealers were incorrectly allowed exemption from payment of tax aggregating ₹ 7.66 lakh as shown below:

(₹ in lakh)

Sl. No.	Name of auditee unit	Period Month of assessment	Tax effect	Our observation in brief
(1)	(2)	(3)	(4)	(5)
1.	RAC, Sagar	2003-05 September 2006	4.08	A dealer engaged in bottling of LPG was allowed exemption from payment of entry tax on the basis of EC issued to him under notification dated 6 October 1994. As bottling of LPG, being repacking of goods, is not covered under the notification, grant of exemption was not correct.
The AA, stated (December 2007) that as per circular dated 16 June 1998, refilling of gas is a process of manufacture. Reply is not in consonance with the decision of MP high court <sup>30</sup> referred to above.				
2.	CTO, Katni	2004-05 January 2008	1.04 1.04 (penalty)	The AA levied purchase tax of ₹ 1.04 lakh on raw material valued at ₹ 26.04 lakh and allowed exemption from payment of tax so levied on the basis of the EC issued to the dealer. Exemption allowed was not correct because the said goods were purchased after expiry of the EC. As the grant of incorrect set off of tax against the quantum of exemption on the basis of invalid declarations was attributable to the dealer, he was also liable to pay penalty of an equal amount of ₹ 1.04 lakh.
The AA stated (March 2009) that action would be taken after verification.				

<sup>30</sup> Modi Gas Service, Indore V/s MP State & others [2006-8-STJ-536 (MP)].

(1)	(2)	(3)	(4)	(5)
3.	CTO-II, Gwalior	2005-06 December 2008	0.90 0.60 (interest)	The dealer sold cement paint valued at ₹ 6.50 lakh after expiry of the eligibility period specified in the EC issued to him. However, the AA, on the basis of the expired EC, incorrectly allowed exemption from payment of tax of ₹ 89,700 payable by the dealer on the said sale. Since the dealer did not pay the tax on due dates, therefore he was also liable to pay interest of ₹ 60,373.
The AA stated (September 2009) that action would be taken after verification.				

We reported the matter to the CCT, MP and the Government in February 2008 and October 2009; their replies have not been received (December 2010).

### 2.24 Incorrect determination of value addition

Four Regional<sup>31</sup> and four circle<sup>32</sup> offices

Section 9-B of the *Adhiniyam* provides for levy of tax at prescribed rate on the value addition on resale of goods specified in Part II to VI of Schedule II of the *Adhiniyam*.

We observed between May 2007 and November 2009 that in case of eight dealers, assessed between April 2006 and October 2008 for the periods 2003-04 to 2005-06, value addition on resale of goods was less determined

by ₹ 1.07 crore. This resulted in short realisation of tax of ₹ 7.66 lakh.

After we pointed out the cases, the AAs in three cases raised demand of ₹ 2.22 lakh (between July and October 2008), while in three cases it was stated (between March 2008 and August 2009) that action would be taken after verification. In one case, the AA stated (February 2009) that a notification exempts oil seeds from tax leviable under Section 9-B of the *Adhiniyam*. Our observation remains unreplied because the AA failed to specify the notification which exempts oil seeds from the tax leviable under the Section *ibid*. In the remaining one case, the AA did not offer any specific comment.

We reported the cases to the CCT, MP and the Government between June 2007 and January 2010; their replies have not been received (December 2010).

<sup>31</sup> Indore, Khandwa and Satna (2).

<sup>32</sup> Indore (2), Sagar and Vidisha.

**2.25 Non/short levy of tax under the CST Act**

As per CST Act, every selling dealer who fails to furnish declaration, duly filled and signed by the purchasing registered dealer in Form 'C' obtained by the latter from the prescribed authority, shall be liable to pay tax in respect of inter-State sale of declared goods at twice the specified rate and in respect of other goods at the rate of 10 per cent or at the specified rate, whichever is higher, instead of concessional rate of four per cent. Further, inter-State sale of tax paid goods is exempted from payment of tax subject to the fulfillment of requirement of furnishing declaration in Form 'C'

**2.25.1** We observed in respect of six regional offices and six circle offices between May 2007 and December 2009 that in case of 14 dealers tax on inter-State sale of ₹ 19.10 crore, in respect of which declarations in Form 'C' were not furnished, was either not levied or was levied at incorrect rate. This resulted in non/short levy of tax of

₹ 1.48 crore as shown below:

(₹ in crore)

Sl. No.	Name of auditee unit No. of dealers	Period Month of assessment	Commodity Turnover	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of non/short levy of tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	RAC, Chhindwara 01	2002-03 July 2008 (Reassessment)	Soya flour 12.34	10	-	1.23
The AA, referring to a decision of MP Board of Revenue <sup>33</sup> , stated (December 2009) that soya flour is tax free under the entry namely, "Atta, maida, suji, rawa and flour" of Schedule I of the Adhiniyam. Contention of the AA is not correct because the said entry has been deleted from Schedule I (effective from 15 March 2000) with effect from 23 April 2002 and inserted in part V of Schedule II vide MPCT (Amendment) Act, 2002 from the same date.						
2.	RAC, Indore 01	2003-04 January 2007	Wheat 2.58	2	-	0.05
The AA raised demand of ₹ 5.15 lakh (April 2008).						

<sup>33</sup>

M/s S. M. Dye Chem Ltd., Vidisha v/s CCT, MP [(2004) 3 CT-STJ 245].



(1)	(2)	(3)	(4)	(5)	(6)	(7)
3.	CTO, Katni 02	2005-06 December 2008	Explosives 0.39	13.8	4	0.05
		2003-04 January 2007	Hessian cloth and packing material 0.75	10	8	
In case of one dealer the AA raised demand of ₹ 1.50 lakh (August 2009) and in case of the other dealer the AA stated (October 2009) that action would be taken after giving reasonable opportunity to the dealer. Further reply has not been received (December 2010).						
4.	RAC, Guna 01	2005-06 April 2008 and 2006-07 December 2008	Transfor- mers 0.50	10	4	0.03
The AA stated (September 2009) that out of the aggregate of sale value of ₹ 12.79 crore, the dealer had furnished 'C' forms for ₹ 12.29 crore, on the bare value of goods, excluding the amount of tax of ₹ 50 lakh for which furnishing of 'C' forms was not required. Contention of the AA is not correct because 'C' form is required to be furnished to cover the entire amount receivable by the selling dealer.						
5.	RAC, Indore 01	2004-05 September 2007	PP fabric 0.26	10	-	0.03
The AA stated (February 2009) that PP fabric is tax-free vide notification dated 24 August 2000. The contention of the AA is not correct as the said notification exempts all varieties of cloth and not PP fabric, which is manufactured in <i>power looms</i> on which duty is leviable under Central Excise Act.						
6.	CTO I, Ujjain 02	2004-05 January 2008	Disposable containers 0.28	10	4	0.03  (including penalty)
		2004-05 January 2008	Machinery and parts thereof 0.07	10	4	
In case of one dealer the AA stated (February 2009) that action would be taken after verification, while in case of the other dealer the AA stated (February 2009) that the 'C' form furnished by the dealer involves sale value of ₹ 7,59,220. We do not agree with the reply because from the 'C' form it was evident that the issuing authority issued the same only for ₹ 75,922. However, the 'C' form was subsequently <u>tampered</u> to be read as ₹ 7,59,220.						
7.	RAC, Itarsi 01	2004-05 December 2007	Sulphur 0.89	10	8	0.02
The AA stated (November 2009) that the dealer sold <i>khandsari</i> sugar (declared goods) on which tax was correctly levied at the rate of eight <i>per cent</i> . Reply is not acceptable because in the appeal order dated 2 January 2009 of Dy. Commissioner (Appeal), Bhopal, it was stated that the dealer sold sulphur, which is not included in declared goods.						

(1)	(2)	(3)	(4)	(5)	(6)	(7)
8.	<u>CTO, Mandla</u> 01	<u>2002-03</u> November 2005	<u>Plywood</u> 0.23	13.8	8	0.01
The AA raised demand of ₹ 1.47 lakh (January 2008).						
9.	<u>CTO I, Satna</u> 01	<u>2005-06</u> March 2009	<u>Iron scrap</u> 0.35	8	4	0.01
The AA stated (December 2009) that action would be taken after verification.						
10.	<u>CTO-X &amp; XI,</u> <u>Indore</u> 02	<u>2004-05</u> January 2008	<u>Soap</u> 0.13	13.8	10	0.01 (including interest)
		<u>2004-05</u> January 2008	<u>Yarn</u> 0.05	10	4	
The AAs, in case of both dealers, stated (March and November 2009) that action would be taken after verification.						
11.	<u>RAC, Indore</u> 01	<u>2005-06</u> March 2009	<u>Tendu leaves</u> 0.29	25.3	23	0.01 (including interest)
After the matter was pointed out the CCT, MP intimated (November 2010) that demand for ₹ 1.12 lakh had been raised.						

**2.25.2** During test check of the records of two circle offices<sup>34</sup> between February and October 2008 we observed that in case of four dealers, assessed between January 2007 and January 2008 for the periods 2003-04 and 2004-05, tax on inter-State sales of ₹ 4.49 crore against 11 number of 'C' forms was either not levied or was levied at concessional rate. We verified and confirmed from the issuing States that out of these 'C' forms, eight forms were not issued by the issuing authorities to the purchasing dealers mentioned therein and one was not issued by the purchasing dealer to the selling assessee dealer, while the dealers mentioned in two 'C' forms were not found registered in the concerned offices. Thus, all the 11 number of 'C' forms were not valid and therefore the entire sale value of ₹ 4.49 crore involved therein was chargeable to tax at full rate. This resulted in short realisation of revenue of ₹ 37.68 lakh.

We reported the matter to the AAs between September 2009 and March 2010; their replies have not been received (December 2010).

We reported the cases to the CCT, MP and the Government between February 2006 and March 2010; their replies have not been received (December 2010).

<sup>34</sup> Gwalior and Indore.

## CHAPTER - III STATE EXCISE

### 3.1 Tax administration

The State Excise Department is working under the Commercial Tax Department of the Government of Madhya Pradesh. The Excise Commissioner (EC) is the head of the department and is assisted by Additional Excise Commissioner (Addl. EC), Deputy Excise Commissioners (DECs), Assistant Excise Commissioners (AECs) and District Excise Officers (DEOs), both at the headquarters at Gwalior and in the districts. In the districts, the Collector heads the excise administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is responsible for realisation of excise revenue.

The working of distilleries and bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the ADEOs.

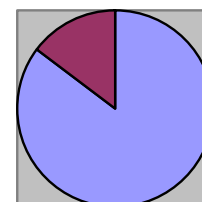
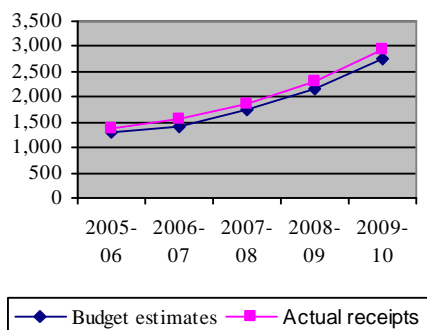
### 3.2 Trend of receipts

Actual receipts from State Excise during the years 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual State Excise receipts vis-a-vis total tax receipts
2005-06	1,300.00	1,370.38	(+) 70.38	(+) 5.41	9,114.70	15.04
2006-07	1,430.00	1,546.68	(+) 116.68	(+) 8.16	10,473.13	14.77
2007-08	1,750.00	1,853.83	(+) 103.83	(+) 5.93	12,017.64	15.43
2008-09	2,150.00	2,301.95	(+) 151.95	(+) 7.07	13,613.50	16.91
2009-10	2,760.00	2,951.94	(+) 191.94	(+) 6.95	17,272.77	17.09

The percentage contribution of State Excise receipts to the total tax revenue of the State has been increasing over the last four years.



■ Total tax receipts (2009-10)  
■ State Excise receipts (2009-10)

### 3.3 Cost of collection

(₹ in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
1.	State Excise	2007-08	1,853.83	396.04	21.36	3.66
		2008-09	2,301.95	505.46	21.96	
		2009-10	2,951.94	818.34	27.72	

The percentage of expenditure on the collection of state excise is abnormally higher than the all India average percentage. We observed in the Finance Accounts that there is no separate head showing 'collection charges' as is available in the case of other taxes like taxes on sales/trade, taxes on vehicles *etc.*, and the cost of liquor paid to the manufacturers from the budget provisions for expenditure was also being booked under the head 2039-state excise along with other expenditures.

The Government may consider opening of a separate sub-head 'collection charges' on the lines of practice for the other taxes for effectively monitoring the functioning and the performance of the department. This will also enable the State to compare the collection cost position *vis-a-vis* the all India average Government percentage on a like to like basis.

### 3.4 Impact of audit

During the five years, audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue with revenue implication of ₹ 538.87 crore in 38,548 cases. Of these, the department/Government had accepted audit observations in 26,936 cases involving ₹ 262.50 crore and had since recovered ₹ 18.90 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	41	4,286	149.44	1,344	8.47	--	--
2005-06	27	5,405	77.12	1,110	39.03	88	3.25
2006-07	30	4,183	109.24	4,285	91.13	1,311	11.35
2007-08	40	12,185	88.06	9,520	24.73	31	2.72
2008-09	50	12,489	115.01	10,677	99.14	260	1.58
<b>Total</b>	<b>188</b>	<b>38,548</b>	<b>538.87</b>	<b>26,936</b>	<b>262.50</b>	<b>1,690</b>	<b>18.90</b>

The amount recovered out of the accepted cases has been abysmal over the last five years.

### 3.5 Working of internal audit

Internal audit wing (IAW) was established in the department in 1978. During the year 2009-10, internal audit of 44 districts was planned against which internal audit was conducted only in 26 districts. Particulars of major comments/observations of the IAW and corrective action taken by the department have not been received (December 2010).

### 3.6 Results of audit

Test check of the records of 36 units relating to State Excise receipts revealed underassessment, loss of revenue, non-levy of penalty amounting to ₹ 201.88 crore in 10,606 cases which can be categorised as under:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-levy/recovery of duty on excess wastages.	2,323	6.66
2.	Loss in re-auction/bidding of excise shops.	46	71.12
3.	Non-levy of penalty on non-maintenance of minimum stock of country spirit/rectified spirit.	180	1.34
4.	Non-realisation of license fee from excise shops.	439	37.22
5.	Non-levy of penalty for breach of license conditions.	3,133	3.56
6.	Others.	4,485	81.98
	<b>Total</b>	<b>10,606</b>	<b>201.88</b>

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 167.51 crore in 7,566 cases, which were pointed out in audit during the year 2009-10. An amount of ₹ 24.22 lakh was realised in 56 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 5.09 crore are mentioned in the following paragraphs.

### 3.7 Non-realisation of excise duty on unacknowledged export/transport of foreign liquor/beer

Four ACs and three DEOs

The Madhya Pradesh Excise Act, 1915 and the Rules made thereunder provide that no intoxicant shall be exported/transported from any distillery, brewery, warehouse or any other place of storage unless the licensee deposits the prescribed duty leviable on the full quantity of the intoxicant to be transported/exported or furnishes a Bank guarantee of an equal amount or executes a bond with adequate solvent sureties for the amount mentioned in form FL 23. Besides, the licensee shall obtain a verification report from the officer-in-charge of the foreign liquor warehouse and furnish it to the authority, who issued the transport/export permit, within 40 days of the expiry of period of permit. In case of default the duty involved shall be recovered from the deposit made, bank guarantee furnished or the security bond executed.

**3.7.1** We observed in nine bottling units<sup>1</sup> and three breweries<sup>2</sup> of seven districts<sup>3</sup> between January and December 2009 that the licensees exported 3,42,784.8 proof litres (PL) of foreign liquor and 5,48,400 bulk litres (BL) of beer on 197 permits between December 2007 and September 2009 which involved duty of ₹ 9.28 crore. Though the verification reports of receipt of quantity of liquor so exported were not received from the destination units within the prescribed time limit, the department did not

initiate any action for adjustment of duty against cash deposit or bank guarantee or bonds even after a lapse of one to 13 months after the permissible period of 40 days.

After we pointed out the cases, the AECs/DEOs stated (between January and December 2009) that 37 verification reports had been received and 135 verification reports would be submitted on their receipt and 25 cases were under consideration in different courts for violation of conditions of the rules. The replies are not acceptable because the verification reports were not received within the stipulated period. Further replies have not been received (December 2010).

**3.7.2** We observed in seven bottling units<sup>4</sup>, and one brewery<sup>5</sup> of six districts<sup>6</sup> between January and October 2009 that the licensees transported

<sup>1</sup> M/s United Spirit Ltd., Bhopal; M/s Jubilee Brewerage, Bhopal; M/s Oasis Distillery, Dhar; M/s Cox India Ltd., Chhattarpur; M/s Silver Oak India Ltd., Pithampur, Dhar; M/s Gwalior Distillery, Gwalior; M/s Rairu Distillery, Gwalior; M/s Som Distillery, Raisen; M/s Redson Distillery, Jabalpur.

<sup>2</sup> M/s Jagpin Brewery Ltd., Chhattarpur; M/s M.P. Beer Products Indore; M/s Som Distillery and Brewery, Raisen.

<sup>3</sup> Bhopal, Chhattarpur, Dhar, Gwalior, Indore, Jabalpur and Raisen.

<sup>4</sup> M/s Great Galean Ltd, Dhar; M/s Associated Alcohol and Brewery Ltd, Khargone; M/s Som Distillery Ltd, Raisen; M/s Som Distillery and Brewery Ltd, Raisen; M/s Ratlam Alcohol and Carbon dioxide Plant, Ratlam; M/s Surya Bottling Ltd, Sagar, M/s Mahakal Distillery, Ujjain.

1,22,028.02 PL of foreign liquor and 70,980 BL of beer to different foreign liquor warehouses in the State on 48 permits between March 2004 and August 2009 involving excise duty of ₹ 2.41 crore. It was noticed that in violation of the provisions, the department issued the transport permits without obtaining the prescribed duty or bank guarantee or bond with adequate solvent sureties for the amount of duty involved. The verification reports of receipt of above liquor in the destination units were also not obtained by the licensees and submitted to the permit issuing authority within the prescribed time limit of 40 days. However, the department did not take any action to recover the leviable duty from the cash deposit/bank guarantee/security bonds even after a lapse of period ranging from one to 59 months after permissible period of 40 days.

After we pointed out the cases, the AECs/DEOs stated (between January and October 2009) that the verification reports would be submitted on their receipt. The fact, however, remains that the verification reports had not been submitted to the permit issuing authority within the prescribed time limit. Besides, transportation of liquor was also allowed without deposit of duty/bank guarantee or duly executed bond.

We reported the matter to the EC and the Government between March 2009 and March 2010; their replies have not been received (December 2010).

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<sup>5</sup> M/s Som Distillery and Brewery Ltd, Raisen.

<sup>6</sup> Dhar, Khargone, Ratlam, Raisen, Sagar and Ujjain.

### 3.8 Non recovery of excise duty/non imposition of penalty

#### 3.8.1 On inadmissible wastage of spirit/country liquor

Thirteen Excise offices<sup>7</sup>

The MP Distillery Rules allow wastage of 0.1 to 0.2 per cent on account of leakage or evaporation of spirit transported or exported in tankers from a distillery/warehouse to another distillery/warehouse. Up to 2 October 2008 in case of wastage beyond permissible limit, the EC or the officer authorised for the purpose, may impose maximum penalty of ₹ 30 per PL. In case of wastage of bottled country liquor beyond permissible limit of 0.5 per cent during transport and 0.25 per cent during export with effect from 3 October 2008, duty at the prescribed rates shall be recovered from the licensee. Further, as per notification dated 3 October 2008, on all deficiencies in excess of the limits allowed under above rules, licensee shall be liable to pay penalty at the rate exceeding three times but not exceeding four times the duty payable on country liquor at that time.

We observed between December 2008 and November 2009 that in respect of cases for the period prior to 03 October 2008, on wastages of spirit/ country liquor beyond permissible limits during export and transport of spirit penalty was not

imposed by the departmental authorities as detailed below:

Period	Commodity	No of cases	Wastage beyond permissible limit	
			Description	Quantity
November 2005 to May 2009	Spirit	280 Permits	Export/transport from distilleries to ware houses	66,900.27 PL
November 2005 to July 2009	Country liquor	754 cases	Export/transport from distillery/manufacturing ware houses to storage ware houses	12,344.675 PL

After we pointed out the cases, all the Excise Officers except those of Raisen and Jabalpur stated between December 2008 and November 2009 that cases had been sent to higher authorities for necessary action. DEO (Distillery), Raisen stated (February 2009) that duty on account of excess wastage was recoverable by the importing state. The reply is not acceptable because it is inconsistent with the provisions of the rules. The AEC, Jabalpur stated (January 2009) that the wastage was within the permissible limit. Reply is contrary to the audit finding. Further reports have not been received (December 2010).

Though this issue has also been pointed out by us earlier through Audit Reports, the Department has not invoked penal provisions in large

<sup>7</sup> Ashoknagar, Bhind, Jabalpur, Khandwa, Khargone, Narsinghpur, Panna, Raisen, Satna, Sehore, Sidhi, Tikamgarh and Ujjain.



number of cases. This inaction on the part of departmental authorities has diluted the very purpose of incorporating the penal provisions to impress the licensees to maintain the wastage of spirit/country liquor within the permissible limits.

### 3.8.2 On inadmissible wastage in transport and export of foreign liquor/beer

Five foreign liquor warehouses<sup>8</sup> and five breweries<sup>9</sup> in seven districts<sup>10</sup>

MP Foreign liquor Rules provide that the maximum wastage allowance for all exports of bottled foreign liquor/beer shall be 0.25 per cent. For all transports, within the same district it shall be 0.1 per cent and 0.25 per cent in other cases. If wastages/losses exceed the permissible limit, the prescribed duty on such excess wastage shall be recovered from the licensee. As per notification dated 3 October 2008, on all deficiencies in excess of the limits allowed under rules, licensee shall be liable to pay penalty at the rate exceeding three times but not exceeding four times the maximum duty payable on foreign liquor at that time.

We observed from the records in five foreign liquor ware-houses and five breweries in seven districts between January 2009 and February 2010 that in 1,420 cases during export/transport of foreign liquor, 8,018.667 PL spirit and 58,085.69 BL beer was shown as wastage in excess of the admissible limit by the licensees during the period between April 2008 and December 2009 on

which duty/minimum penalty of ₹ 1.41 crore was recoverable from them. It was, however, seen that only an amount of ₹ 5.69 lakh was recovered from the licensees in four districts<sup>11</sup> and no action was taken to recover the remaining amount of duty/minimum penalty of ₹ 1.35 crore. This resulted in non-realisation of revenue of ₹ 1.35 crore.

After we pointed out the cases, all the Excise Officers (between January 2009 and February 2010) stated that action for recovery or to impose penalty would be taken as per rule and intimated to audit. Further report has not been received (December 2010).

We reported the matter to the EC and the Government between December 2008 and March 2010; their replies have not been received (December 2010).

<sup>8</sup> Bhopal, Indore, Jabalpur, Rewa and Ujjain.

<sup>9</sup> M/s Lilasons Brewery Ltd, Bhopal, M/s M.P. Beer Products Ltd, Indore, M/s Mount Everest Brewery Ltd, Indore, M/s Skol Brewery Ltd, Morena, M/s Som Distillery and Brewery Ltd, Raisen.

<sup>10</sup> Bhopal, Indore, Jabalpur, Morena, Raisen, Rewa and Ujjain.

<sup>11</sup> Bhopal, Indore, Jabalpur and Ujjain.

### 3.9 Non-realisation of excise duty due to non disposal of spirit/foreign liquor

Five AECs and two DEOs

In case of expiry, non-renewal and cancellation of licence or labels, the licensee shall place the entire stock of liquor under the control of the DEO. However, he can be permitted to dispose of such stock to any other licensee within 30 days of such expiry or cancellation, failing which the EC may ask any other eligible licensee of the State to purchase such stock or may issue orders for the disposal of the stock.

We observed between January and December 2009 that no action for cancellation of the requisition of the labels and to dispose the stock of foreign liquor was taken by the department even after lapse of the period ranging from 9 to 48 months.

Thus it resulted in non-realisation of revenue of ₹ 2.52 crore as detailed in the table below:

(₹ in lakh)			
Name of unit	Nature of liquor Spirit/Foreign liquor	Nature of irregularity	Revenue involved
M/s Beam Global Spirit & Wine P. Ltd, Indore FL-XA	Foreign liquor	Stock of 27,749.77 PL foreign liquor, remaining unsold received from different foreign liquor warehouses between April and September 2009, was lying undisposed of.	86.94
M/s M.P. Beer Products, Indore FL-9	Foreign liquor and ENA	Stock of 17,075.3 PL bottled foreign liquor and 14,073.1 PL Extra Neutral Alcohol (ENA) held by unit after expiry of licence from 1 April 2008.	56.07
M/s Cox India Ltd. Naugaon, Chhatarpur FL-9	Foreign liquor	Stock of 23,087.17 PL bottled foreign liquor and 7,839 BL beer received back from Uttaranchal State between April 2008 and February 2009, which was not saleable in MP, was lying undisposed of.	43.90
M/s Som Distillery & Brewery Ltd, Raisen FL-9	Foreign liquor		
M/s White Hall India Ltd. X-A	Foreign liquor	Stock of 30,481.5 PL bottled foreign liquor was lying undisposed in the foreign liquor warehouses at Rewa, Sagar, Jabalpur and Ujjain districts due to expiry of the licenses/labels of the units.	24.23
M/s Ratlam Alcohol Plant Ratlam FL-9			15.58
M/s Gold Water Distillery Bhind FL-9			8.13
M/s Surya bottling unit Sagar FL-9			5.77
M/s Mensons Alcohol FL-9A Khargone			4.51
M/s S.G. Distillery Jabalpur FL-9			3.90
M/s Alkobru Distillery FL-9			2.50
<b>TOTAL</b>			

After we pointed out the cases, five AECs/DEOs<sup>12</sup> stated (between January and December 2009) that the proposal for disposal of foreign liquor had been

<sup>12</sup> Chhatarpur, Indore, Jabalpur, Raisen and Ujjain.

sent to the EC for further orders. AEC, Rewa and DEO, Chhatarpur stated (March and May 2009) that the proposal for disposal of foreign liquor would be sent to EC. Officer in charge of the foreign liquor warehouse at Sagar stated (October 2009) that letters had been issued to the concerned distillers for disposal of foreign liquor. Further reports have not been received (December 2010).

We reported the matter to the EC and the Government between August and December 2009, their reply has not been received (December 2010).

### 3.10 Non-levy of penalty for non-maintenance of minimum stock

Two DEOs

A distillery licensee is required to maintain the prescribed minimum stock of spirit at the distillery. In the event of failure, the EC may impose a penalty not exceeding ₹ five per PL up to 2 October 2008 and thereafter rupee one per BL on the quantity found short of the minimum prescribed stock irrespective of the fact whether any loss has actually been caused to the Government or not. The distillery officer is required to forward the cases of such failure to the EC for levy of penalty for effective monitoring of such cases.

We observed in two distilleries<sup>13</sup> in Dhar and Khargone districts in May and June 2009, that the distillers did not maintain the prescribed minimum stock of spirit on 179 occasions between June 2008 and May 2009. The DEOs, however, failed to take up the matter with the EC for levy of penalty of ₹ 1.15 crore on 14.61 lakh PL spirit up to 2 October 2008 and thereafter on 41.80 lakh BL of spirit found short of the minimum prescribed stock. This resulted in non-

imposition of penalty of ₹ 1.15 crore.

After we pointed out the cases, the DEO, M/s Oasis Distillery Ltd. stated (June 2009) that proposal for imposing penalty on the distiller had been sent to the EC. The DEO, Khargone stated (May 2009) that non-maintenance of the minimum stock of spirit did not effect supply of country liquor. The reply is not acceptable as the DEO failed to report the matter to the EC for deciding the leviability of penalty on the distiller.

We reported the matter to the EC and the Government between August 2009 and March 2010, their reply has not been received (December 2010).

<sup>13</sup> M/s Oasis Distilleries, Borali, Dhar, M/s Associated Alcohol and Brewery, Khodigram, Khargone.

### 3.11 Short recovery of transport fee on poppy straw due to incorrect application of rates

Three DEOs<sup>14</sup> and PS 2 licensee<sup>15</sup>

Narcotic Drugs & Psychotropic Substances (MP) Rules, 1985 provides for levy of transport fee at the rate of ₹ five per Kg for transport of poppy straw from a PS 2 licensee to another PS 2 licensee. Further, transport fee at the rate of ₹ 25 per permit upto 31 March 2008 and thereafter ₹ 100 per permit is chargeable when poppy straw is transported from farmers to wholesale licensees or from one godown to another godown of the same licensee.

We observed between June and August 2009 that 16,90,407 Kgs. of poppy straw was transported from 14 wholesale licensees<sup>16</sup> to other licensees between April 2007 and July 2009 on which transport fee of ₹ 84.52 lakh was leviable at the rate of ₹ five per Kg. However, the excise authorities charged transport fee of ₹ 38,725 at the rate of ₹ 25 per permit

upto 31 March 2008 and there after ₹ 100 per permit incorrectly. This resulted in short levy of transport fee of ₹ 84.13 lakh.

After we pointed out the cases, the DEO, Mandsaur and Neemuch stated (July and August 2009) that the poppy straw was transported from one godown to another godown by the same licensee. The DEO, Shajapur (June 2009) stated that the transporter/consignor and the consignee was the same person and it was not transported from one licensee to another. Therefore, the rate applied was correct. Fact, however, remains that the transfer of poppy straw was not between two godowns owned by the same PS2 licensee. Rather, it was between the godowns covered under separate PS2 licences and situated at distant places, as was evident from the record.

We reported the matter to the EC and the Government between August 2009 and March 2010; their reply has not been received (December 2010).

<sup>14</sup> Mandsaur, Neemuch and Shajapur.

<sup>15</sup> Wholesale licensee of poppy straw.

<sup>16</sup> Mandsaur district: Garoth, Kalakheda and Sitamau.

Neemuch district: Barodiyakala, Chaldu, Denthal, Jeeran, Kanhakheda, Kankariya talai and Neemuch, Shajapur district: Agar, Maxi, Shajapur and Soyat.

### 3.12 Non realisation of duty/penalty on shortage of spirit/foreign liquor

Three distilleries<sup>17</sup> and one warehouse<sup>18</sup>

The rules framed under the Act do not provide for any shortage in the stock of spirit/ foreign liquor held by a licensee on any date. Accordingly duty/penalty for such shortages shall be leviable on the licensee at the prescribed rates for such shortages.

We observed between December 2008 and December 2009 that the excise authorities in the course of physical verification of stock held by the licensees between May 2007 and November 2008, noticed shortage of 9,061.1 PL spirit and 8,935.49 PL foreign liquor. However, these authorities

failed to take any action to levy duty/minimum penalty of ₹ 37.20 lakh recoverable from the licensees for the shortages in stocks of spirit/foreign liquor.

After we pointed out the cases, the DEOs, Guna and Ratlam stated (December 2008 and December 2009) that the cases had been referred to higher authorities for further orders whereas AEC, Ujjain and DEO, Satna stated (January and March 2009) that the action for recovery was being taken. Further report has not been received (December 2010).

We reported the matter to the EC and the Government between February 2009 and March 2010; their replies have not been received (December 2010).

### 3.13 Non-recovery of penalty for breach of rules

Eight excise offices<sup>19</sup>

The EC or the Collector, in the event of any breach or contravention of the rules or conditions of the licence, may impose penalty. The penalty so imposed is recoverable from the licensee either in cash or from the security amount deposited by him.

We observed between December 2008 and January 2010 that penalty of ₹ 16.38 lakh was imposed by the Collector in 2697 cases of breach of rules or conditions of licence on different licensees during the period 2006-07 to 2009-10. Instead of effecting

recoveries of this amount of penalty from the security amount deposited by the licensees, the department refunded security amount deposited by them for the years 2006-07 to 2008-09 even after expiry of their licences. This resulted in non-realisation of revenue of ₹ 16.38 lakh.

After we pointed out the cases, the AEC, Gwalior stated (January 2010) that the entire amount of ₹ 4.08 lakh had been recovered in 648 cases. The AEC, Indore stated (February 2010) that ₹ 1.52 lakh had been recovered in 215 cases and action for recovery in the remaining cases was in progress.

<sup>17</sup> M/s Guna Distillery, Guna, M/s Ratlam Alcohol and Carbondioxide Plant, Ratlam and M/s Glasgo Distillery, Satna.

<sup>18</sup> Mahidpur District Ujjain.

<sup>19</sup> Bhind, Gwalior, Indore, Jabalpur, Narsinghpur, Shahdol, Shivpuri and Ujjain.

The remaining AECs/DEOs stated between December 2008 and January 2010 that action for recovery was in progress. Fact, however, remains that the recoveries made are subsequent to our intervention and can not cover up the irregular release of security without recovering Government dues. Further report has not been received (December 2010).

The matter was reported to the EC and Government between February 2009 and March 2010; their replies have not been received (December 2010).

### **3.14 Non-realisation of expenditure incurred on Government establishment**

DEO, Khargone

MP Distillery Rules, provide that if the expenditure incurred on the State Government establishment at a distillery exceeds five *per cent* of the revenue earned on the issue of spirit therefrom, by export fee or any other levy, the amount in excess of the aforesaid five *per cent* shall be realised from the distiller.

We observed in May and June 2009 that the expenditure incurred on the Government establishment in two distilleries<sup>20</sup> was ₹ 15.03 lakh whereas revenue earned by the Government was ₹ 51.76 lakh during April 2008 to March 2009. Thus, an amount of ₹12.45 lakh was incurred in excess of five *per cent* of

the revenue earned which was required to be realised from the distillers. But the department did not take any action to recover the same. This resulted in non-realisation of revenue of ₹ 12.45 lakh.

After we pointed out the cases, DEO, Khargone accepted (June 2009) this lapse for non-recovery of the amount. Further reply has not been received (December 2010).

We reported the matter to the EC and Government in August 2009 and March 2010, their replies have not been received (December 2010).

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<sup>20</sup> M/S Associated Alcohol and Brewery Khodigram, Khargone,  
M/S Agarwal Distillery, Sabalpur, Khargone.

### 3.15 Short levy of Ahata licence fee

Two AECs<sup>21</sup> and three DEOs<sup>22</sup>  
FL 1 B Ahata Licence<sup>23</sup>

Annual licence fee on FL 1-B Ahata Licence adjunct to an FL-1 licence, shall be equivalent to two *per cent* of annual value of FL-1 licence which shall be the sum of basic licence fee and annual licence fee. Notification dated 15 January 2008 stipulates that annual value of country liquor/foreign liquor shop shall be recalculated by adjustment of license fee up to a maximum of 20 *per cent* from the country liquor shop to foreign liquor shop and *vice versa*.

We observed between October 2008 and October 2009 that licence fee of ₹ 4.34 crore of 19 country liquor shops was adjusted to foreign liquor shops during 2007-08 to 2009-10. As a result of the adjustment, the annual value of foreign liquor shops (FL-1) was required to be revised from ₹ 22.48 crore to ₹ 26.82 crore for determining licence fee in respect of Ahata licences at the rate of two *per cent* of such revised annual value of shops. However, it

was noticed that as against the leviable revised licence fee of ₹ 55.63 lakh, the excise authorities levied ₹ 44.40 lakh on the basis of pre-revised annual value of shops. This resulted in short levy/realisation of licence fee of ₹ 9.23 lakh.

After we pointed out the cases, the AEC, Sagar stated (October 2009) that objected amount of ₹ 1.02 lakh had been recovered at the instance of audit. However, details of recovery were not furnished. DEO, Balaghat stated (April 2010) that objected amount of ₹ 58,890 had been recovered in April 2010. AEC, Jabalpur and DEO, Katni stated between January and October 2009 that two *per cent* of annual value of shop was levied and recovered. The reply is not acceptable because the licence fee was not levied on the basis of recalculated annual value of shops. DEO, Harda stated in October 2008 that action for recovery would be taken after scrutiny. Further progress has not been received (December 2010).

We reported the matter to the EC and the Government between February 2009 and March 2010; their replies have not been received (December 2010).

<sup>21</sup> Jabalpur and Sagar.

<sup>22</sup> Balaghat, Harda and Katni.

<sup>23</sup> *AHATA LICENCE*: The licence, which may be granted to an FL-1 or FL-1A licensee only, shall permit consumption of foreign liquor within any premises or *AHATA* which shall be adjunct to the premises of FL-1 or FL-1A licensee.

## CHAPTER - IV TAXES ON VEHICLES

### 4.1 Tax administration

The Transport Department functions under the overall charge of Principal Secretary (Transport). The levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by three Deputy Transport Commissioners (DTC) and internal audit wing at headquarters level and ten regional transport offices (RTOs), 10 additional regional transport offices (ARTOs), 25 district transport offices (DTOs) at the field level.

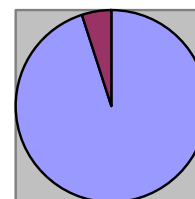
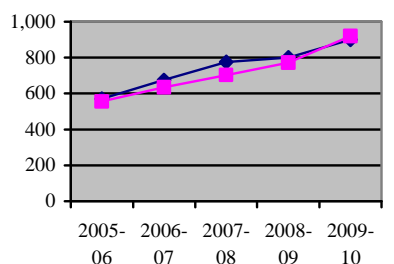
### 4.2 Trend of receipts

Actual receipts from taxes on vehicles during the last five years 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
2005-06	570.00	556.02	(-) 13.98	(-) 2.45	9,114.70	6.10
2006-07	675.00	634.30	(-) 40.70	(-) 6.02	10,473.13	6.06
2007-08	775.00	702.62	(-) 72.38	(-) 9.34	12,017.64	5.85
2008-09	800.00	772.56	(-) 27.44	(-) 3.43	13,613.50	5.68
2009-10	900.00	919.01	(+) 19.01	(+) 2.11	17,272.77	5.32

It may be seen that though there was an increasing trend in receipts over the period but the department failed to achieve the budget targets substantially except in 2009-10.



◆ Budget estimates    ■ Actual receipts

■ Total Tax receipts (2009-10)  
■ Taxes on vehicles (2009-10)



### 4.3 Cost of collection

The gross collection in respect of taxes on vehicles, expenditure incurred on collection as furnished by the concerned department and the percentage of expenditure to gross collection during the years 2007-08, 2008-09 and 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for 2008-09 are mentioned below:

(₹ in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
1.	Taxes on vehicles	2007-08	702.62	7.60	1.08	2.93
		2008-09	772.56	5.88	0.76	
		2009-10	919.01	12.63	1.38	

### 4.4 Impact of audit

During the last five years, audit had pointed out non/short levy, non/short realisation, incorrect exemption, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 200.78 crore in 39,336 cases. Of these, the department/Government had accepted audit observations in 22,211 cases involving ₹ 144.27 crore and had since recovered ₹ 1.92 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	18	2,100	68.79	2,099	46.40	07	0.28
2005-06	28	22,211	40.88	6,198	9.55	184	0.92
2006-07	18	1,938	20.05	1,938	20.05	--	--
2007-08	19	7,125	49.18	7,125	49.18	42	0.08
2008-09	28	5,962	21.88	4,851	19.09	311	0.64
<b>Total</b>	<b>111</b>	<b>39,336</b>	<b>200.78</b>	<b>22,211</b>	<b>144.27</b>	<b>544</b>	<b>1.92</b>

The percentage of recovery as compared to the accepted cases has been abysmal over the last five years. We have brought this glaring issue to the notice of the head of the department as well as the Finance Secretary of the Government for remedial action.

#### 4.5 Working of internal audit wing

Internal audit wing (IAW) has been established in the department with the objective of conducting internal audit of all subordinate offices and issuing instructions for taking proper corrective action on irregularities detected during such examination and checking the repetition thereof. During the year 2009-10, internal audit of 45 districts was planned against which internal audit was conducted only in 35 districts. Particulars of major comments/ observations of the IAW and corrective action taken by the department have not been received (December 2010).

#### 4.6 Results of audit

Test check of the records of 27 units in 2009-10 relating to taxes on vehicles during the year revealed underassessment of tax and other irregularities involving ₹ 18.44 crore in 5,534 cases which fall under the following categories.

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of vehicle tax, penalty and composition fee on public service vehicles.	1,575	9.03
2.	Non/short levy of vehicle tax and penalty on goods vehicles.	2,237	5.79
3.	Other irregularities.	1,722	3.62
	<b>Total</b>	<b>5,534</b>	<b>18.44</b>

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 5.19 crore in 2,209 cases, which were pointed out in audit during the year 2009-10 and realised ₹ 94.92 lakh in 515 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 11.49 crore highlighting important audit findings are mentioned in the following paragraphs.

#### 4.7 Non-realisation of vehicle tax and penalty on vehicles

Twenty six District/Regional Transport offices

Tax shall be levied on every motor vehicle used or kept for use in the State at the rate prescribed in the MP *Motoryan Karadhan Adhiniyam (Adhiniyam)*. In case of default, the vehicle owner shall be liable for penalty.

We observed between May 2009 and January 2010 that vehicle tax amounting to ₹ 9.65 crore in respect of 3,893 vehicles for the period between April 2005 and March 2009 was not paid by the vehicle owners. Besides, no action was taken by the Taxation Authorities (TAs) to detect such vehicles and recover the tax

according to provisions of *Adhiniyam* and the Rules made thereunder. A penalty of ₹ 5.28 crore though leviable was not levied. This resulted in non-realisation of Government revenue of ₹ 14.93 crore as mentioned below:

(₹ in crore)

Sl. No.	No. of offices	Category of vehicles No. of vehicles	Period involved	Tax not paid	Penalty leviable	Total (5+6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	26 <sup>1</sup>	Goods vehicles 2,144	4/05 to 3/09	3.66	1.96	5.62
2	26 <sup>2</sup>	Public service vehicles kept as reserve 983	4/05 to 3/09	3.37	1.89	5.26
3	25 <sup>3</sup>	Public service vehicles plying on regular stage carriage permits 383	5/05 to 3/09	2.03	1.05	3.08
4	18 <sup>4</sup>	Maxicab 383	4/05 to 3/09	0.59	0.38	0.97
	<b>Total</b>	<b>3,893</b>		<b>9.65</b>	<b>5.28</b>	<b>14.93</b>

<sup>1</sup> Regional Transport Officer (RTO)- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain,  
Additional Regional Transport Officer (ARTO)- Chhindwara, Dhar, Guna, Khandwa, Khargone, Mandsaur, Satna, Seoni and Shahdol,  
District Transport Officer (DTO)- Barwani, Bhind, Mandla, Narsinghpur, Rajgarh, Sehore, Shajapur and Vidisha.

<sup>2</sup> RTO- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain,  
ARTO- Chhindwara, Dhar, Guna, Khandwa, Khargone, Mandsaur, Satna, Seoni and Shahdol,

<sup>3</sup> DTO- Barwani, Bhind, Mandla, Narsinghpur, Rajgarh, Sehore, Shajapur and Vidisha.  
RTO- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain,  
ARTO- Chhindwara, Dhar, Guna, Khandwa, Khargone, Mandsaur, Satna, Seoni and Shahdol,

<sup>4</sup> DTO- Barwani, Bhind, Mandla, Narsinghpur, Rajgarh, Shajapur and Vidisha.  
RTO- Bhopal, Gwalior, Hoshangabad, Indore and Ujjain, ARTO Chhindwara, Dhar, Guna, Khandwa, Khargone, Mandsaur, Satna and Seoni and DTO Barwani, Bhind, Mandla, Rajgarh and Shajapur.

After this was pointed out, seven TAs<sup>5</sup> stated (between November 2009 and August 2010) that an amount of ₹ 90.01 lakh had been recovered in 460 cases and demand notices had been issued in remaining cases. In other cases the remaining TAs stated that action would be taken/recovery would be made/demand notices had been issued against/to the defaulting vehicle owners.

The matter was reported to the Transport Commissioner (TC) and the Government between June 2009 and March 2010; their reply has not been received (December 2010).

#### 4.8 Levy of vehicle tax at incorrect rate and non-levy of penalty thereon

RTO, Bhopal

Tax on private vehicles of different categories is leviable at specified rates under First Schedule to the *Adhiniyam*. In case of default, vehicle owner shall be liable for penalty.

We observed (December 2009) that temporary permits were granted by the TA to owners of 65 private service vehicles to carry the staff of factories during the period between April 2008 and March 2009. The TA, however, allowed levy of tax thereon at a lower rate specified for vehicles of city

services. This resulted in short-levy of tax of ₹ 54.26 lakh and non-levy of penalty of ₹ 33.32 lakh.

After this was pointed out, the TA stated (December 2009) that recovery would be made after scrutiny of the cases.

The matter was reported to the TC and the Government in January and March 2010; their reply has not been received (December 2010).

#### 4.9 Short-realisation of vehicle tax and non-levy of penalty on motor vehicles

Fifteen District/Regional Transport offices<sup>6</sup>

Tax leviable on public service vehicles is calculated on the basis of seating capacity and distance of the route allowed. In case of non-payment of tax, the vehicle owner shall be liable for penalty.

We observed between March 2009 and January 2010 that vehicle tax in respect of 201 motor vehicles for the period between April 2006 and March 2009 was paid short by the vehicle owners either due to application of incorrect rate of tax or deposit of tax at lower rates.

Failure of the TAs to detect the application of incorrect rate of tax resulted in short realisation of vehicle tax of ₹ 40.80 lakh. Besides, a penalty of ₹ 21.76 lakh was also leviable on unpaid amount of tax, but was not levied.

<sup>5</sup> RTO- Rewa, Sagar, Ujjain, ARTO Chhindwara, Khargone, Khandwa and Mandsaur.

<sup>6</sup> RTO- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena and Ujjain, ARTO- Dhar, Khargone, Mandsaur, Satna and Seoni and DTO- Mandla, Sehore and Vidisha.

After this was pointed out, the TAs, Ujjain and Khargone stated (between May and August 2010) that an amount of ₹ 2.30 lakh had been recovered in seven cases. Other TAs stated that action would be taken/recovery would be made/demand notice had been issued against/to the defaulting vehicle owners.

The matter was reported to the TC and the Government between April 2009 and February 2010; their reply has not been received (December 2010).

#### **4.10 Levy of vehicle tax at incorrect rate and non-levy of penalty on contract carriage permits**

RTO, Rewa

Tax on contract carriages is leviable at the rate of ₹ 500 per seat per month. In case of non-payment of tax, the vehicle owner shall be liable for penalty.

We observed in May 2009 that 70 temporary contract carriage permits were issued to 22 public service vehicles owned by 13 operators during the periods between April 2008 and March 2009. The tax was deposited

by the operators at the rates applicable to private/ educational institution buses instead of the rates applicable to contract carriages. This resulted in short-levy of tax of ₹ 38.43 lakh and non-levy of penalty of ₹ 10.38 lakh.

After this was pointed out, the TA stated (May 2009) that action would be taken after scrutiny of the cases.

The matter was reported to the TC and the Government in July 2009 and March 2010; their reply has not been received (December 2010).

#### **4.11 Failure to levy penalty on belated payment of vehicle tax**

Fourteen District/Regional Transport offices<sup>7</sup>

If tax in respect of any motor vehicle is not paid on due date, the owner shall, in addition to the payment of tax due, be liable to pay penalty at the rate of four *per cent* per month.

We observed between June 2009 and January 2010 that vehicle tax in respect of 437 motor vehicles for the period between January 2006 and March 2009 was paid by the owners after delay ranging from 01 to 39 months. However, penalty was neither paid by the owners alongwith

tax, nor was it demanded by the TAs. This resulted in non-realisation of penalty of ₹ 25.24 lakh.

After this was pointed out, the TA, Khargone stated (November 2009) that an amount of ₹ 1.68 lakh had been recovered in 35 cases and demand notices had been issued in the remaining cases. In other cases it was stated that action would be taken/recovery would be made/demand notices had been issued against/to the defaulting vehicle owners.

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<sup>7</sup> RTO- Bhopal, Gwalior, Jabalpur and Morena,  
ARTO- Chhindwara, Dhar, Khargone, Mandsaur and Satna and  
DTO- Mandla, Narsinghpur, Rajgarh, Sehore and Shajapur.

The matter was reported to the TC and the Government (between July 2009 and February 2010); their reply has not been received (December 2010).

#### **4.12 Non-levy of vehicle tax and penalty on private service vehicles**

RTO, Gwalior and Indore

Tax on private service vehicles is payable at the rates specified in the *Adhiniyam* except in case of "off road" declaration furnished by the vehicle owner and accepted by the TA.

We observed between November and December 2009 that vehicle tax in respect of 23 private service vehicles for the period between April 2008 and March 2009 was neither paid by the vehicle owners, nor was it demanded by the TAs. This resulted in non-realisation of tax of ₹ 12.19 lakh.

Besides, a penalty of ₹ 7.24 lakh was also leviable.

After this was pointed out, the TAs stated that action would be taken/recovery would be made after scrutiny of cases.

The matter was reported to the TC and the Government between December 2009 and January 2010; their reply has not been received (December 2010).

#### **4.13 Non-realisation of vehicle tax and penalty on public service vehicles plying on city routes/educational institution buses**

Four District/Regional Transport offices<sup>8</sup>

Tax on every public service vehicle plying on city routes/education institution bus is leviable at the prescribed rates. In case of non-payment, the vehicle owner shall be liable for penalty.

We noticed between September 2007 and December 2009 that vehicle tax in respect of 189 vehicles plying on city routes/ educational institution buses for the period between April 2005 and March 2009 was neither paid by the owners, nor was it demanded by the TAs. This resulted in non-realisation of

vehicle tax of ₹ 7.09 lakh and penalty of ₹ 4.16 lakh.

After this was pointed out, the TA, Khandwa stated (January 2009) that an amount of ₹ 34,262 had been recovered in six cases, whereas TA, Gwalior stated (September 2007) that show cause notices had been issued to the defaulting vehicle owners. In other cases the TAs stated that demand notices were being issued/action would be taken/recovery would be made after scrutiny of the cases.

The matter was reported to the TC and the Government between October 2007 and March 2010; their reply has not been received (December 2010).

<sup>8</sup> RTOs, Bhopal, Gwalior, Jabalpur and ARTO Khandwa.

**4.14 Non levy of vehicle tax and penalty on public service vehicles plying on all India tourist permits**

Three District/Regional Transport Offices<sup>9</sup>

Tax on public service vehicles holding 'All India tourist permit' is leviable at the prescribed rates. In case of default the vehicle owner shall be liable for penalty.

We observed between July and November 2009 that seven operators did not pay vehicle tax in respect of eight public service vehicles plying on all India tourist permits for the period between October 2007 and March 2009, nor was it demanded by

the TAs. This resulted in non-realisation of tax of ₹ 5.61 lakh. Besides, a penalty of ₹ 2.52 lakh was also leviable.

After this was pointed out, the TA, Gwalior stated (November 2009) that recovery would be made after scrutiny of the cases whereas the TAs, Jabalpur and Narsinghpur stated (July and August 2009) that action would be taken after scrutiny of the cases.

The matter was reported to the TC and the Government between August 2009 and December 2009; their reply is awaited (December 2010).

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<sup>9</sup> RTO- Gwalior and Jabalpur and DTO- Narsinghpur.

## CHAPTER - V LAND REVENUE

### 5.1 Results of audit

Test check of the records of 92 units relating to land revenue revealed loss of revenue and other irregularities involving ₹ 314.60 crore in one case which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	"Land Revenue receipts in Madhya Pradesh" (A Review).	1	314.60
Total		1	314.60

A review of "Land Revenue receipts in Madhya Pradesh" with financial impact of ₹ 314.60 crore is mentioned in the following paragraphs.



## **5.2 Land revenue receipts in Madhya Pradesh**

### **Highlights**

Absence of cross verification between Tahsil and Collectorate records in diversion cases, resulted in non-raising/short raising of demand and consequential non-realisation of revenue of ₹ 82 crore.

**(Paragraph 5.2.7)**

Non-realisation of revenue of ₹ 66.09 crore due to absence of time limit for instituting RRCs after demands have been established.

**(Paragraph 5.2.8)**

Non-realisation of lease rent of ₹ 1.51 crore due to lack of provision of time limit for execution of lease deed after allotment of *nazul* land.

**(Paragraph 5.2.9)**

Non realisation of revenue of ₹ 6.63 crore due to non-recovery of provisional premium and ground rent and non-finalisation of the cases of allotment of land.

**(Paragraph 5.2.10)**

Non-existence of monitoring mechanism for execution of sanctions resulted in loss of ground rent of ₹ 6.89 lakh.

**(Paragraph 5.2.11)**

Absence of any monitoring mechanism at Collectorate level resulted in non-realisation of process expense of ₹ 5.03 crore.

**(Paragraph 5.2.13)**

There was loss of revenue of ₹ 59.13 crore due to allotment of land at throw away prices in contravention of Revenue Code guidelines.

**(Paragraph 5.2.16)**

Non-raising of demand of installment of premium resulted in non-realisation of ₹ 132.50 crore.

**(Paragraph 5.2.17)**

Non-levy of interest resulted in non-realisation of ₹ 2.70 crore.

**(Paragraph 5.2.18)**

Land diverted for commercial purposes was treated as residential resulting in short realisation of rent/premium of ₹ 1.38 crore.

**(Paragraph 5.2.20)**

The exchequer was deprived of revenue of ₹ 28.09 crore due to non-levy/deposit of service charge and interest.

**(Paragraph 5.2.26)**

### **5.2.1 Introduction**

Land revenue includes all money payable to the Government for land, notwithstanding that such moneys may be described as premium, rent and lease money. Where the land assessed for use of one purpose is diverted for any other purpose, the land revenue payable on such land is liable to

be charged and assessed in accordance with the purpose to which it has been diverted. Diversion rent and premium is assessed by the Sub Divisional Officers (SDO) in such cases. Ground rent, premium and interest is levied on Government land allotted on lease. Moreover, *Panchayat Upkar* is also levied on land revenue in respect of land situated in *Panchayat* areas. Levy and collection of land revenue, *Upkar*, fine, penalty, process fee and interest are regulated under Madhya Pradesh Land Revenue Code (MPLRC), 1959, *Panchayat Raj Adhinyam* (PRA), 1993, Madhya Pradesh *Lokdhan (Shodhya Rashiyon ki Vasuli) Adhinyam* (MPLA), 1987 and rules made thereunder, Revenue Book Circular (RBC) and notifications/executive instructions. Land revenue receipts are deposited under Major Head (MH) 0029.

We decided to review the system of assessment, levy and collection of land revenue receipts in the state which revealed a number of system and compliance deficiencies.

### **5.2.2 Organisational setup**

The Revenue Department is headed by the Principal Secretary at the Government level. He is assisted by the Commissioner, Settlement and Land Record (CSLR). Commissioners of divisions exercise administrative and fiscal control over the districts included in the division. In each district, Collectors administer the activities of the department. It is entrusted upon the Collector of a District to place one or more Assistant Collector or Joint Collector or Deputy Collector in charge of a sub-division of a district. The officers so placed in charge of a sub-division are called SDOs. They have to exercise such powers of the Collector as are directed by the State Government by notification. Superintendent/Assistant Superintendent, Land Record (SLR/ASLR) are posted in the Collectorate for maintenance of revenue records and settlement. Tahsildars/Additional Tahsildars are deployed in the Tahsils as representative of the revenue department. There are ten revenue divisions, each headed by a Commissioner, 50 districts, each headed by a Collector and 318 Tahsils in the State.

### **5.2.3 Scope of audit**

The records of the years from 2005-06 to 2009-10 of 11<sup>1</sup> out of 50 Collectorates and 78<sup>2</sup> out of 318 Tahsil offices were test checked between May 2009 and March 2010. The selection of units was done through simple random sampling without replacement method.

### **5.2.4 Audit objectives**

We conducted the review with a view to:

- assess the efficiency and effectiveness of the system for assessment, levy and collection of land revenue, premium, ground rent, diversion rent, penalty and cess; and

<sup>1</sup> Bhopal, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Khargone, Mandasaur, Ratlam, Sagar and Ujjain.

<sup>2</sup> Details given at annexure- A.

- assess whether an adequate internal control mechanism existed to ensure proper and timely realisation of revenue.

### 5.2.5 Acknowledgement

We acknowledge the co-operation of the Revenue Department and its field offices for providing information to audit. An entry conference to discuss the objectives, scope and methodology of audit was held with the Additional Secretary of the department in March 2010. The exit conference was held in November 2010 in which the Principal Secretary, Secretary and two additional Secretaries of Land Revenue Department participated.

### 5.2.6 Trend of revenue

The Budget Manual provides that the estimates should take into account only such receipts as the estimating officer expects to be actually realised or made during the budget year. The Budget Manual clearly states that if the test of accuracy is to be satisfied, not merely should all items that could have been foreseen be provided for, but also only so much, and no more should be provided for as is necessary.

The trend of revenue for the last five years ending 31 March 2010 is as below:

(₹ in crore)

Year	Revised Estimates	Actual Receipts	Percentage increase (+) decrease (-) over revised budget estimates
2005-06	85.55	77.16	(-) 09.81
2006-07	125.00	132.21	(+) 05.77
2007-08	122.45	129.15	(+) 05.47
2008-09	156.01	338.84	(+) 117.19
2009-10	161.81	180.03	(+) 11.26

We observed that while preparing the budget estimates, the department did not account for the actual receipts during the previous year. Reasons for sharp increase in actual receipts in 2008-09 were not furnished despite requests in January, April, and May 2010 followed by demi official reminder in June 2010.

### Contribution of receipts from land revenue to total tax revenue

(₹ in crore)

Year	Total tax revenue	Land revenue	Percentage contribution of (3) to (2)
(1)	(2)	(3)	(4)
2005-06	9,114.70	77.16	0.85
2006-07	10,473.13	132.21	1.26
2007-08	12,017.64	129.15	1.07
2008-09	13,613.50	338.84	2.49
2009-10	17,272.77	180.03	1.04
<b>Total</b>	<b>62,491.74</b>	<b>857.39</b>	

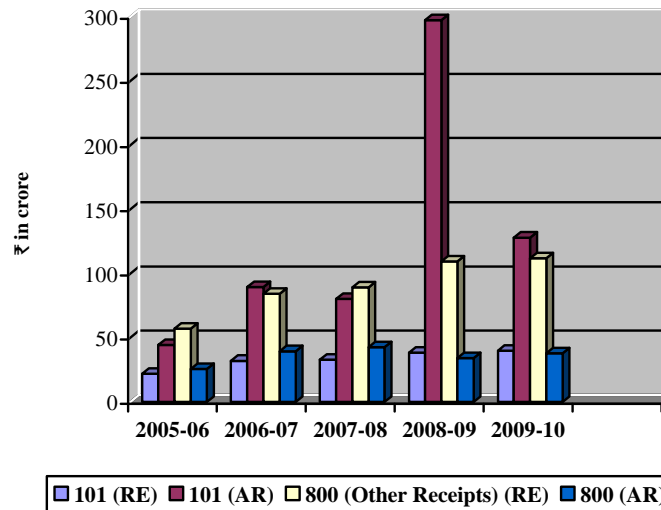
The percentage contribution of the receipts under Land Revenue to the total tax receipts in the state registered a sharp increase during 2008-09. The reasons for increase were not furnished by the department despite requests in January, April and May 2010 followed by demi official reminder in June 2010.

### Minor head wise analysis of receipts under MH 0029 during five years

Minor head 101 comprises land revenue/ tax while Minor head 800 (other receipts) includes premium and rent from *Nazul* land, premium from diverted land and penalty. These two minor heads constituted an average of 95.63 per cent of the total receipts under MH 0029 during the last five years.

(₹ in crore)

Year	Minor head-101		Minor head- 800		Total Minor Head 101 & 800 Actual Receipts	Percentage of total of these minor Head receipts to land revenue receipts
	Revised Estimates	Actual Receipts	Revised Estimates	Actual Receipts		
2005-06	22.02	44.29	57.16	25.75	70.04	90.77
2006-07	32.02	89.66	84.28	39.56	129.22	97.74
2007-08	33.02	80.26	89.43	42.67	122.93	95.18
2008-09	38.41	297.43	109.60	34.28	331.71	97.90
2009-10	39.91	128.04	111.90	37.99	166.03	92.22
<b>Total</b>	<b>165.38</b>	<b>639.68</b>	<b>452.37</b>	<b>180.25</b>	<b>819.93</b>	<b>95.63</b>



During preparation of the budget estimates, the aim is to achieve as close an approximation to the probable actual, as possible. We observed that the actual receipts under minor head 101 was more than 100 *per cent* of the budget estimates in all the five years under review while we noticed a reverse trend under minor head 800. The department needs to review the process of framing budget estimates to make it more realistic.

Actual receipts under minor head-800 (Other receipts) during the last five years is only 39.85 *per cent* of the revised estimates which is indicative of deficiencies in assessment/ realisation of premium and rent from *Nazul* land, premium from diverted land and penalty which are discussed in the succeeding paragraphs.

### Audit findings

### System deficiencies

#### 5.2.7 Non-realisation of revenue in diversion cases

As per Section 58 and 59 of MPLRC and Para 14 of RBC, when land is diverted for use of any other purpose, the revenue officer would prepare land holder wise *khatauni* in **form B-I** containing therein the details of the diversion cases assessed during the year and send it to the Tahsildar for updating his records and recovery of diversion rent and premium. **We observed that there was no provision in the MPLRC or RBC to cross verify the records of Tahsil and the Collectorate to ascertain proper and timely recovery of diversion rent and premium.** In the absence of any reconciliation statement containing the number of diversion cases received from the SDO and the action taken for recovery in these cases by the Tahsildar, the Collector is in no position to ascertain instances of loss of revenue due to non-raising/short raising of demand in diversion cases.

We noticed in four Collectorates<sup>3</sup> and 14 Tahsils<sup>4</sup>/SDO offices that 2,342 cases of diversion were decided by the SDOs between October 2004 to October 2009 which involved recovery of diversion rent, premium, *Panchayat Upkar* and fine of ₹ 81.84 crore. Out of these, statement in form B-1 was not prepared in respect of 73 cases for onward transmission to Tahsildar for raising the demand; in 416 cases, B-1 statement was prepared between October 2005 and October 2009 but not sent to the respective Tahsildars for recovery while in the remaining 1,853 cases, though B-I statements were sent between October 2006 and November 2009 to the

respective Tahsildars but action for raising the demand was not taken by the latter. Besides, in two diversion cases of Ujjain and 10 cases of

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<sup>3</sup> Bhopal, Gwalior, Hoshangabad and Indore.

<sup>4</sup> Ater (Bhind), Baldeogarh (Tikamgarh), Gwalior, Huzur (Bhopal), Itarsi (Hoshangabad), Jabalpur, Jawad (Neemuch), Khargone, Mandsaur, Neemuch, Ratlam, Sardarpur (Dhar), Singrauli and Shajapur.

Hoshangabad, demand noted in B-I was short by ₹ eight lakh while in 143 cases of Khargone, demand of ₹ 10.90 lakh as against ₹ 19.52 lakh was raised. Non raising/short raising of demand resulted in non- realisation of revenue of ₹ 82 crore.

After we pointed out, nine Tahsildars<sup>5</sup> stated (between June 2009 and March 2010) that demand would be raised. Further, four SLRs (diversion) and five Tahsildars<sup>6</sup> stated (between November 2009 and March 2010) that necessary action would be taken. Further reports have not been received (December 2010).

**The Government may consider prescribing a mechanism for correlating the cases of assessment of diversion rent with the records of the monthly statement of demand and collection submitted by the Tahsildar to the Collector.**

### 5.2.8 Non-realisation of revenue due to absence of time limit for initiation of recovery proceedings

Section 155 of MPLRC provides for recovery of dues not paid on or before due date as arrears of land revenue by attachment and sale of movable or immovable property of the defaulters. **However, no time limit has been prescribed in the MPLRC for initiation of recovery proceedings for recovery of dues as arrears of land revenue.**

**5.2.8.1** We observed in nine Collectorates<sup>7</sup> (*Nazul*)<sup>8</sup> and three Tahsil<sup>9</sup> offices (between June 2009 and March 2010) that premium, ground rent and diversion rent of ₹ 51.79 crore due for the period falling between 2005-06 and 2009-10 in 4,975 cases was not paid by the assesseees. Recovery proceedings for recovery of dues as arrears of land revenue were not

initiated by the respective assessing officers even after considerable efflux of time. Besides, in 13 Tahsil<sup>10</sup> offices, as per village wise demand and collection register and monthly statements, outstanding arrear on account of land revenue, *Upkar* and *Shala kar* was ₹ 13.04 crore. We noticed that in these cases even details of defaulters were not available and in the absence of the same, the Tahsildars were not in a position to initiate recovery proceedings. This resulted in non-realisation of revenue of ₹ 64.83 crore.

After we pointed out, the Tahsildar (*Nazul*) Ujjain stated (November 2009) that recovery of dues is done in the Tahsil office. Reply is factually incorrect because recovery of dues in respect of *Nazul* land is to be done

<sup>5</sup> Ater (Bhind), Baldeogarh (Tikamgarh), Itarsi (Hoshangabad), Jabalpur, Jawad (Neemuch), Mandsaur, Sardarpur (Dhar), Singrauli and Shajapur.

<sup>6</sup> Gwalior, Huzur (Bhopal), Khargone, Neemuch and Ratlam.

<sup>7</sup> Bhopal, Dhar, Gwalior, Hoshangabad, Indore, Mandsaur, Ratlam, Sagar and Ujjain.

<sup>8</sup> Government land which is used for construction or public utility purpose *viz* bazar or entertainment places. This land has site value and not agricultural importance.

<sup>9</sup> Bina (Sagar), Dharampuri (Dhar) and Ujjain.

<sup>10</sup> Huzur (Bhopal), Indore, Issagarh (Ashoknagar), Maiher (Satna), Mandsaur, Mungawali (Ashoknagar), Neemuch, Ratlam, Sagar, Sewda (Datia), Singrauli, Sironj (Vidisha) and Tikamgarh.

by Tahsildar (*Nazul*). Six Tahsildars<sup>11</sup> stated (between June 2009 and March 2010) that action would be taken after obtaining the list of defaulters from *Patwaris*. Remaining revenue officers stated (between June 2009 and March 2010) that necessary action would be taken.

**5.2.8.2** We observed in three Collectorates<sup>12</sup> (*Nazul*), *Rajdhani Pariyojana* (*Nazul*) Bhopal and 48 Tahsil offices<sup>13</sup> that fine of ₹ 1.26 crore was imposed between October 2005 and September 2009 in 18,636 cases of encroachment. However, this was not paid by the defaulters and also not recovered by the respective Tahsildars as arrears of land revenue. After we pointed out, respective revenue officers stated between May 2009 and March 2010 that necessary action would be taken.

**The Government may consider insertion of a time limit in the Act/Rules for initiation of recovery proceedings.**

**5.2.9 Non-realisation of lease rent, stamp duty and registration fee due to absence of time limit for execution of lease deed**

Para 28 of the RBC provides for execution and registration of lease deed within “reasonable time” after allotment of the *Nazul* land. Further, a lease deed for more than 12 months is a compulsorily registerable document under the Registration Act, 1908. **However, no time limit is prescribed in the RBC or MPLRC for execution of lease deed and registration thereof.**

We noticed in Collectorate Bhopal and Gwalior and Tahsil Huzur (Bhopal) that 1271 acres of *Nazul* land was allotted in 51 cases (between June 2007 and June 2009) to various allottees. However, in 11 cases lease deeds were not executed till the date of audit. This led to non-realisation of lease rent, stamp duty and registration fee of ₹ 1.51 crore.

After we pointed out, the *Nazul* officer, Bhopal stated (January 2010) in respect of one case that registered copy of the agreement would be obtained while in respect of another case he stated that agreement had been registered. *Nazul* officer, Gwalior and *Rajdhani Pariyojana*, Bhopal and Tahsildar, Bhopal stated (between October 2009 and January 2010) that necessary action would be taken.

**The Government may consider insertion of a time limit in the MPLRC/RBC for execution of lease deed.**

<sup>11</sup> Huzur (Bhopal), Mandsaur, Mungawali (Ashoknagar), Neemuch, Sewda (Datia) and Tikamgarh.

<sup>12</sup> Bhopal, Indore and Jabalpur.

<sup>13</sup> Details given at annexure- B.

### 5.2.10 Non-realisation of revenue due to non-recovery of provisional premium and ground rent in case of advance possession

As per provision of Paragraph 29 of the RBC, whenever advance possession of Government land is given to the applicant in anticipation of the final sanction, the provisional premium and ground rent should be recovered on the basis of estimated premium and ground rent. In the mean time, the applicant should provide an undertaking that he will pay premium and ground rent, which the Government finally decides. **We noticed that no time limit for submission of the case for final allotment is fixed.**

We observed in Collectorate (*Nazul*) Bhopal and Ratlam that advance possession of Government land measuring 5.15 acre and 35.05 acre respectively was given to Madhya Pradesh Housing Board (MPHB) (between October 2006 and June 2007). In case of Bhopal collectorate, the provisional premium and annual ground rent

of ₹ 4.50 crore and ₹ 22.52 lakh respectively was not recovered. In case of Ratlam Collectorate ₹ 20 lakh against provisional premium of ₹ 1.24 crore was recovered leaving the balance of premium of ₹ 1.04 crore and annual ground rent of ₹ 6.18 lakh unrecovered. In both the cases the amount payable on account of provisional premium and annual ground rent upto the year 2009-10 worked out to ₹ 6.63 crore. However, the Collectorates (*Nazul*) did not take any action to recover the dues nor the cases were submitted to the Government for final allotment even after a lapse of more than three years. Thus, the cases have been pending for want of final sanction from the Government.

After we pointed out, the respective *Nazul* officers stated (between November 2009 and January 2010) that necessary action would be taken.

**The Government may consider prescribing time limit for submission of cases of advance possession for final allotment.**

### 5.2.11 Loss of revenue due to non-existence of monitoring mechanism for execution of sanctions

As per standard condition embedded in the sanction orders issued by the Government for allotment of Government land, if premium and ground rent is not paid within six months of the issue of sanction, the sanction order would be cancelled. This requires that in such cases the premium and ground rent should be assessed and demand be raised by the revenue officer in due expedition immediately after issue of the sanction by the Government to safeguard revenue.

We noticed in *Rajdhani Pariyojana Bhopal* and Collectorate (*Nazul*), Indore that sanction for allotment of 12.68 acres of *Nazul* land in two cases were issued between April and September 2008. In these cases the demand notice for premium and ground rent was issued by

the revenue authorities after lapse of six months of the issue of sanction.



As a result, these sanctions could not be executed and government was deprived of revenue of ₹ 6.89 lakh on account of ground rent during 2008-09.

After we pointed out, the *Nazul* officer, *Rajdhani Pariyojana*, Bhopal stated (January 2010) that necessary action would be taken, while *Nazul* officer Indore stated (February 2010) that necessary guidance would be obtained from the Government.

**The Government may consider fixing responsibility for failure in timely execution of sanctions.**

### **5.2.12 Loss of revenue due to non-inclusion of soyabean in the list of commercial crops**

According to Section 3 of M.P. *Vanijya Fasal (Bhoomi par kar) Adhiniyam* 1966, tax on land under commercial crops for each agriculture year is leviable at the rates specified therein. These rates have not been revised nor any new crop added to the list since 1970. Madhya Pradesh is the biggest producer of soyabean in the country and Soyabean is also taxable under the M.P Commercial tax Act/VAT Act as oilseeds.

We observed in seven Collectorates<sup>14</sup> and 29 Tahsil<sup>15</sup> offices (between November 2009 to March 2010) that soyabean was produced in 220.94 lakh acre during 2004-05 to 2008-09. In Dhar, Indore and Ratlam Collectorates soyabean was produced in an area of 63.95 lakh

acres compared to ₹ 14.64 lakh acres under the other commercial crops. Non inclusion of soyabean in the list of commercial crops resulted in loss of revenue of ₹ 4.42 crore at the minimum rate<sup>16</sup> of ₹ two per acre.

After we pointed out, respective Revenue Officers stated (between November 2009 and March 2010) that action would be taken after receipt of instructions from the Government.

**The Government may consider revising the rates of *Vanijya Fasal Kar* and including soyabean in the list of commercial crops.**

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<sup>14</sup> Dhar, Hoshangabad, Indore, Khargone, Mandsaur, Ratlam and Sagar.

<sup>15</sup> Details given at Annexure- C.

<sup>16</sup> The rate of ₹ 2 per acre is leviable on land under commercial crops of cotton and ground nut while in respect of crops of opium, sugar cane, tobacco, mesta and sun hemp the rate is ₹ 4 per acre.

### 5.2.13 Non-realisation of process expenses due to lack of monitoring mechanism in the Collectorates

M.P. Lokdhan (*Shodhya Rashiyon Ki Vasuli*) *Adhiniyam*, 1987 (MPLA) and MPLRC provides that the recovery officer will register the revenue case in his Revenue case Register after receipt of Revenue Recovery Certificate (RRC) and issue demand notice within 15 days. As per *Adhiniyam* and rules made thereunder, process expense at the rate of three *per cent* of principal amount is leviable. In order to monitor the correctness and timeliness of recovery of process expenses, it is appropriate that the Collector receives a monthly statement from the Tahsildars containing amount due for collection and that which is actually collected as process expenses. **However, we noticed that no such monitoring mechanism was prescribed.**

We observed in 67 Tahsil offices<sup>17</sup> (between May 2009 and March 2010) that ₹ 167.55 crore was recovered between April 2005 and September 2009 against the RRCs of banks and other departments on which process expense of ₹ 5.03 crore was recoverable. However, the details of demand and collection of process expense were not on record in the Tahsil offices. Thus, absence of any monitoring mechanism in the Collectorates to assess the correctness and timeliness of collection of process expenses resulted in non-

realisation of process expense of ₹ 5.03 crore. In Huzur (Bhopal) and Hoshangabad Tahsil offices, we observed that process expense of ₹ 8.47 lakh was recovered by the Revenue officer under 84 challans (between July 2007 and March 2009), but the details of demand against which recovery made was not available in the Tahsil except in five cases of Hoshangabad involving recovery of ₹ 1.21 lakh.

After we pointed out, the officer in-charge Collectorate Bhopal stated (January 2010) that the record relating to recovery of process expense is not maintained. Tahsildar, Khargone stated in March 2010 that process expense is not applicable to co-operative banks. The reply is not acceptable because it is not in conformity with the rules. Tahsildar Indore and Mhow stated (January and February 2010) that bank is responsible for recovery. The reply is not acceptable because Tahsildar is responsible for demand and collection of the process expenses. Officer in charge of Collectorate Indore and the remaining Tahsildars stated (between June 2009 and March 2010) that necessary action would be taken.

**The Government may consider prescribing appropriate monitoring mechanism in the Collectorates for timely realisation of process expense.**

<sup>17</sup> Details given at annexure- D.

### 5.2.14 Non-levy of *Panchayat Upkar* on premium collected in *gram panchayat* area

As per section 58(2) of MPLRC the term "Land revenue", includes all moneys payable to the State Government for land in the form of premium, rent, lease money, quit-rent etc. Further, Section-74 of M.P. *Panchayat Raj Adhiniyam*, 1993 provides for levy of *Panchayat Upkar* at specified rates in each revenue year in *gram panchayat* area. Thus, *Panchayat Upkar* is leviable on diversion rent as well as on premium collected in *gram panchayat* area because premium is also land revenue as per section 58 (2) of MPLRC.

We noticed in Collectorate Jabalpur and Tahsil offices of Huzur (Bhopal) and Mandasaur (between December 2009 and February 2010) that *Panchayat Upkar* was not assessed and levied on the premium in 837 diversion cases of *gram panchayat* area decided between October 2005 and September 2009. Besides, in Collectorate (diversion) Bhopal and 13 Tahsil offices<sup>18</sup>, we noticed that

*Panchayat Upkar* was not assessed in 1452 cases of diversion of *gram panchayat* area decided between October 2005 and September 2009. This resulted in non-levy/realisation of *Panchayat Upkar* of ₹ 1.55 crore.

After we pointed out, the Tahsildar Huzur (Bhopal) stated (December 2009) that there is no rule for levy of *Panchayat Upkar* on premium. The reply is factually incorrect because as per section 58(2) of MPLRC, premium as well as diversion rent are land revenue and *Panchayat upkar* should be assessed on such revenue.

**The Government may consider issuing instructions for levy of *Panchayat Upkar* on premium in the Gram *Panchayat* area.**

### 5.2.15 Internal control mechanism

#### 5.2.15.1 Internal audit

The internal audit wing of a department is a vital component of its internal control mechanism. We observed that though internal audit wings were in operation at the divisional level but information on the organisational structure, existence of audit plan, staff strength, follow up action on reports etc. was not furnished by the department. Our test check further revealed that internal audit of *Rajdhani Pariyojana (Nazul)* Bhopal, Collector (SLR) Bhopal, Collector (SWBN) Indore and Collector (Diversion) Gwalior was conducted once in the last five years, while no internal audit of the remaining sections of the 11 selected Collectorates was conducted during this period. No internal audit was conducted by the department in 61<sup>19</sup> out of 78 Tahsils during the last five years. The details of inspection reports issued,

<sup>18</sup> Burhanpur, Huzur (Rewa), Jhabua, Kailaras (Morena), Khategaon (Dewas), Mandasaur, Mhow (Indore), Neemuch, Pandurna (Chhindwara), Ratlam, Sheopur, Tikamgarh, and Vijaypur (Sheopur).

<sup>19</sup> Details given at annexure -E.

number of objections raised, amount involved etc. have not been furnished by the Department despite request.

### 5.2.15.2 Departmental inspection

RBC provides that the Commissioner of the division should inspect revenue courts of each Collectorate and Tahsil in two and three years respectively while the Collector should inspect each Tahsil of his district every year.

We observed that the Commissioners conducted 52 and 112 inspections as against 88 and 156 inspections of Collectorates and Tahsils respectively during the period under review. The Collectors had to conduct 390 inspections

of Tahsils but they conducted only 117 inspections. The details of inspections conducted and points raised/included in inspection notes/memorandums etc. have not been furnished by the Department despite request.

### Compliance deficiencies

### 5.2.16 Loss of revenue due to allotment of Government land on throw away prices

#### Commercial Purpose

As per circular no. F-6-47/7/Nuzul/37 dated 7.11.2002 of Revenue Department, in case of allotment of Government land on lease basis otherwise than through auction, the land shall be allotted at the rate of ₹ 60 per sq. ft. in case of towns/cities having population of 10 lakh or above.

**5.2.16.1** We observed in *Rajdhani Pariyojana* Bhopal that *Nazul* land measuring 20.53 hectare (situated within Bhopal city municipal limits) was leased (January 2008) to M/s Essel Infra projects Limited for setting up of a water park. During scrutiny of the case we observed that the

land was leased in January 2008 on the rates of agricultural land prevailing in 2005-06 at ₹ 17.66 per sq. ft. approx. as against the minimum rate of ₹ 60 per sq.ft. prescribed vide order dated 7.11.2002 under Para 23 of RBC. This resulted in short realisation of ₹ 11.46 crore and undue benefit to the company.

After we pointed out, the *Nazul* officer stated (January 2010) that premium and land rent was levied in accordance with the sanction of Government and the points raised by audit would be brought to the notice of the Government. Further reply has not been received (December 2010).

**5.2.16.2** We noticed in Jhabua that *Nazul* land measuring 149 sq. m. was allotted to *Nagrik Sahkari* Bank at premium and ground rent of ₹ 2.40 lakh by

RBC-IV-I read with Government circular dated 4 April 1997 provides that allotment of land to commercial co-operative institutions (other than agriculture based institutions) shall be made at the rate prescribed in the market value guidelines applicable for registration of documents.

applying non-commercial rate of land of ₹ 1,500 per sq. mt. This led to loss of revenue of ₹ 17.31 lakh based on commercial rate of ₹ 11,600 per sq. mt. Further reply has not been received (December 2010).

After we pointed out, the Tahsildar stated (January 2010) that necessary action would be taken. Further reply has not been received (December 2010).

### **Housing Purpose**

**5.2.16.3** We observed in the office of *Rajdhani Pariyojana*, Bhopal that 10 acre land situated in ward 30 of the city was allotted in August 2007 to

RBC-IV-I provides for allotment of land for housing purposes to Madhya Pradesh Housing Board (MPHB) and Cooperative Housing Society (Society) on payment of premium at 60 per cent of market value of land and annual ground rent at five per cent of the premium.

MPHB for building houses for MLAs and MPs at the rate of ₹ 3,200 per sq. mt. and annual ground rent at five per cent of the premium. As per this rate, the premium was fixed as ₹ 12.96 crore and ground rent as ₹ 64.77 lakh. However, we noticed that the *Nazul* officer issued demand notice of ₹ 7.77 crore as

premium and ₹ 32.38 lakh as rent to MPHB in October 2007 and this amount was deposited by the Board in January 2008. This resulted in short realisation of revenue of ₹ 5.52 crore.

After we pointed out, the *Nazul* officer stated (January 2010) that the issue of application of incorrect rate would be brought to the notice of Government. He further accepted that the *Nazul* officer had issued incorrect demand notice in October 2007 and agreed to raise demand. Further report has not been received (December 2010).

**5.2.16.4** We observed in Collectorate (*Nazul*) office, Bhopal that the Collector submitted a proposal to the Government for allotment of 11.68 acre land of village Nevri in Tahsil Huzur, Bhopal on 11 August 2008 to *Rajdhani Patrakar Griha Nirman Sahkari Samiti Maryadit*. In this proposal the Collector mentioned that the rate of ₹ 2500 per sq. mt. was appropriate as the Bhopal Police *Karmachari Griha Nirman Samiti*, located adjacent to the above land, was allotted at the rate of ₹ 2,500 per sq. mt. However, this land was allotted by the Government at the rate of ₹ 60 per sq. ft (₹ 645.60 per sq. mt.) on 25 August 2008 as per orders of the Council of ministers. As per this order, the land was allotted at a premium and annual rent of ₹ 3.21 crore. When we requested for the minutes of the meeting/file noting in this case,

no reply was given by the Government despite demi official request. Allotment of residential land at such throw away prices by the Government was contravention of the provisions contained in Para 26 of RBC-IV-I and consequent loss of premium and ground rent of ₹ 4.24 crore. It is worthwhile to mention that the Collector had suggested in his report of 11 August 2008 that even if this land is auctioned under Para 21 of RBC-IV-I, it would fetch more than ₹ 7.09 crore.

After we pointed out, the Tahsildar stated (January 2010) that the allotment was done by the Government.

**5.2.16.5** We observed in *Rajdhani Pariyojana*, Bhopal that the Collector

RBC-IV-I provides for allotment of *nazul* land to the caste based societies on payment of premium at 75 per cent of market value of land and 50 per cent of normal ground rent.

proposed allotment of 5,000 sq. ft. of land to *Akhil Bhartiya Pal Mahasabha* at premium and rent of ₹ 33.46 lakh as per para 26 of RBC-IV-I in August 2008. However, we noticed that this land was allotted to the

society at nil premium and annual rent of Rupee one by the Government through its orders dated 11.09.2008.

Similarly, in another case of Tahsil Huzur, Bhopal we noticed that the Collector submitted a proposal in August 2008 to the Government for allotment of 5,000 sq.ft. land to *Meena Samaj Sewa Sangathan* at premium and rent of ₹ 8.93 lakh. However, we noticed in this case also that this land was allotted to the society at nil premium and annual rent of Rupee one by the Government through its orders dated 9 January 2009.

When we requested for the minutes of the meeting/file noting in these cases, no reply was given by the Government despite demi official request. Such free of cost allotment of Government land was contrary to Para 26 of RBC-IV-I and also resulted in loss of revenue of ₹ 42.39 lakh.

After we pointed out, the *Nazul* officer *Rajdhani Pariyojana (Nazul)* Bhopal and Tahsildar Huzur (Bhopal) stated (December 2009 and January 2010) that the sanction for allotment was granted by the Government and the issue raised by audit would be brought to the notice of Government. Further report has not been received (December 2010).

**5.2.16.6** Allotment of land for construction of *Dharamshala*

We observed in the Office of Collector (*Nazul*) Sagar that *Nazul* land (24,642 sq. ft.) was allotted by the department (June 1999) to

RBC-IV-I provides for allotment of land for religious or social purpose to any trust on payment of premium at 75 per cent of market value of land and ground rent at 50 per cent of normal rent.

*Shree Jhulelal Mandir Trust* for construction of *dharamshala* on payment of premium and additional premium of ₹ 73.92 lakh and annual ground rent of ₹ 92,407. As per conditions

of the sanction, premium and rent was to be paid by the trust within six months of the issue of sanction, failing which the sanction was to be deemed as cancelled. However, the trust failed to comply with this condition

and the sanction lapsed. After nine years, the department again issued (June 2008) a sanction for allotment of the same land to the same trust without any premium and on token annual ground rent of Rupee one. The revised allotment order of June 2008 did not specify any reason for allotment of Government land at such concessional rate, except that it was a 'special case'. When we requested for the minutes of the meeting/file noting in this case, no reply was given by the Government despite demi official request.

Such order was a repudiation of RBC-IV-I and led to loss of revenue of ₹ 2.52 crore.

After we pointed out, the *Nazul* officer stated (February 2010) that the land was leased out in accordance with the sanction issued by the Government and necessary action would be taken after receiving instructions from the Government. Further report has not been received (December 2010).

**5.2.16.7** We observed in three collectorates<sup>20</sup> and Tahsil Huzur (Bhopal)

RBC-IV-I provides for allotment of *Nazul* land for educational purpose on payment of premium at 50 per cent value of land on the basis of minimum rates prescribed therein and annual ground rent at two per cent of premium. Further, premium is not chargeable if the land is allotted for establishing a medical college.

that due to non-observance of the provisions of RBC-IV-I the Government was deprived of revenue of ₹ 34.74 crore as per details given below:

Sl. No	Name of the Society (Purpose)	Land Area (in hectare)/ place	Date of proposal of Collector Premium Rent (₹)	Date of Government sanction Premium Rent (₹)	Audit Observation
(1)	(2)	(3)	(4)	(5)	(6)
1	Shri Digambar Jain Museum Shodh Sansthan Samiti (Educational)	2.024 (Kanadiya) Indore	6 July 2006 2,45,025 4,901	28 March 2008 2,45,025 4,901	Village Kanadiya is in periphery of Indore city and the applicable rate should have been ₹ 60 per sq feet as per RBC. However, the land was allotted at the rate of ₹ 2.25 per sq ft. This resulted in loss of premium and annual ground rent of ₹ 66.66 lakh.

<sup>20</sup> Bhopal, Hoshangabad and Indore

(1)	(2)	(3)	(4)	(5)	(6)
2	<i>Gram Bharti Shiksha Samiti Madhya Bharat</i> (Educational)	<u>8.375</u> (Shahpura) Bhopal	June <u>2008</u> <u>61,56,257</u> 1,23,125	22 August <u>2008</u> <u>6,15,626</u> 12,313	The Government sanctioned the premium at five <i>per cent</i> , against the Collector's proposal of 50 <i>per cent</i> as per RBC. This resulted in loss of premium and annual ground rent of ₹ 56.51 lakh.
3	<i>Man Reva Shiksha Samiti</i> (Educational)	<u>0.809</u> (Jalalabad) Hoshangabad	Not available in the file	17 April <u>2008</u> <u>Nil</u>  1.00	As per RBC, premium of ₹ 5,88,060 and annual ground rent of ₹ 11,762 was leviable. Non-observance of the provisions of RBC resulted in loss of premium and annual ground rent of ₹ 6.12 lakh.
4	<i>Jagaran Social Welfare Society</i> (Educational)	<u>78.661</u> (Mugaliya Chhap) Bhopal	14 May <u>2008</u> <u>5,71,27,086</u> 11,42,553	28 August <u>2008</u> <u>Four crore</u> 8,00,000	Mugaliya Chhap is in Bhopal city planning area and rate of ₹ 60 per sq. ft. was applicable. Incorrect application of rate by Collector and undue concession by the Government resulted in loss of premium and ground rent of ₹ 21.82 crore.
5	<i>Dhirubhai Ambani Memorial Trust</i> (Educational)	<u>44.53</u> (Acharpura) Bhopal	March <u>2008</u> <u>3,23,43,300</u> 6,46,866	September <u>2008</u> <u>3.23 crore</u> 6,46,866	Acharpura is situated in Bhopal city planning area and rate of ₹ 60 per sq. ft. was applicable but rate of ₹ 13.50 per sq. ft. was applied by the Collector. This resulted in loss of premium and ground rent of ₹ 11.36 crore.



(1)	(2)	(3)	(4)	(5)	(6)
6	Digamber Jain Sarvodaya Gyan Vidyapeeth (Medical College)	10.121 (Badwai) Bhopal	30 January 2008  Nil (as per RBC-IV) 6,53,400	24 December 2008  Nil(as per RBC-IV) 1.00	Contrary to the provisions of RBC read with circular of Government (October 2002) undue concession granted by the Government resulted in loss of annual ground rent of ₹ 26.14 lakh. Further as per condition of allotment, a 300 bedded hospital was required to be established up to June 2009 which was not done till the date of audit. The Collector ( <i>Nazul</i> ) did not take any action for revoking the sanction.

After we pointed out, the Tahsildar Huzur (Bhopal), *Nazul* officer, Indore and SDO, Huzur stated (between December 2009 and February 2010) that appropriate action would be taken after scrutiny of the cases, while SDO, Hoshangabad stated in March 2010 that the matter would be brought to notice of the Government. Tahsildar (*Nazul*), Bairagarh (Bhopal) stated that allotment of land was done at Government level. He did not furnish any reply about the inaction against the allottee for breach of conditions of allotment.

**5.2.16.8** We observed in the office of Collector (*Nazul*) Hoshangabad

RBC-IV-I provides for allotment of land up to 4,000 sq ft to a political party for construction of office on payment of premium at 10 per cent of market value of land and ground rent at five per cent of the premium. In case of allotment of land to MPEB, premium at 50 per cent of the market value and annual ground rent at 7.5 per cent of premium is chargeable.

and Mandasaur that *Nazul* land measuring 3999 sq ft and 12000 sq ft was allotted to a political party for construction of office at Hoshangabad and MPEB for construction of grid at Arniyadeo (Mandasaur) in June 2008 and February 2009 respectively. The premium and annual ground rent was to be paid within six months of

the issue of the sanction. We noticed in Hoshangabad that the allottee failed to deposit the dues in time. The department in their order (January 2010) instructed that interest at the rate of 15 per cent may be charged after the relaxation period. Accordingly, the payable premium and annual ground rent in both the cases along with interest in one case worked out to ₹ 8.35 lakh. It was, however, observed that the *Nazul* officers assessed and demanded ₹ 3.32 lakh by applying incorrect rates. Thus, premium, annual ground rent and interest was assessed short by ₹ 5.03 lakh.

After we pointed out, the *Nazul* officer, Hoshangabad stated (March 2010) that demand would be revised while the *Nazul* Officer, Mandsaur stated (January 2010) that action would be taken as per rule after scrutiny of the case. Further reply is awaited (December 2010).

### 5.2.17 Non-recovery of installment of premium

As per MPLRC and RBC, Government land can be allotted by conducting auction or under tender system. The tender/auction amount is recoverable from allottee in the manner prescribed in the allotment/tender order.

We observed in *Rajdhani Pariyojana (Nazul)* Bhopal that *Nazul* land measuring 15 acre was allotted in April 2008 to Gammon India Limited under tender system for ₹ 338 crore. The consideration was payable in three installments<sup>21</sup> and to be revised according to actual measurement of land handed over to

the allottee. Two installments of ₹ 101.40 crore each were paid by the company and the last installment was due in April 2009. As the possession of 14.88 acres against 15 acres was handed over to the company, the third installment amounting ₹ 132.50 crore was due for recovery. This was not demanded and recovered by the *Nazul* officer. This resulted in non-realisation of revenue of ₹ 132.50 crore.

After we pointed out, the *Nazul* Officer stated in January 2010 that demand note would be issued and lease deed would be executed after recovery. The fact, however, remains that the recovery as well as lease deed has not been made/executed till date (December 2010).

### 5.2.18 Non-levy/realisation of premium, ground rent and interest

Premium, annual ground rent and interest on belated payment of Government dues is leviable in accordance with sanction of allotment, provisions of RBC-IV-I and Government order issued from time to time.

We observed in the office of *Rajdhani Pariyojana*, Bhopal (January 2010) that allotment of land was sanctioned in three cases in favour of Bhopal Development Authority (BDA) by Government between June 1986 and March 1994. The advance possession of the land was given between August 1979 and

May 1983 in these cases. According to the sanction orders, interest at the rate of 14 *per cent* in one case and at 15 *per cent* in two cases on payment of arrears from the date of possession was recoverable. The BDA paid the arrears of ₹ 75.12 lakh between August 2007 and October 2009 on which interest of ₹ 2.65 crore was recoverable which was not levied by the department. Besides, in Collectorate (*Nazul*) Hoshangabad, we noticed that interest of ₹ 2.09 lakh as against ₹ 6.92 lakh was levied in one case due to

<sup>21</sup> 30 *per cent* was payable at the time of execution of development agreement, 30 *per cent* after one month of the agreement, last installment of balance amount and execution of lease deed within one year of the agreement. The development agreement was executed in April 2008.

computation mistake. The non/short levy of interest resulted in non-realisation of interest of ₹ 2.70 crore.

After we pointed out, respective *Nazul* officers stated (January and March 2010) that necessary action would be taken.

#### **5.2.19 Short raising of demand**

We observed in Rajdhani *Pariyojana* Bhopal that land measuring 7.39 acre was allotted to *Nyayadhish Griha Nirman Samiti* (May 2006) on premium of ₹1.93 crore and annual ground rent of ₹ 9.66 lakh. Accordingly ₹ 2.22 crore was recoverable on account of premium and ground rent upto 2009-10. The lessee paid ₹ 1.22 crore leaving the unpaid balance of ₹ one crore. It was, however, observed that demand of ₹ 84.98 lakh only was raised by the department (June 2009). This resulted in short raising of demand by ₹ 15.02 lakh. It was further seen that no amount was paid by the lessee since the issue of demand letter (June 2009) but no action was taken by the department to recover the dues of ₹ one crore.

After we pointed out, the *Nazul* officer accepted the observation and stated (January 2010) that the amount would be recovered. Further progress has not been received (December 2010).

#### **5.2.20 Under assessment of diversion rent, premium and *Upkar***

Under the provisions of MPLRC, where land assessed for one purpose is diverted for any other purpose, the land revenue payable on such land shall be revised and reassessed in accordance with the purpose for which it has been diverted from the date of such diversion at the rates fixed by the Government. Further, *Panchayat Upkar* at the rate of 50 paise per one rupee of diversion rent is also leviable in *gram panchayat* area.

We observed in five Collectorate<sup>22</sup> and eight Tahsil offices<sup>23</sup> that there was under assessment of diversion rent, premium and *Upkar* in 156 cases of diversion decided between May 2005 and November 2009. We noticed that diversion for commercial/partly commercial purpose was treated as residential or assessment was done on reduced area. This resulted in

short realisation of premium, diversion rent and *Upkar* of ₹ 1.38 crore as detailed below:

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<sup>22</sup> Bhopal, Dhar, Hoshangabad, Indore and Jabalpur.

<sup>23</sup> Ashoknagar, Dhar, Itarsi (Hoshangabad), Jaora (Ratlam), Mhow (Indore), Seoni, Sironj (Vidisha) and Tikamgarh.

(₹ in lakh)

Sl. No.	Unit Period	No. of cases	Area involved	Audit observations	Premium, Diversion rent & upkar leviable/levied/short assessment	Reply of the Department/ further observation
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Collector (Diversion) <u>Bhopal</u> 10/07 to 09/09	13	156.10 Acres	Out of 156.10 acres, 57.45 acres of land was diverted for commercial purpose but treated as residential.	<u>105.47</u> <u>79.50</u> 25.97	In six cases of Huzur circle it has been stated that necessary action would be taken. In remaining cases of Gobindpura Circle it has been stated that the purpose was residential. Reply is contrary to the facts on record.
		3	4.66 Acres	Assessment was done for 2.18 acres instead of 4.66 acres of land.	<u>4.16</u> <u>1.30</u> 2.86	In one case of City Circle it has been stated that necessary action would be taken. Of the remaining two cases, assessment was done in one case for area falling under M P Nagar Circle and remaining area falls under another Circle. In case of Gobindpura Circle it has been stated that diversion was sought for one acre only. We do not agree as in the case of M P Nagar the matter has not been referred to the concerned Circle and reply is contrary to the facts on record in case of Gobindpura.
2.	Collector (Diversion) <u>Indore</u> 10/07 to 9/09	29	385.82 Hec.	In 25 cases, out of 33,09,479.59 sq. mt. area, 2,02,708.08 sq. mt. area of land was diverted for commercial purpose but treated as residential. In four cases, assessment was done for 5,26,103.53 sq. mt instead of 5,48,731 sq. mt. of land.	<u>1267.13</u> <u>1198.57</u> 68.56	In one case, SDO Indore stated that the area involved was 35.789 hec. and not 36.304 hec. Reply is contrary to the facts on record. In the remaining cases it has been stated that necessary action would be taken.
3.	Collector (Diversion) <u>Hoshangabad</u> 10/07 to 9/09	1	3.237 Hec.	Assessment was done for 5 acres instead of 8 acres of land	<u>4.52</u> <u>2.83</u> 1.69	Necessary action would be taken. Further reply has not been received (December 2010).

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4.	Collector (Diver-sion) <u>Dhar</u> 10/2006 to 9/2009	1	0.439 Hec.	Assessment was done for 0.1 hec. instead of 0.439 hec. acres of land.	<u>21.37</u>	Necessary action would be taken after examination. Further reply has not been received (December 2010)
		49	29.91 Hec.		<u>11.31</u> 10.06	
5.	Collector (Diver-sion) <u>Jabalpur</u> 10/2007 to 3/2009	6	1.008 Hec.	The rates were revised from 21.01.2009. Assessment was done at old rates for cases decided between March and September 2009.	<u>1.17</u> <u>0.30</u> 0.87	Necessary action would be taken after examination.
6.	Tahsil <u>Sironj</u> 10/06 to 9/08	1	0.253 Hec.	Instead of commercial rates, residential rates were applied and that too of 2006-07 instead of 2007-08.	<u>0.30</u> <u>0.15</u> 0.15	Case will be reviewed.
7.	Tahsil Mhow ( <u>Indore</u> ) 10/06 to 9/09	1	9.275 Hec.	Out of 93,730 sq. mt. 3,205 sq. mt. of land was diverted for commercial purpose and 90,525 sq. mt. for residential purpose but whole area treated as residential.	<u>12.31</u> <u>11.93</u> 0.38	Necessary action would be taken after examination.
		1	2.44 Hec.	Assessment was done at incorrect rates.	<u>1.90</u> <u>0.71</u> 1.19	
		1	0.675 Hec.	Land diverted for commercial purpose was treated as residential.	<u>2.07</u> <u>1.02</u> 1.05	
8.	Tahsil Itarsi <u>Hoshangabad</u> 10/07 to 9/09	5	1.45 Hec.	The rates were revised from 21.01.2009. Assessment was done at old rates for cases decided between February and September 2009.	<u>2.65</u> <u>0.44</u> 2.21	Necessary action would be taken to reassess these cases at revised rates. Further reply has not been received (December 2010).
9.	Tahsil Jaora <u>Ratlam</u> 10/06 to 9/09	13	11.725 Hec.	In seven cases residential rates were applied instead of commercial rates. Assessment was done in six cases at old rates for cases decided between February and May 2009.	<u>6.48</u> <u>2.75</u> 3.73	Necessary action would be taken after examination. Further reply has not been received (December 2010).
10.	Tahsil <u>Dhar</u> 10/08 to 9/09	15	16.223	Assessment was done at incorrect rates.	<u>14.62</u> <u>8.10</u> 6.52	Necessary action would be taken after examination. Further reply has not been received (December 2010).
11.	Tahsil <u>Ashok-nagar</u> 10/07 to 9/09	9	9.852 Hec.	Assessment was made at incorrect rates.	<u>8.04</u> <u>2.14</u> 5.90	Necessary action would be taken after examination. Further reply has not been received (December 2010).

(1)	(2)	(3)	(4)	(5)	(6)	(7)
12.	Tahsil <u>Seoni</u> 10/07 to 9/09	6	13.96 Hec.	Assessment was made at incorrect rates.	<u>12.94</u> <u>6.49</u> 6.45	Necessary action would be taken after examination. Further reply has not been received (December 2010).
13.	Tahsil <u>Tikam-</u> <u>garh</u> 10/07 to 9/09	2	1.993 Hec.	Assessment was made at incorrect rates.	<u>1.67</u> <u>1.17</u> 0.50	Necessary action would be taken after examination. Further reply has not been received (December 2010).

### 5.2.21 Non-availability of reports on vacation of unauthorised possession of land

Section 248 of MPLRC provides that any person who unauthorisedly remains in possession of any Government land may be summarily ejected by order of the Tahsildar. Such person shall also be liable, at the discretion of the Tahsildar, to pay the rent of the land and penalty for the period of unauthorised occupation at prescribed rates.

We observed in 17 Tahsil offices<sup>24</sup> that 948 cases of encroachment on Government land measuring 257.404 hectares were decided between October 2006 and September 2009, but the relevant details/ reports of vacation of land duly signed by the appropriate officer were not on record. Yet, the respective Tahsildars did not take any action to obtain the requisite details/

reports. In the absence of such reports there was continuous unauthorised occupation of the land for which fine/penalty was recoverable.

After we pointed out, Tahsildar, Ater stated (March 2010) that the Government land was got vacated. The reply is not acceptable because vacation report was not on record. Remaining Tahsildars stated between October 2009 and March 2010 that necessary action would be taken. Further progress has not been received (December 2010).

<sup>24</sup> Ater (Bhind), Biaora (Rajgarh), Dewas, Dhar, Guna, Gwalior, Hoshangabad, Jabalpur, Jawara (Ratlam), Khargone, Mandsaur, Raisen, Rajgarh, Ratlam, Sagar, Ujjain and Vidisha

### 5.2.22 Non-preparation of monthly *tauzi* and verification from treasury

As per RBC and MP Financial Code, statement of demand and collection for every month should be compiled by each head of the office in the monthly *tauzi* and verified from the treasury. This verified monthly *tauzi* is required to be submitted to higher authorities and is an important control in the Tahsil and Collectorate to obviate risk of misclassification and receipt of fraudulent challans.

We observed in 11 Collectorates<sup>25</sup>, *Rajdhani Pariyojana* Bhopal and 30 Tahsil offices<sup>26</sup> that monthly *tauzis* were not being prepared by any of them. Thus, the correctness of the figures of collection shown in the monthly statements could not be verified by us. In Collectorate (Diversion) Indore the outstanding arrear of diversion rent amounting ₹ 8.09 crore against Indore

Development Authority (IDA) and the MPHB was treated as recovered (February 2009) without depositing it in the treasury.

After we pointed out, the office in charge of the Collectorate stated in January 2010 that this was shown to have been recovered in lieu of flats/plots obtained from IDA/MPHB. The reply is not acceptable because sanction for this adjustment was not obtained from the Government. As per the accounting procedure, the amount should have been drawn from proper expenditure head and simultaneously challan of equal amount deposited in the receipt head of account. The *Nazul* Officer, *Rajdhani Pariyojana* Bhopal stated in January 2010 that challan wise verification from treasury was conducted. Reply is not acceptable because records in support of the reply were not shown to us. Remaining Revenue Officers stated between October 2009 and March 2010 that necessary action would be taken.

**The Government may consider prescribing a periodic return by the Tahsil offices to the Collector on the completion of *tauzi*.**

### 5.2.23 Non-receipt of premium/ground rent from MPHB for rehabilitation of slum-dwellers

We observed in Collectorate (*Nazul*), city circle, Bhopal that 5.90 acre *Nazul* land was allotted to the MPHB for commercial purpose (October 2006). Condition 5 of the sanction provided that 5000 slum-dwellers shall be rehabilitated by the MPHB under the direction of the Collector Bhopal and the expenditure will be borne by the MPHB.

<sup>25</sup> Bhopal, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Khargone, Mandasaur, Ratlam, Sagar and Ujjain.

<sup>26</sup> Ashoknagar, Ater (Bhind), Balaghat, Biora (Rajgarh), Burhanpur, Dewas, Gohad (Bhind), Guna, Gwalior, Harda, Hoshangabad, Huzur (Bhopal), Huzur (Rewa), Indore, Itarsi (Hoshangabad), Jabera (Damoh), Jawad (Neemuch), Jhabua, Kasrawad (Khargone), Mhow (Indore), Pandurna (Chhindwara), Ratlam, Sagar, Sanver (Indore), Seoni, Sheopur, Sohagpur (Shahdol), Tikamgarh, Ujjain and Vidisha.

The MPHB further subleased this land to D.B. Mall Pvt. Ltd., on which the MPHB received an additional amount of premium and rent of ₹ 19.77 crore and ₹ 1.48 crore per annum respectively. As per condition of sanction, the MPHB was required to deposit this differential premium and ground rent in a joint bank account of the MPHB and the Collector, Bhopal and this amount was to be utilised in the rehabilitation of slum-dwellers. However, we noticed that such account has not been opened by the MPHB so far and the whole amount has been retained by the MPHB. The slum-dwellers were also not rehabilitated by the MPHB even after a lapse of more than three years of the allotment of land. No action was taken by the Collector (*Nazul*) for breach of this condition.

After we pointed out, the *Naib* Tahsildar stated in January 2010 that a letter to open the bank account is being issued to the MPHB. No reply was given for inaction on violation of the condition for sanction. Further reply is awaited (December 2010).

#### 5.2.24 Non-renewal of permanent leases of Nazul land

According to the MPLRC read with RBC-IV-I, rent payable for a *Nazul* plot in an urban area held on lease shall be deemed to be due for revision when the lease becomes due for revision. The revised rent is to be fixed at six times the rent payable immediately before the revision, provided the use of the land continues to be the same as it was immediately before the revision. The revised assessment is applicable from the financial year following the year in which the assessment is made or from the date of expiry of the earlier lease, whichever is later.

We observed in four *Nazul* offices<sup>27</sup> that 25 permanent leases granted for 30 years which fell due for renewal between 2005-06 and 2009-10, were not taken up by the department for renewal. This resulted in loss of revenue of ₹ 16.92 lakh.

After we pointed out, the ASLR (LR), Dhar stated (November 2009) that action was being taken by SDO, Dhar. *Nazul* Officer, Mandsaur and Sagar stated (January and February 2010) that action for renewal of

lease would be taken. Tahsildar (*Nazul*), Ratlam stated (November 2009) that necessary action to renew the permanent lease was being taken. Further progress has not been received (December 2010).

<sup>27</sup> Dhar, Mandsaur, Ratlam and Sagar.



### 5.2.25 Short payment of security by colonisers

Explanation 3 and 4 below Rule 4 of the rules framed under section 172 of the MPLRC provide that a coloniser shall deposit one fifth of estimated development expenditure of the land and attach the challan with the application submitted to the SDO for diversion of any land, failing which the application shall not be entertained.

**5.2.25.1** We observed in Tahsil Burhanpur and Mhow (Indore) that two diversion cases were decided by respective SDOs between October 2007 and September 2008. In these cases, security deposit of ₹ 36.29 lakh was required to be submitted by the colonisers at the time of submission of the application. We however, noticed that in

case of Burhanpur, security deposit of ₹ 61,800 as against ₹ 6.18 lakh was submitted by the coloniser and in Mhow, ₹ 3.11 lakh in cash and Bank guarantee of ₹ 27 lakh was submitted. We noticed that the bank guarantee was valid upto 10 September 2009 only which was not revalidated till the date of audit. This led to short realisation of security of ₹ 32.56 lakh as well as irregular admission of applications and granting of permission for diversion.

After we pointed out, Tahsildar Burhanpur and Mhow stated (January-February 2010) that necessary action for recovery would be taken. Further developments have not been received (December 2010).

**5.2.25.2** We further observed in five Tahsil offices<sup>28</sup> that in nine cases of diversion submitted by the colonisers, neither the amount of estimated development expenditure was mentioned in their applications, nor did they deposit any security. The applications were not only entertained by the respective SDOs but also decided between May 2008 and July 2009 and diversion was permitted. This resulted in irregular admission of applications for diversion as well as irregular granting of permission for diversion.

After we pointed out, the respective SDOs stated between January and March 2010 that necessary action would be taken. Further report has not been received (December 2010).

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<sup>28</sup> Alirajpur, Ashoknagar, Balaghat, Seoni and Tikamgarh.

### 5.2.26 Non-levy/deposit of service charges

In order to grant incentives to the officers and staff engaged in land acquisition work and reimburse the expenditure on such survey, Government decided in July 1991 to levy service charge at the rate of ten *per cent* of the land acquisition award. It was to be recovered from concerned department/ undertaking/local body in advance on anticipated value of the land to be acquired by them. The amount so recovered is to be remitted to the Government account under major head 0029-(Land Revenue). **Mention was made in paragraph 3.12 of Audit Report (Civil) for the year ended 31 March 2000 regarding non-levy of service charges of ₹ 40.03 lakh by Collector Dewas, Raisen and Ratlam. The Public Accounts Committee in its report number 369 laid on the table of Vidhan Sabha on 28 November 2007 also directed the department to effect the recovery in a time bound manner.**

We observed in ten Collector Offices<sup>29</sup> between September 2006 and December 2008 and further information collected in August and September 2009, that service charges of ₹ 27.79 crore were due for recovery from various departments on account of land acquired for them between March 1979 and August 2009. Of this amount, ₹ 15.03 crore was recovered leaving the balance of ₹ 12.76 crore as un-recovered. Further, ₹ 29.72 lakh was also earned as interest on recovered amount in Jabalpur and Indore districts. However, we noticed that the recovered amount of ₹ 15.03 crore and interest of ₹ 29.72 lakh were not deposited in the

Government account even after specific orders of the Government. Thus, the exchequer was deprived of revenue of ₹ 28.09 crore due to non-levy/deposit of service charge and interest earned thereon.

After we pointed out the cases, the concerned Collectors stated (August-September 2009) that efforts were being made to recover the balance amount of service charge from the concerned departments and the amount recovered and interest earned but not remitted to the Government would be remitted into treasury. The Land Acquisition Officer, Dhar intimated in June 2010 that service charges of ₹ 1.06 crore out of ₹ 12.84 crore had been deposited in the treasury. Progress of recovery of the remaining amount has not been received (December 2010).

### 5.2.27 Conclusion

We noticed that the system for levy and collection of land revenue in the state was beset with deficiencies. There was substantial loss of land revenue and stamp duty and registration fee due to absence of adequate monitoring mechanism in the Collectorates and deficiencies in the RBC and MPLRC. We observed that a huge amount of revenue remained unrealized due to lack of any time limit in the Act/Rules for initiation of recovery proceedings,

<sup>29</sup> Betul, Bhopal, Dewas, Dhar, Harda, Indore, Jabalpur, Khandwa, Panna and Shahdol.

execution of lease deed, assessment of premium and rent after issue of sanctions. We also saw shortfall in departmental inspection and internal audit. Substantial revenue was lost due to allotment of the Government land to private parties at throw away rates and in violation of the provisions of RBC. Besides, the department suffered loss of revenue on account of non and short recovery of premium, rent, *Upkar*, non renewal of lease, interest and penalty. We noticed that land revenue was not deposited under proper head of account and the maintenance of *tauzis* received scant attention in the Collectorates and the Tahsils.

#### **5.2.28 Recommendations**

The Government may consider implementation of the following recommendations.

- While preparing the estimates, the department should reckon the actual receipts of the previous year;
- prescribing a mechanism for correlating the cases of assessment of diversion rent with the records of demand and collection submitted by Tahsildar to the Collector;
- consider insertion of a time limit in the Act/Rules for initiation of recovery proceedings, execution of lease deed;
- prescribing time limit for submission of cases of advance possession for final allotment and finalisation thereof;
- fixing responsibilities for failure in timely execution of sanctions;
- issue instructions for levy of *Panchayat Upkar* on premium collected in the *Gram Panchayat* area ; and
- prescribe a periodic return by the Tahsil officers to the Collector on the completion of *tauzis*.

**CHAPTER - VI**  
**STAMP DUTY AND REGISTRATION FEE**

**6.1 Results of audit**

Test check of the records of 64 units relating to stamp duty and registration fee revealed loss of revenue and other irregularities involving ₹ 31.95 crore in 5809 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Loss of revenue in instruments executed by/in favour of co-operative housing societies.	1	0.06
2.	Loss of revenue due to inordinate delay in finalisation of cases.	52	1.00
3.	Short realisation of Stamp duty & Registration fee due to undervaluation of properties/incorrect exemption.	1,018	13.18
4.	Loss of revenue due to misclassification of instruments.	90	0.44
5.	Incorrect remission of stamp duty and registration fee.	326	2.81
6.	Others.	4,322	14.46
<b>Total</b>		<b>5,809</b>	<b>31.95</b>

During the course of the year 2009-10, the department accepted underassessment and other deficiencies of ₹ 8.05 crore in 4,415 cases, which were pointed out in audit during the year 2009-10. An amount of ₹ 86 lakh was realised in 995 cases.

A few illustrative cases involving ₹ 14.72 crore are mentioned in the following paragraphs.

## 6.2 Delay in disposal of cases referred by Sub Registrars (SR)

Under Section 47-A of Indian Stamp (IS) Act, 1899 if the registering officer, while registering any instrument finds that the market value of any property set forth is less than the market value shown in the market value guidelines, he should, before registering such instrument, refer the same to the Collector for determination of the correct market value and duty leviable thereon. Departmental instructions (July 2004) provide a maximum period of three months for disposal of the cases referred to the Collector by the SR offices.

**6.2.1** We observed in 11 SR<sup>1</sup> Offices between May and August 2009 that 338 cases referred by the registering authorities between May 1998 and March 2009 for determination of the market value of properties had not been finalised by the Collectors though the period of three months had already lapsed. In these cases the difference of stamp duty and registration fee as worked out by the SRs was ₹ 5.22 crore.

After we pointed out the cases, the District Registrar (DR) Bhopal stated (November 2009) that four out of 30 cases have

been decided and ₹ 3.40 lakh was recovered and in the remaining cases, he stated that action was in progress. The Inspector General, Registration (IGR) intimated (February 2010) that out of 308 cases pertaining to 10 SR offices, 41 cases have been decided and action in 267 cases was in progress. Further progress has not been received (December 2010).

We reported the matter to the Government between June and November 2009; reply has not been received (December 2010).

**6.2.2** We observed in 25 SR offices<sup>2</sup> between May 2007 and November 2009 that in 369 instruments registered between June 2003 and March 2009, the market value as per guidelines was ₹ 88.89 crore against registered value of ₹ 53.01 crore. The SR did not refer these instruments to the concerned Collector for determination of correct value of properties and duty leviable thereon. This resulted in short levy of stamp duty and registration fee of ₹ 3.29 crore.

After we pointed out the cases, nine DRs<sup>3</sup> stated (between March 2008 and April 2010) in respect of 220 instruments that the cases against the executants had been registered and action is in progress. Seven SRs<sup>4</sup> stated (between May 2007 and September 2009) in respect of 42 instruments that the cases would be referred to the Collector of stamps. SR, Shujalpur stated (May 2009)

<sup>1</sup> Bhopal, Budhni (Sehore), Chhindwara, Depalpur (Indore), Dewas, Dhar, Hoshangabad, Itarsi, Mandsaur, Neemuch and Ujjain.

<sup>2</sup> Alirajpur (Jhabua), Badwah (Khargone), Bhind, Bhopal, Dewas, Dhar, Dharampuri (Dhar), Itarsi (Hoshangabad), Jabalpur, Jhabua, Kalapipal (Shajapur), Khategaon (Dewas), Mahidpur (Ujjain), Manawar (Dhar), Mandla, Morena, Sardarpur (Dhar), Saunsar (Chhindwara), Sendhwa (Barwani), Seonimalwa (Hoshangabad), Shujalpur (Shajapur), Singori (Sidhi), Sironj (Vidisha), Ujjain and Vidisha.

<sup>3</sup> Barwani, Bhopal, Chhindwara, Dhar, Jabalpur, Jhabua, Mandla, Sidhi and Ujjain.

<sup>4</sup> Alirajpur (Jhabua), Badwah (Khargone), Bhind, Kalapipal (Shajapur), Morena, Shujalpur (Shajapur), Sironj (Vidisha).

in respect of 46 out of 47 instruments that the instruments were valued correctly. However, the reply did not contain any specific justification on the basis of which valuation was done. In respect of one instrument he stated that diverted land in rural area is to be valued at three times of agriculture land and accordingly valuation was correct. We do not agree with the reply because land and building under commercial use, situated on the main road was sold. Thus, it was required to be assessed accordingly. SR, Sironj stated (May 2009) in respect of 13 instruments that the cases have already been sent to the Collector of Stamps. However, records in support of reply were not produced to audit. SR, Khategaon stated (August 2009) in respect of one instrument that the land was undeveloped and there was a ginning factory on the land 15 years ago. We do not agree with the reply because as per the recitals of the document, road, water and electricity facility was available and as such, the property should have been assessed as developed land. Further, the IGR intimated (February and March 2010) in the case of 46 instruments pertaining to five SR offices, that ₹ 22,099 has been recovered in one case and in remaining cases, action was in progress. Further progress in the matter and reply of the IGR on remaining cases has not been received (December 2010).

We reported the matter to the Government between June 2007 and December 2009; reply has not been received (December 2010).

### 6.3 Evasion of duty on instruments executed by the colonisers/ developers

Article 38 (b) of schedule 1-A to the IS Act regulates levy of duty on the secured amount of an instrument of mortgage deed. Further, a coloniser has to develop the land in accordance with the norms of local authorities and has to mortgage 25 *per cent* of the land/plot in favour of local authorities as a security against the expenditure on development of the land. **We noticed that there was no such mechanism in the department to deal with such instruments and that duty was charged on the amount mentioned in the instrument by the coloniser.**

**6.3.1** We observed in three SR offices<sup>5</sup> between November 2007 and July 2009 that in case of 24 instruments of mortgage executed by the colonisers between October 2006 and March 2009, the estimated expenditure to be incurred on the development of the land/plots was not

considered. However, registering authorities finalised the levy of duty and fee on the basis of amounts mentioned in the instruments by the colonisers themselves, whereas the same should have been decided on the basis of the prevailing market value in the absence of actual figures of development expenses. This resulted in short-realisation of revenue of ₹ 1.19 core<sup>6</sup>.

<sup>5</sup> Bhopal, Indore and Ujjain

<sup>6</sup> One instrument-estimated development expenditure worked out to ₹ 2.38 crore and in 23 documents market value of plots mortgaged worked out to ₹ 19.02 crore. Duty and fee of ₹ 1.07 crore and ₹ 17.16 lakh totalling ₹ 1.24 crore was leviable where as ₹ 4.97 lakh was levied.

After we pointed out the cases, the DRs, Bhopal and Indore stated (November 2009) that the cases have been registered against the colonisers/developers. The SR, Ujjain stated (July 2009) that necessary action would be taken after investigation. Further progress in the matter has not been received (December 2010).

The fact remains that no efforts were made to ascertain the estimated expenditure and neither was any reference made to the higher departmental authorities in this regard.

**The Government may consider prescribing a mechanism in the Rules to determine the value of property on development of land by the colonisers/developers.**

We reported the matter to the IGR and the Government between December 2007 and August 2009; their reply has not been received (December 2010).

**6.3.2** We observed in three SR<sup>7</sup> offices between December 2006 and

Article 5 (d) of schedule 1-A to the IS Act, provides for levy of stamp duty at the rate of two *per cent* of the market value of the land on an agreement if it is related to the construction of a building on the land by a person other than the owner or lessee of such land and having a stipulation that after construction, such building shall be held jointly or severally by the other person and the owner or that it shall be jointly or severally sold by them. Further, such instruments are to be compulsorily registered under section 17 of the Registration Act, 1908.

June 2009 that in 14 sale deeds registered between April 2005 and March 2009, the constructed properties were sold jointly by the builders and the landowners as per agreements between them. However, these agreements involving land measuring 24.75 acres, valued at ₹ 37.08 crore in accordance with market value guidelines were not got registered. This resulted in non-realisation of stamp duty and registration fee

of ₹ 1.04 crore beside penalty under the IS Act.

After we pointed out the cases, the DRs, Bhopal and Indore stated (November 2009) in respect of 10 documents that cases against the executants had been registered and action was in progress. SR, Gwalior stated (August 2007) in respect of four documents that necessary action would be taken after investigation. Further progress in the matter has not been received (December 2010).

We reported the matter to the IGR and the Government between February 2007 and July 2009; their reply has not been received (December 2010).

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<sup>7</sup> Bhopal, Gwalior and Indore.

#### 6.4 Short levy of stamp duty and registration fee on lease/sub lease

As per section 33 read with section 38 of the IS Act, every public officer before whom, any instrument chargeable to duty is produced, shall, if it appears to him that such instrument is not duly stamped, admit the instrument in evidence upon payment of penalty/duty leviable under the Act or send it to the Collector for determination of proper duty leviable thereon. Further, the instruments of lease deeds having lease period of more than 12 months are to be compulsorily registered under the Registration Act, 1908. Stamp duty is charged on such instruments at the rate prescribed in schedule 1-A to the IS Act. Registration fee is leviable at three fourth of the stamp duty.

**6.4.1** We observed in three District Mining (DM) Offices<sup>8</sup> between February and July 2009 that Madhya Pradesh State Mining Corporation (MPSMC) sub-leased the right of extraction and sale of sand to 13 contractors for one year between November 2004 and June 2009 and one contractor from March 2006 to June 2007 for ₹ 18.09 crore. It was, however, seen that the agreement to the effect was executed on stamp paper of ₹ 50 in one case and ₹ 100 each in the remaining cases against the leviable stamp duty of ₹1.43 crore and

registration fee of ₹ 3.42 lakh. The department did not initiate any action for levy of correct stamp duty and registration fee. This resulted in short levy of stamp duty and registration fee of ₹ 1.47 crore.

After we pointed out the cases, the District Mining officer (DMO), Narsinghpur stated (May 2009) that matter would be forwarded to the MPSMC and the SR and action would be taken as per rule. DMO, Jabalpur stated (July 2009) that action would be initiated after obtaining information in the matter from the MPSMC. DMO Khargone had not furnished any reply (December 2010).

We reported the matter to the Director, Geology and Mining (DGM), IGR and the Government between November and December 2009; their replies have not been received (December 2010).

**6.4.2** We observed in three DM Offices<sup>9</sup> between April 2007 and November 2009 that 53 trade quarries were auctioned for two years for contract money of ₹ 58.65 lakh per year. Accordingly, stamp duty and registration fee of ₹ 9.38 lakh and ₹7.05 lakh respectively was leviable on these agreements. It was however, seen that stamp duty and registration fee of ₹ 5.59 lakh and ₹ 2.01 lakh respectively was levied due to computation mistake. This resulted in short levy of stamp duty and registration fee of ₹ 8.82 lakh.

After we pointed out the cases, the DMO, Burhanpur stated (November 2009) that demand notice would be issued to the contractor. DMO, Datia stated (September 2009) that the cases had been referred to the

<sup>8</sup> Jabalpur, Khargone and Narsinghpur

<sup>9</sup> Burhanpur, Datia and Seoni



Registration Department for recovery. DMO, Seoni stated (March 2009) that matter would be forwarded to the District Registrar and action would be taken accordingly. Further progress has not been received (December 2010).

We reported the matter to the DGM, IGR and the Government between December 2009 and February 2010; their replies have not been received (December 2010).

**6.4.3** We observed in three SR Offices<sup>10</sup> between May and July 2009 that in case of 10 documents of lease deeds registered between April 2007 and March 2009 stamp duty and registration fee of ₹ 14.78 lakh was leviable but the registering authorities levied ₹ 10.56 lakh only by treating lesser period of lease in one case while there was mistake in computation in nine cases. This resulted in short realisation of stamp duty and registration fee of ₹ 4.22 lakh.

After we pointed out the cases, the DRs, Bhopal and Sagar stated (between July and November 2009) that the cases against the executants had been registered and action was in progress. The IGR intimated (March 2010) in respect of eight cases of Dewas office that the cases against the executants had been registered by the DR. Further, progress has not been received (December 2010).

We reported the matter to the Government between May and August 2009; the reply has not been received (December 2010).

## **6.5 Short levy of stamp duty and registration fee on instruments of power of attorney**

Schedule 1-A of the IS Act, provides that when power of attorney (POA) is given without consideration and authorising the agent to sell, gift, exchange or permanently alienate any immovable property situated in Madhya Pradesh for a period not exceeding one year, duty of ₹ 100 is chargeable on such instruments. Further, when such rights are given with consideration or without consideration for a period exceeding one year or when it is irrevocable or when it does not purport to be for any definite term, the same duty as a conveyance on the market value of the property is chargeable on such instruments.

We observed in 22 SR offices<sup>11</sup> between March and December 2009 that out of 110 instruments of POA registered between February 2006 and March 2009, in 77 documents, though the power to sell, gift, exchange or permanent alienation of immovable property was given, but there was no mention in the documents to show

whether the POA was without consideration for a period not exceeding one

<sup>10</sup> Bhopal, Bina (Sagar) and Dewas

<sup>11</sup> Barwani, Bhind, Bhopal, Bina (Sagar), Depalpur (Indore), Dewas, Dhar, Kailaras (Morena), Khategaon (Dewas), Kurwai (Vidisha), Maheshwar (Khargone), Mahidpur (Ujjain), Malhargarh (Mandsaur), Manasa (Neemuch), Mandsaur, Morena, Shajapur, Singroli (Sidhi), Seonimalwa (Hoshangabad), Shujalpur (Shajapur), Timarni (Harda) and Vidisha.

year and in 30 instruments, the POA was irrevocable and in two instruments POA was with consideration while in one instrument period was mentioned as 10 years. In these cases, stamp duty and registration fee of ₹ 1.46 crore was leviable in accordance with the above provision. However, we noticed that in all these cases, the instruments were treated as POA to sell without consideration for a period not exceeding one year and duty was levied at the rate of ₹ 100 in each case. This resulted in short levy of duty and registration fee of ₹ 1.46 crore.

After we pointed out the cases, the SR, Depalpur stated (August 2009) in respect of five cases that period of one year was mentioned in the document and mentioning the document as irrevocable does not attract higher rate of duty. We do not agree with the reply in view of section 6 of the Act which stipulates that when an instrument falls within two or more descriptions and the duty chargeable is different, highest of such duty is leviable. As duty on irrevocable POA is higher than without consideration for period not exceeding one year and documents fall within both descriptions, higher duty was chargeable. The SR, Shajapur stated (December 2009) in respect of one case that the POA was correct according to the notification issued from time to time. We do not agree with the reply because the SR did not specifically mention any notification in his reply. Ten SRs<sup>12</sup> stated (between March 2009 and January 2010) in respect of 51 instruments that the cases would be referred to the Collector of Stamps. Nine DRs<sup>13</sup> stated (between July 2009 and February 2010) in respect of 53 instruments that the cases against the executants had been registered and action was in progress. Further progress in the matter has not been received (December 2010).

We reported the matter to the IGR and the Government between April 2009 and January 2010; their reply has not been received (December 2010).

## 6.6 Non-reimbursement of stamp duty and registration fee

According to the Government notification dated 12 July 2002, stamp duty and registration fee leviable on lease/sale deeds, executed to acquire land in favour of the members of a family displaced on account of Narmada Valley Development Project (NVDP) is to be reimbursed by the Narmada Valley Development Authority (NVDA) to the Government on the basis of the demand raised by the respective Sub-Registrar.

**6.6.1** We observed in 12 SR offices<sup>14</sup> between March and November 2009 that 216 documents executed in favour of the persons displaced due to NVD Project were registered between January 2005 and March 2009. We observed that on account of execution of above documents,

stamp duty and registration fee of ₹ 65.24 lakh was reimbursable to

<sup>12</sup> Barwani, Bhind, Kailaras (Morena), Khategaon (Dewas), Kurwai (Vidisha), Maheshwar (Khargone), Manasa (Neemuch), Morena, Seonimalwa (Hoshangabad) and Shujalpur (Shajapur).

<sup>13</sup> Bhopal, Dewas, Dhar, Harda, Mandsaur, Sagar, Sidhi, Ujjain, Vidisha.

<sup>14</sup> Bagali (Dewas), Bhikangaon (Khargone), Budhani (Sehore), Burhanpur, Hoshangabad, Jhabua, Khategaon (Dewas), Maheshwar (Khargone), Manawar (Dhar), Nasrullahganj (Sehore), Seonimalwa (Hoshangabad) and Timarni (Harda).

the Government by the NVDA, but the same was not reimbursed. However, demand/letter/reminders had been issued by the respective SRs in 181 cases against/to the NVDA, except SRs Burhanpur, Hoshangabad and Manawar in 35 cases. This resulted in non-realisation of revenue of ₹ 65.24 lakh.

After we pointed out the cases, the IGR intimated (February 2010) that out of 80 cases pertaining to Budhani, Hoshangabad, Seonimalwa and Timarni offices, recovery of ₹ 1.09 lakh in two cases has been effected and in the remaining cases, action was in progress. Remaining DRs and SRs stated (between March 2009 and January 2010) that necessary action would be taken for reimbursement of stamp duty and registration fee. Further progress has not been received (December 2010).

We reported the matter to the IGR and the Government between April and December 2009; reply from the Government and further reply from the IGR on the remaining cases have not been received (December 2010).

**6.6.2** We observed in SR offices Dhar and Depalpur (Indore) in July

Government notification dated 20 November 2007 (as amended) provides exemption from stamp duty and registration fee chargeable on sale deeds executed in favour of persons displaced on account of Auto Testing Track Project, Pithampur (District Dhar). The notification further stipulates that the amount of stamp duty and registration fee so chargeable shall be reimbursed by the Commerce, Industry and Employment Department to the Commercial Tax Department within one month of registration of such instrument.

and August 2009 that 79 documents<sup>15</sup> were executed/registered between March 2008 and March 2009 in favour of the persons displaced due to Auto Testing Track Project, Pithampur (Dhar). We further observed that stamp duty and registration fee of ₹ 63.57 lakh involved in the above documents was reimbursable to the Commercial Tax Department but the same was not reimbursed, although demand in all cases except two cases of Depalpur and 12 cases of Dhar involving ₹ 10.64 lakh had been issued between April 2008 and March 2009.

In one case the demand was raised only for ₹ 40,000 in place of ₹ 1.40 lakh. This resulted in non-realisation of revenue of ₹ 63.57 lakh.

After we pointed out the cases, the DR, Dhar stated in December 2009 that recovery has been made in all 62 cases of SR, Dhar, while the SR, Depalpur stated in August 2009 that action to raise demand would be taken in two cases and reminder would be issued in remaining 15 cases. Further progress has not been received (December 2010).

We reported the matter to the IGR and the Government in August and September 2009; their reply has not been received (December 2010).

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<sup>15</sup> Depalpur (17 documents) and Dhar (62 documents).

**6.7 Irregular exemption/short levy of stamp duty**

Article 38(b) of schedule 1-A to the IS Act, read with section 75 of the Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993 provides for levy of duty on a mortgage deed without possession, at the rate of five *per cent* of the amount secured by such deed. The Government in its notification dated 25 September 2006 exempted documents of mortgage without possession from payment of duty which are executed by the agriculture land holders for obtaining loans not exceeding ₹ 10 lakh from banks for agriculture purpose. Where the loan exceeds ₹ 10 lakh, duty at the rate of two *per cent* of the amount secured is leviable in such cases.

**6.7.1** We observed in four SR offices<sup>16</sup> between May and September 2009 that irregular exemption from payment of stamp duty in 26 cases and short levy of stamp duty in seven cases resulted in non/short levy of stamp duty of ₹ 36.71 lakh as per details given below:

(₹ in lakh)

S. No.	No. of cases/ registered between	Nature of irregularity	Loan amount	Stamp duty leviable/ levied	Stamp duty not levied/ short levied
1.	20 September 2007 and October 2008	Purpose of loan was other than agriculture, hence exemption was not admissible.	574.63	28.73 Nil	28.73
	2 July 2007 and February 2008		51.57	2.58 0.81	1.77
2.	2 November 2008 and March 2009	Loan obtained by persons other than agriculture landholders.	87.66	4.38 1.11	3.27
3.	6 March 2007 and September 2008	Loan amount in each case was more than ₹ 10 lakh, therefore, exemption was not admissible.	116.30	2.33 Nil	2.33
	3 April 2007 and August 2007		41.00	0.82 0.21	0.61
<b>Total</b>	<b>33</b>		<b>871.16</b>	<b>38.84 2.13</b>	<b>36.71</b>

After we pointed out the cases, the DR Bhopal stated (November 2009) in respect of nine instances that the cases had been registered for recovery. SR, Hoshangabad stated (June 2009) in respect of 12 cases that loan was granted by Co-operative Bank in nine cases, in one case the purpose of loan was purchase of jeep and in one case duty at the rate of two *per cent*

<sup>16</sup> Bhopal, Bina (Sagar), Hoshangabad and Obedullaganj (Raisen).

was charged while in respect of one case, it was stated that necessary action would be taken. We do not agree with the reply because no concession was allowable in such cases under the Government notification dated 25 September 2006. In respect of the remaining nine cases, SR, Obedullaganj stated (September 2009) that necessary action would be taken. The IGR intimated (March 2010) in respect of three cases of SR, Bina (Sagar) that DR, Sagar has finalised the cases. Further progress has not been received (December 2010).

We reported the matter to the Government between May and September 2009; reply has not been received (December 2010).

**6.7.2** We observed in SR, Rajgarh in March 2009 that an instrument of sale

The Government in its notification dated 22 June 2005 remitted stamp duty chargeable on instruments of sale of closed industrial units acquired by financial institutions subject to the conditions laid down therein. As per the conditions of the notification, remission was not admissible to non-productive units like cold storage.

deed of a cold storage acquired by Madhya Pradesh Financial Corporation was registered in February 2006. The recitals of the instrument and application for grant for remission submitted by the purchaser company to the Collector revealed that total purchase price of building and machineries was ₹ 33 lakh and ₹ 10 lakh respectively, totalling ₹ 43 lakh. As remission was not admissible on purchase of cold storage, stamp duty of

₹ 3.87 lakh and registration fee of ₹ 34,545 was leviable on the instrument. However, we noticed that instrument was valued at ₹ 33 lakh; stamp duty was exempted and registration fee of ₹ 26,545 only was levied treating the cold storage as productive unit. This resulted in irregular exemption from payment of duty and short levy of registration fee of ₹ 3.95 lakh.

After we pointed out the case, the IGR intimated (March 2010) that the case against the executant had been registered by the DR, Rajgarh and that he has been directed for early disposal of the case. Further progress has not been received (December 2010).

We reported the matter to the Government in May 2009; their reply has not been received (December 2010).

### 6.8 Short levy of duty on instrument of assignment of debt

Article 22 (b) of Schedule 1-A to the IS Act, read with Government notification dated 7 March 2005 provides for levy of duty on instruments of securitisation of loan or assignment of debt with underlying securities executed in favour of a Securitisation Company or a Reconstruction Company registered under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 at the rate of 0.1 *per cent* of the loan securitised or debt assigned with underlying securities, if the securities are immovable properties. Further, *Panchayat* duty and Municipal duty at the rate of one *per cent* each is also leviable on such instruments under the MP *Panchayat Raj Adhiniyam*, 1993 and the MP Municipal Act, 1961 respectively.

We observed in SR, Dhar in July 2009 that an instrument of assignment of debt of ₹ 8.91 crore executed in favour of an Asset Reconstruction Company was registered in April 2008. Stamp duty of ₹ 18.71 lakh was leviable as per the above provisions. However, we noticed that duty of ₹ one lakh only was levied by applying incorrect rates. This resulted in short levy/realisation of stamp duty of ₹ 17.71 lakh.

After we pointed out the case, the IGR intimated (March 2010) that the case against the executant had been registered by the

DR and action was in progress. Further progress has not been received (December 2010).

We reported the matter to the Government in September 2009; reply has not been received (December 2010).

### 6.9 Short-levy of duty on agreement/memorandum relating to deposit of title deed

The stamp duty on an agreement relating to deposit of title deed is levied at the rate prescribed from time to time under article 6(a) of schedule-I A to the IS Act. *Panchayat* duty equal to stamp duty is also leviable on such deeds. Further, as per the explanation below article 6 (a), any letter, note, memorandum or writing relating to deposit of title deed, whether it is in respect of first or any additional loan, is deemed to be an instrument evidencing an agreement relating to the deposit of the title deed.

We observed in SR offices Bhind and Bhopal between June and September 2009 that in 13 cases, memorandum or writings related to deposit of the title deeds, securing an amount of ₹ 51 crore were registered between June 2008 and February 2009 on which stamp duty of ₹ 21.85 lakh was leviable. However, we noticed that stamp duty of ₹ 5.59 lakh only was levied by applying

incorrect rates/by charging duty only on additional amount of the agreement. This resulted in short levy of duty of ₹ 16.26 lakh.

After we pointed out the cases, the SR, Bhopal accepted the audit objection in one case and in respect of remaining nine cases it was stated (June 2009) that action would be taken after investigation while the SR, Bhind in respect of three cases stated (September 2009) that action would be taken after seeking information from the bankers. Further progress in the matter has not been received (December 2010).

We reported the matter to the IGR and the Government between July and November 2009; their reply has not been received (December 2010).

### 6.10 Short levy of stamp duty and registration fee due to misclassification

Under the IS Act, stamp duty is leviable on instruments as per their recital at the rates specified in schedule 1-A or prescribed by the Government through notifications.

We observed in four SR Offices<sup>17</sup> between September 2008 and July 2009 that there was misclassification of documents in 12 cases

resulting in short levy of stamp duty and registration fee of ₹ 7.71 lakh as mentioned below:

(₹ in lakh)

Sl. No.	No of cases registered between	Nature of irregularity	Stamp duty and registration fee leviable/levied	Stamp duty and registration fee short levied
1.	3 May 2007 and March 2009	Agreement to sell without mention of possession treated as agreement to sell without possession.	4.57 0.40	4.17
2.	5 April 2007 and February 2009	Gift treated as Co-ownership deed.	3.10 1.23	1.87
3.	2 April 2007 and October 2008	Gift treated as partition.	1.46 0.46	1.00
4.	1 January 2008	Lease cum builder agreement treated as lease only.	0.56 0.11	0.45
5.	1 March 2008	Gift treated as settlement.	0.55 0.33	0.22
<b>Total</b>	<b>12</b>		<b>10.24</b> <b>2.53</b>	<b>7.71</b>

After we pointed out the cases, four SRs in respect of 11 cases stated between September 2008 and July 2009 that cases would be referred to the Collector of stamps. While DR, Dewas stated (March 2010) in respect of one case that action was in progress. Further progress has not been received (December 2010).

We reported the matter to the IGR and the Government between July and September 2009; their replies have not been received (December 2010).

<sup>17</sup> Dewas, Itarsi (Hoshangabad), Shujalpur (Shajapur) and Singroli (Sidhi).

## CHAPTER - VII ENTERTAINMENT DUTY

### 7.1 Results of audit

Test check of the records of 36 units relating to entertainment duty revealed loss of revenue and other irregularities involving ₹ 2.03 crore in 3,979 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short deposit of entertainment duty by the proprietors of VCRs/Cable operators.	481	0.13
2.	Non realisation of entertainment duty.	1,453	0.49
3.	Incorrect exemption from payment of entertainment duty.	11	0.002
4.	Evasion of entertainment duty due to non-accountal of tickets.	89	0.30
5	Others.	1,945	1.11
<b>Total</b>		<b>3,979</b>	<b>2.03</b>

During the course of the year 2009-10, the department accepted underassessment and other deficiencies of ₹ 1.57 crore in 2,650 cases, which were pointed out in audit during the year 2009-10. An amount of ₹ 19 lakh was realised in 264 cases.

A few illustrative cases involving ₹ 81.45 lakh are mentioned in the following paragraphs.



## 7.2 Non-recovery of entertainment duty from cable operators

The Madhya Pradesh Entertainment Duty and Advertisement Tax (MPEDAT) Act, and Madhya Pradesh Cable Television network (Exhibition) Rules provide that every proprietor of cable television network and hotel or lodging houses providing entertainment through cable service shall pay entertainment duty (ED) at the prescribed rates.

We observed from the records of five Assistant Excise Commissioners<sup>1</sup> (AECs) and 14 District Excise Officers<sup>2</sup> (DEOs) between December 2008 and February 2010 that the entertainment duty of ₹ 32.77 lakh was not deposited by 781 cable operators and 23 proprietors of hotel or lodging houses providing entertainment through cable

service during April 2007 to January 2010. The department also did not take any action for recovery of the dues. This resulted in non-realisation of duty of ₹ 32.77 lakh.

After we pointed out the cases, the AEC Gwalior stated (January 2010) that ₹ 1.04 lakh had been recovered in 34 cases and action was in progress in the remaining cases. Other AECs and DEOs stated between December 2008 and February 2010 that action for recovery was being taken. We have not received any further report (December 2010).

We reported the matter to the Excise Commissioner (EC) and the Government (between February 2009 and March 2010); their replies have not been received (December 2010).

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<sup>1</sup> Bhopal, Gwalior, Indore, Jabalpur and Ujjain.

<sup>2</sup> Betul, Chhatarpur, Dhar, Dewas, Hoshangabad, Khargone, Panna, Rajgarh, Shahdol, Satna, Sheopur, Shivpuri, Sidhi and Shajapur.

### 7.3 Non-levy of entertainment duty on cinema houses

The MPEDAT Act provides that where cinematographic exhibitions are carried out in a cinema hall, no duty shall be levied on an amount not exceeding ₹ two per ticket charged on account of facilities provided to persons admitted in the cinema hall. The details of facilities provided and the amount spent thereon certified by a chartered accountant (CA) shall be presented by the proprietor of the cinema hall to the Collector of the district through the AEC/DEO latest by 30th June of the following financial year. If the Collector is not satisfied with the facilities provided, he may recover the duty in respect of the amount allowed for facilities from the proprietor of the cinema hall.

We observed from the records of five AECs<sup>3</sup> and six DEOs<sup>4</sup> between December 2008 and December 2009 that 70 proprietors of cinema houses collected ₹ 90.88 lakh between April 2007 and March 2009 from sale of tickets for providing facilities to spectators in the cinema houses. The details of facilities provided in cinema halls and accounts of expenditure thereof certified by the CA were not submitted by the proprietors to the Collectors within the prescribed period, yet no action was taken by the department for

levy of the ED on this amount. This resulted in non-realisation of the ED of ₹ 29.15 lakh.

After we pointed out the cases, all the AECs and DEOs stated between December 2008 and December 2009 that returns were being received from the proprietors of the cinema halls. The replies do not explain why action was not taken to recover the entertainment duty in case of non-receipt of duly audited details within the prescribed period i.e. 30 June of the following financial year.

We reported the matter to the EC and the Government (between February 2009 and March 2010); their replies have not been received (December 2010).

### 7.4 Non-levy of advertisement tax

The MPEDAT Act provides that every proprietor of an entertainment shall pay advertisement tax on every advertisement exhibited at a rate not exceeding ₹ 50 per month.

We observed from the records of AEC Bhopal and 15 DEOs<sup>5</sup> between December 2008 and February 2010 that advertisement tax of ₹ 19.53 lakh for the period from April 2005 to January 2010 was neither paid

by 2,139 cable operators and six proprietors of video operators nor any action to levy/realise the tax was taken by the department. This resulted in non-realisation of advertisement tax of ₹ 19.53 lakh.

<sup>3</sup> Bhopal, Gwalior, Jabalpur, Indore and Ujjain

<sup>4</sup> Balaghat, Khargone, Narsinghpur, Shivpuri, Seoni and Vidisha

<sup>5</sup> Barwani, Balaghat, Bhind, Burhanpur, Chhindwara, Damoh, Datia, Harda, Katni, Khandwa, Rajgarh, Sehore, Shivpuri, Tikamgarh and Vidisha

After we pointed out the cases, the EC in January 2010 stated that although the advertisement tax on cable operators is not leviable under the provisions of the Act, a letter had been issued (August and December 2009) to the administration department to apprise with the comments of the Law department. The reply is not acceptable as the provision under the Act do not preclude cable operators/video operators exhibiting advertisements from liability of paying tax.

We reported the matter to the Government between December 2009 and March 2010; their replies have not been received (December 2010).

## CHAPTER - VIII ELECTRICITY DUTY

### 8.1 Results of Audit

Test check of the records of eight<sup>1</sup> units relating to Electricity Duty revealed non/ short realisation and loss of revenue of electricity duty, fees and cess and other irregularities involving ₹ 562.60. crore in one case as under:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1	<b>Levy and collection of electricity duty fees and cess (A Review).</b>	1	562.60
	<b>Total</b>	1	562.60

After issuance of inspection reports, the Energy Department recovered ₹ 16.03 lakh in full in one case during the year 2009-10.

A review of "**Levy and collection of electricity duty, fees and cess**" involving money value ₹ 562.60 crore is mentioned in the following paragraphs.

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<sup>1</sup> As per audit plan for the year 2009-10, ten units were planned for the year out of which eight units were audited which comprised of 22 divisions and sub-divisions.

## **8.2 Levy and collection of electricity duty, fees and cess**

### **Highlights**

Blocking of revenue due to irregular retention of Government money by DISCOMs ₹ 997.39 crore.

**(Paragraph 8.2.8.1)**

Inaction of the department resulted in non-levy of electricity duty of ₹ 3.73 crore.

**(Paragraph 8.2.8.2)**

Absence of provision for submission of check list to verify the electrical consumption resulted in short realisation of duty of ₹ 10.97 crore.

**(Paragraph 8.2.9)**

Absence of any time limit for periodical assessment of dutiable and non-dutiable consumption resulted in non-levy of duty and cess of ₹ 6.92 crore.

**(Paragraph 8.2.11)**

Lack of provision for security deposit resulted in non-levy of duty of ₹ 3.15 crore

**(Paragraph 8.2.12)**

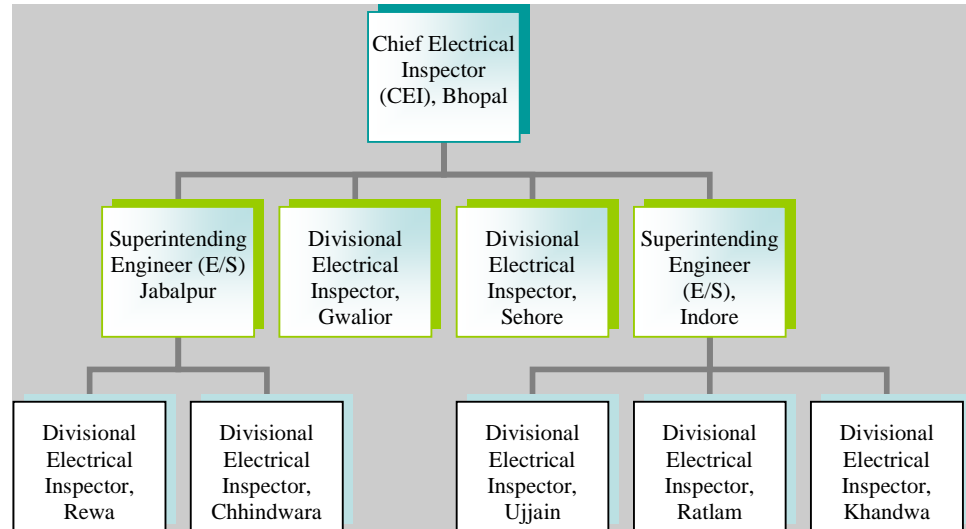
### **8.2.1 Introduction**

There are three major components of receipts of the energy department in Madhya Pradesh (MP) viz: electricity duty, energy development cess and inspection fees. Electricity duty (ED) is regulated under the Madhya Pradesh Electricity duty (MPED) Act 1949 and the Rules framed thereunder. Every distributor and producer of electrical energy shall pay every month to the State Government, at the prescribed time and in the prescribed manner, a duty, calculated at the specified rate, on the units of electrical energy sold or supplied to a consumer or consumed by himself for his own purposes during the preceding month.

Under the MPED Act, the distributor of electrical energy i.e. State Electricity Board shall deposit the duty in the Government account for the energy sold or supplied. Units which generate electrical energy for their own consumption i.e. captive power plants, are also required to deposit ED directly into the Government account provided the capacity of generation is more than 10 KW. The amount of duty due and remaining unpaid shall carry interest at such rate and in such circumstances as may be prescribed and shall be collected as arrears of land revenue. Every distributor and producer of electrical energy shall submit to the Electrical Inspector (EI) along with the treasury receipt, a monthly return in Form "G". Energy development cess is also leviable on sale or consumption of electrical energy under Madhya Pradesh *Upkar Adhiniyam* 1981. Further, fee for inspection of the electrical installation is levied and collected under the Indian Electricity Act 1910 (amended in 2003) and Indian Electricity Rules 1956. The receipts of the department are deposited under the Major Head "0043-Taxes and duties on electricity".

We conducted a review of levy and collection of electricity duty, inspection fees and cess in MP which revealed a number of system and compliance deficiencies. These are mentioned in the succeeding paragraphs.

### 8.2.2 Organisational set up



The organisation is headed by the Chief Electrical Inspector (CEI) while the Secretary of the energy department is the head at the Government level. The CEI is assisted by two Superintending Engineers (SE Electrical/Safety), seven Divisional Electrical Inspectors (DEI, E/S) at the district level and 34 Assistant Electrical Inspectors at the sub divisional level for conducting inspection of electrical installations. They are responsible for ensuring correctness of the levy and collection of duty, cess and inspection fees in respect of captive and non-captive consumers of electricity and electrical installations respectively.

### 8.2.3 Scope of Audit

We examined the records of 22 out of a total of 44 units of CEI/DEI/SE/AE for the last five years (2005-06 to 2009-10) between September 2009 and February 2010 and information was collected upto August 2010. The units were selected on the basis of simple random sampling method. During the course of the review, we also collected information from the Distribution Companies (DISCOMs) as well as other departments/bodies for cross verification with the records maintained by the CEI.

### 8.2.4 Audit objectives

The review was conducted with a view to:

- assess the efficiency and effectiveness of the system of the levy and collection of ED, fee and cess;
- ascertain whether statutory inspection of the electrical installations was being carried out and fees for such inspection was realised on time; and
- assess whether an adequate internal control mechanism existed to ensure proper realisation of duty, fee, interest and cess.

### 8.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Energy Department for providing information and records to audit. An entry conference to discuss the audit objectives and scope of audit was held in April 2010 in which the Additional Secretary of the department along with the representative of the CEI together with the Accounts Officer was present. The exit conference was held in September 2010 in which the Secretary, Energy Department together with the CEI participated. Reply of the Government has not been received (December 2010).

### 8.2.6 Trend of revenue

The Budget Manual provides that the estimates should take into account only such receipts as the estimating officer expects to be actually realised or made during the budget year. The Budget Manual clearly states that if the test of accuracy is to be satisfied, not merely should all items that could have been foreseen be provided for, but also only so much, and no more should be provided for as is necessary.

The trend of revenue of Electricity Duty Receipts during last five years ending 31 March 2010 is as under:

(₹ in crore)

Year	Revised estimates (RE)	Actual receipts (As per Departmental Figures)	Actual receipts (As per Finance Accounts)	Percentage increase (+)/ decrease (-) over B Es (Finance Accounts)
2005-06	843.42	842.21	842.27	(-) 0.14
2006-07	763.36	892.15	714.55	(-) 6.39
2007-08	832.00	943.73	626.08	(-) 24.75
2008-09	900.00	926.37	343.06	(-) 61.88
2009-10	2464.40	973.80	2,146.49	(-) 12.90

**Source:** As furnished by the Department and Finance Accounts of Government of Madhya Pradesh for the years 2005-06 to 2009-10.

The variation between revised estimates and actual receipts ranged between (-) 0.14 and (-) 61.88 per cent.

The figures of actual receipts furnished by the department are at variance with the Finance Account figures. We observed that the arrears pending with the Distribution Companies have been shown as actual receipts by the department whereas such amount has not been credited in the Government account under the Major Head 0043 during the year 2007-08 and 2008-09. The CEI stated that the receipts during 2009-10 included the revenue realised in previous years but adjusted in the current year.

**Contribution of receipts from taxes and duties on  
Electricity to total tax revenue**

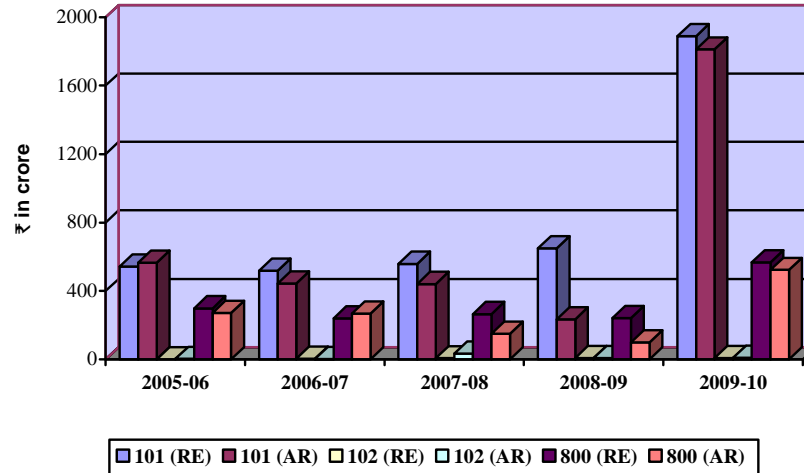
(₹ in crore)

Year	Total tax revenue	Taxes and duties on Electricity	Percentage contribution of (3) to (2)
(1)	(2)	(3)	(4)
2005-06	9,114.70	842.27	9.24
2006-07	10,473.13	714.55	6.82
2007-08	12,017.64	626.08	5.21
2008-09	13,613.50	343.06	2.52
2009-10	17,272.77	2,146.49	12.43

**Source:** Finance Accounts of Government of Madhya Pradesh for the years 2005-06 to 2009-10.

The percentage contribution of the receipts under Electricity Duty, fee and cess to the total tax receipts in the State registered a sharp increase during 2009-10. This was due to the adjustment of the receipts of the last two years during 2009-10.

**Minor head wise analysis of receipts under Major  
Head 0043 during the last five years**



Minor head 101 comprises of tax on consumption and sale of electricity, 102 includes fees under the Indian Electricity Rules and 800 covers energy development cess. These three minor heads constituted an average of 99 per cent of the total receipts under MH 0043 during the last five years.

We observed that the actual receipts under minor head 101 registered a shortfall as compared to the estimates in three years (2006-07, 2007-08 and 2008-09) while it showed a sharp increase in 2009-10 as compared to the estimates. Receipts under inspection fees (minor head 102) registered an increase in four years as compared to the estimates while receipts under energy cess showed an inconsistent trend.



## Audit findings

### System deficiencies

#### 8.2.7 Position of arrears

Under the MPED Act, amount of duty due and remaining unpaid shall be recovered as arrear of land revenue.

The position of outstanding revenue relating to captive power plants including the ED, fee and cess during the last five years ending 31<sup>st</sup> March 2010 is

given below:

(₹ in crore)

Year	Opening balance	Receipts during the year	Balances at the end of the year	Arrears more than five years old
2005-06	27.97	2.71	25.26	15.34
2006-07	32.85	6.18	26.67	11.07
2007-08	26.67	5.85	20.82	5.90
2008-09	20.82	1.10	19.72	13.86
2009-10	19.72	1.71	25.54	14.34

We observed that the receipts during the year as compared to the outstanding arrears varied between 5.58 per cent and 28.09 per cent during the last five years. An amount of ₹ 25.54 crore was outstanding as arrears as on March 2010 of which ₹ 14.34 crore was outstanding for more than five years. When we enquired whether any demand was raised to recover the arrears during the last five years, the CEI stated that demand notices were issued but he could not furnish the year wise figures. We also noticed that though no demand notices were issued during the year 2005-06, yet the increase of ₹ 7.59 crore was shown in the opening balance (OB) of arrears in 2006-07. The CEI accepted (May 2010) that it was a mistake. The CEI also accepted that there was no time bound action plan for recovery of the arrears. **The Act does not provide any time limit to report the arrear cases to the revenue department nor does it vest the departmental officers with the power of Tahsildars to facilitate expeditious recovery of arrears.**

**The Government may consider prescribing a periodic return by the EIs to the CEI/Government on position of arrears.**

**The Government may also consider either prescribing the time limit for reporting the arrear cases to the revenue department or vest the departmental officers with the powers of Tahsildars to facilitate expeditious recovery of arrears.**

### 8.2.8 Submission and monitoring of returns

Every distributor of electrical energy and every producer shall submit to the EI (i) monthly return in Form 'G' with the treasury receipt which contains amount of duty with leviable and non-leviable consumption and (ii) annual return in Form 'K' containing information of duty payable, duty paid and balance with interest paid for each financial year. As per Madhya Pradesh Treasury Code (MPTC) money collected on behalf of the Government shall be remitted in Government account without delay.

**We observed that no monitoring mechanism existed in the department to ensure that monthly/annual returns are submitted in time and in the prescribed format. Further, there is no periodical return prescribed from the CEI to the Government regarding duty payable, paid and balance to be deposited.** Some instances of loss of revenue due to

deficient monitoring of returns are illustrated below.

#### 8.2.8.1 Irregular retention of Government money by the DISCOMs due to delayed/non-remittance of electricity duty

Three DISCOMs<sup>2</sup>

Every distributor of electrical energy and every producer shall pay every month to the State Government, at the prescribed time and in the prescribed manner, a duty calculated at the specified rate on the units of electrical energy sold or supplied to a consumer or consumed by himself for his own purposes during the preceding month.

We observed from the records of the CEI that the annual returns in form 'K' were not submitted by the DISCOMs while monthly return in form 'G' were not submitted in the prescribed format. In the absence of these records the CEI is not in a position to assess the duty payable, paid and

balance at the end of each year. We observed that the electricity duty and cess collected by the DISCOMs were not deposited timely in the Government account. When we requested for the information (July 2010), the CEI did not provide the required information regarding the payment/adjustment of duty and cess collected by the DISCOMs in 2005-06 and 2006-07. However, from the information collected from DISCOMs, we observed that electricity duty and cess of ₹ 2,176.02 crore was collected by the DISCOMs from 2007-08 to 2009-10 and of this ₹ 1,631.60 crore was deposited in the Government account after a delay ranging between 12 and 36 months. As a result, this amount remained outside the Government account for that period. Due to this irregular retention, the DISCOMs are also liable for payment

<sup>2</sup> Madhya Kshetra Vidhuyt Vitaran Co., Paschim Kshetra Vidhuyt Vitaran Co. and Poorva Kshetra Vidhuyt Vitaran Co.

of interest of ₹ 452.97 crore up to March 2010 calculated at the prescribed rate<sup>3</sup>. Besides blocking Government money, this also led to incorrect budget estimates for revenues of electricity duty/cess.

When this was pointed out by us, the CEI stated (April 2010) that ₹ 1,631.60 crore including duty, cess and interest has been adjusted in March 2010. Adjustment of the remaining amount (₹ 997.39 crore) had not been done (December 2010).

### 8.2.8.2 Non levy/recovery of electricity duty

No exemption from payment of duty is available to public sector undertakings, boards, corporations and other autonomous bodies such as airport authorities, *Doordarshan*, *Akashwani* and *Bharat Sanchar Nigam Limited*.

We observed in the offices of SE (E/S), Jabalpur and Indore that three consumers of airport authorities, twelve consumers of *Doordarshan* and *Akashwani* and twenty eight consumers of *Bharat Sanchar Nigam Limited* paid electricity duty to the DISCOMs on the electricity

consumed through High Tension/Low Tension connection but did not pay electricity duty nor did they submit the prescribed return in Form "G" against their captive consumption to the DEI offices. The department however, did not initiate any action to ensure the recoveries of the dues and timely submission of returns by the consumers. This resulted in non-levy of ED of ₹ 3.73 crore.

When we pointed this out, the CEI stated (June 2010) that the cases would be examined by the concerned offices and action would be taken.

### 8.2.8.3 Short-levy of duty due to application of incorrect rate

MPED Act provides for eight *per cent* rate of duty on consumption of electricity for industrial purposes while duty at the rate of 15 *per cent* is leviable for non-industrial purpose.

We observed in the offices of the SE (E/S), Jabalpur and Indore that in respect of five consumers, duty was levied at the rate of eight *per cent* applicable for industrial activities, against the leviable duty at the rate of

15 *per cent* for commercial i.e. non-industrial activities. Application of duty at reduced rate resulted in short levy of duty of ₹ 16.62 lakh as detailed below:

(₹ in lakh)

Sl. No.	Consumer	Period	Contract demand (KVA)	Consumption (Units)	Short levy (15-8) per cent
(1)	(2)	(3)	(4)	(5)	(6)
1	Bhaskar (JBP)	07/07-11/09	300	8,43,648	2.25
2	Nai Duniya (JBP)	10/07-11/09	200	5,03,816	1.34
3	Raj express (JBP)	01/09-11/09	250	1,88,487	0.51

<sup>3</sup> Upto 3 months-12 *per cent* per annum (p.a.), 3 and 6 months-15 *per cent* p.a., 6 and 12 months-20 *per cent* p.a. and more than 12 months-24 *per cent* p. a

(1)	(2)	(3)	(4)	(5)	(6)
4	Rajasthan Patrika (Indore)	09/08-10/09	480	9,44,218	2.47
5	MPAKVN (JBP)	04/05-01/10	170	37,79,454	10.05
	<b>Total</b>			<b>62,59,623</b>	<b>16.62</b>

Scrutiny of form G of the same DISCOM for the same month revealed that duty at the rate of 15 *per cent* was levied on other media houses. Yet this anomaly remained undetected in the SE offices.

When we pointed this, the SE (E/S) Jabalpur stated (February 2010) that necessary action would be taken after spot verification and the SE (E/S) Indore stated (January 2010) that demand notice would be issued after conducting necessary inspection.

#### 8.2.8.4 Non-levy of duty/penalty due to non-submission of returns

Three DEIs (E/S) offices<sup>4</sup>

Under the MPED rule, the producers and distributors of electrical energy are required to furnish periodical return (Form G) to the EIs within the stipulated period alongwith the ED payment particulars (Challan). Further the Act provides that if any distributor of electrical energy or any producer or consumer fails to furnish returns in accordance with any rules, he shall be punishable with a fine which may extend to ₹ 1,000.

We observed that 1,116 captive consumers neither submitted Form G nor paid the duty against the energy produced/consumed through captive power. This attracted maximum penalty of ₹ 11.16 lakh for which the department did not file the case with the jurisdictional court. We could not work out

the amount of ED leviable due to the absence of Form G.

When we pointed this, the DEIs stated that the department does not have the powers to impose penalty. However, the reply is silent about filing the case before the jurisdictional court and recovery of the deficient ED. Further, there is no mechanism in the CEI office to monitor the monthly receipt of returns from the DEI offices so as to obviate the possibility of non-submission of returns and consequent non-levy of ED.

**Government may consider prescribing a mechanism to ensure that the monthly/annual returns are submitted in time in the prescribed format alongwith supporting documents and introducing a periodic return from the CEI to the Government containing the information regarding duty payable, paid and balance to be deposited.**

<sup>4</sup> DEI Sehore, DEI Ujjain, and DEI, Ratlam.

### 8.2.9 Short realisation of duty from mining activities

Under the Act, every distributor of electrical energy and every producer shall pay every month to the State Government at the prescribed time and in the prescribed manner, a duty calculated at the specified rates on the units of electrical energy sold or supplied to a consumer or consumed by him during the preceding month. The Act provides for 40 per cent of duty applicable for mines, other than captive mines of cement industry. Further, as defined in the Act, 'mine' includes the premises or machinery situated in or adjacent to a mine and used for crushing, processing, treating or transporting of material. As per the Act, a consumer who generates energy for his own consumption shall be liable to pay duty at the same rates as if the electrical energy is supplied by MPSEB. **The department did not prescribe any check list to be appended with the application form for the electrical installations to determine the activity proposed to be carried out by the licensee.**

We observed in the office of the SE (E/S) Jabalpur, that consumers were engaged in mining activities, but duty was incorrectly levied at the rate of eight per cent applicable for industrial purposes in place of 40 per cent for mining activities on consumption of 884.85 MU electrical energy. This resulted in short realisation of duty of ₹ 10.97 crore<sup>5</sup> as detailed below.

(₹ in lakh)

Sl. No	Name of consumer	Period	Total consumption	ED levied @ 8 per cent	ED leviable @ 40 per cent	ED short levied
1	MOIL Balaghat	02/07 to 09/09	669.92 MU	208.48	1042.40	833.92
2	SVIL Katni	05/07 to 11/09	148.59 MU	45.60	228.00	182.40
3	M/s Ojaswi Marble	09/07 to 11/09	46.70 MU	14.32	71.60	57.28
4	M/s Arihant Marble	05/07 to 11/09	10.98 MU	3.36	16.80	13.44
5	M/s Balaji Marble	04/05 to 12/09	8.66 MU	2.61	13.05	10.44
	<b>Total</b>		<b>884.85 MU</b>	<b>274.37</b>	<b>1,371.85</b>	<b>1,097.48</b>

We noticed that while Arihant Marbles was charged at the rate of eight per cent, two other entities in the same location were charged at the rate of 40 per cent. Further, in the case of Ojaswi Marbles, though duty was levied at the rate of 40 per cent for captive consumption yet it was collected at the rate of eight per cent on HT connection. In the case of MOIL,

<sup>5</sup> ₹ 1,371.85 lakh - ₹ 274.37 lakh = ₹ 1,097.48 lakh.

we noticed that though the agreement for HT supply with MPEB was for “supply of electrical energy in bulk at the consumer’s premises situated at Bharveli mines in Balaghat district”, yet ED was charged at industrial rates.

In the absence of any check list to ascertain the activity of the licensee, the CEI was constrained to detect the short realisation of duty in these cases.

When we pointed out, the SE (E/S) assured (February 2010) to take corrective action. Further action is awaited (December 2010).

**The Government may, therefore, consider prescribing a mechanism to correlate spot verification reports with the documents submitted.**

### Internal control

#### 8.2.10 Shortfall in electrical inspection

Eight DEIs/SEs/CEI offices<sup>6</sup>

Under the Indian Electricity Rules, every installation shall be periodically inspected and tested at an interval not exceeding five years either by an inspector or any other officer, on payment of fees in advance at the prescribed rates, depending on the connection load. **However, the Government has not prescribed any periodical return from the CEI showing the list of inspections due, conducted and shortfall, if any, with reasons for the same, to ensure compliance with the provisions.**

We observed that out of 6.01 lakh high tension electrical installations required to be inspected, only 3.47 lakh were inspected by the department during the period 2005-06 to 2008-09, leaving a shortfall of 2.54 lakh installations as detailed below:

Year	Inspection due	Inspection done	Inspection not done	Percentage shortfall (Column 4 to 2)
(1)	(2)	(3)	(4)	(5)
2005-06	1,37,531	88,528	49,003	35.63
2006-07	1,47,137	80,116	67,021	45.55
2007-08	1,52,422	91,779	60,643	39.79
2008-09	1,63,452	86,427	77,025	47.12
<b>Total</b>	<b>6,00,542</b>	<b>3,46,850</b>	<b>2,53,692</b>	<b>42.24</b>

Information on the number of inspections due, planned and actually conducted during the last five years for the entire state was not furnished by the CEI, despite request (July 2010). Neither was the basis for selection of electrical installations to be inspected at different intervals, furnished by the CEI, despite repeated requests (July 2010). The CEI stated (August 2010) that the

<sup>6</sup> CEI (Bhopal), SE Jabalpur, SE Indore, DEI Gwalior, DEI Sehore, DEI Ratlam, DEI Ujjain, DEI Khandwa.

inspectors carried out inspections as per weather conditions. Thus, there is no risk based objective criteria to select electrical installations for inspection. We also could not ascertain whether the installations which had defaulted in furnishing 'G' form to the CEI, were included in the schedule of inspection.

**The Government may, therefore, consider prescribing a monthly return from the DEI to the CEI and the CEI to the Government showing the list of inspections due, conducted and shortfall, if any, with the reasons for the same to ensure better compliance with the prescribed provisions of the rules. It should also consider implementing a scientific basis for selection of the installations for inspection.**

### Compliance deficiencies

#### 8.2.11 Loss of revenue due to absence of any time limit for periodical assessment of dutiable and non-dutiable consumption

Under the Act, no duty shall be payable in respect of electrical energy sold or supplied to the Railways for consumption in the construction, maintenance or operation activities. Rule 10 of the MPED Rules provides that every distributor of electrical energy and every producer, shall install a meter separately for each category for which rate of duty applicable are different, to record the energy sold or supplied to a consumer or consumed by him. Further, amendment of section 3 of the Act provides that if the consumption of any one purposes is used either wholly or partly, without the consent of distributors or producer of electricity, as the case may be, for consumption for any purpose for which higher rate of duty is chargeable, the entire energy sold or supplied shall be charged at the highest applicable rate. If consumption of electrical energy, both dutiable and non-dutiable, is recorded by one meter, the dutiable energy consumption of different categories shall be assessed in the manner laid down by the Electrical Inspector (till such time, meter for each category is installed).

• We observed that in respect of ten HT connections of railways at nine railway stations<sup>7</sup> where no separate meters were installed, though the three DISCOMs supplied 941.00 MU of electrical energy to the railways for combined purposes, yet ED on only 334.40MU (35.6 per cent) of electrical energy was collected by these DISCOMs and the remaining consumption was exempted from payment of the ED treating these units as non dutiable consumption. The duty leviable at the applicable rates to dutiable units worked out to ₹ 4.58 crore for the last five years.

Even for the dutiable consumption, the CEI did not have any basis for

<sup>7</sup> Gwalior, Bhopal, Ujjain, Ratlam, Khandwa, Mhow, Neemuch, Shamgarh and Katni.

computation. In eight out of ten connections, the DEIs/ SEs were not even aware of the date on which the first assessment of such dutiable and non-dutiable consumption was recorded. We further observed that though the DISCOMs submitted the monthly returns regularly to the DEIs yet the latter failed to reassess the dutiable and non-dutiable consumption recorded by a single meter. This led to non levy of duty and cess of approximately ₹ 4.58 crore.

When we pointed this out, the CEI stated (April 2010) that written communication has been sent to the distribution company for issuing directions to install separate meters for recording dutiable and non-dutiable consumption. He also stated that all the SE (E/S) and DEI (E/S) have been directed for necessary action in this regard. However, the reply is silent on the recovery of duty as per the Act/Rule till separate meters are installed.

- We observed that one HT connection which was originally installed at Gwalior railway station for the purpose of charging the battery driven engine, had been utilised for supplying electricity for residential purpose. Such exemption was given though the connection was dutiable. This resulted in non-levy of duty of approximately ₹ 50.47 lakh on 83.58 MU energy consumed between May 2005 and October 2009.

In reply, Government stated (April 2010) that written communication has been issued to the DISCOM for recovery of ₹ 50.47 lakh. Further reply is awaited (December 2010).

- We observed from the records of the Regional Accounts Officer (RAO), Indore circle, and SE (E/S) Indore that though the DISCOM supplied 684.00 MU of electrical energy to Eicher Motor, Pithampur, Indore between April 2005 and December 2009 for both industrial and non-industrial consumption, yet ED at non-industrial rate of 15 *per cent* was levied only on 2.28 MU while the remaining 681.72 MU of electrical energy was treated as industrial consumption and charged at the rate of 8 *per cent*. However, no separate meter or sub meters were installed to identify consumption of electricity for industrial and non-industrial purposes. Thus, duty of approximately ₹ 1.84 crore<sup>8</sup> was leviable at higher rate (15 *per cent*) on the entire consumption of electricity.

### 8.2.12 Loss of revenue due to lack of provision for security deposit

Under the Act, ED is to be paid to the State Government by those who generate electricity for their own consumption by a generator of capacity exceeding 10 KW. In the event of delay in paying ED beyond 30 days, interest at the prescribed rate is leviable.

We observed that one industrial unit consumed 550.11 MU of self generated power between April 2004 and January 2006 but did not pay any ED on such consumption. The DEI also failed to raise the demand and realise the ED. This resulted

in non-levy of duty of ₹ 3.15 crore including interest up to March 2010. This could have been obviated had there been a provision for security deposit.

<sup>8</sup> (684 – 2.28) X 100000 X 3.86 X (15 – 8) *per cent* = ₹18420074 say ₹1.84 crore.



When this was pointed by us, the CEI raised (May 2010) the demand of ₹ 3.05 crore in January 2010 with interest up to September 2009.

### **8.2.13 Conclusion**

We observed that the monitoring of the return submitted in the DEI and CEI offices by the distribution companies and those by the producers was deficient which led to non-detection of non levy and short levy of duty and cess. The distribution companies continued to retain the duty collected by them which was adjusted irregularly by the Energy department against their claim for working capital. This adjustment of departmental receipts is in violation of the codal provisions and threw the budget estimates into disarray. We noticed that substantial revenue was lost due to grant of irregular exemption to bodies which had not installed separate meters to assess dutiable and non-dutiable consumption.

### **8.2.14 Recommendations**

The Government may consider implementation of the following recommendations.

- the departmental receipts of electricity should be deposited as and when collected under the appropriate head of revenue as specified in the Act and the MP Treasury Code;
- consider laying down a time frame for periodical assessment of dutiable and non-dutiable consumption;
- we recommend that a monthly return should be prescribed from the DEI offices to the CEI office to monitor the status of receipt of Form G and CEI to Government regarding duty and cess payable, paid and balance; and
- we recommend that a provision for security deposit and vesting the departmental officers with powers of revenue officers may enable timely and effective recovery of arrears of electricity duty from the defaulting units.

## CHAPTER - IX NON-TAX REVENUE

### A. FOREST RECEIPTS

#### 9.1 Tax administration

The Forest Department functions under the overall control of the Principal Secretary at the Government level while the Principal Chief Conservator of Forest (PCCF) is responsible for the overall administration of the department. Out of 93 divisional forest offices, 76 deal with revenue generating activities in the state.

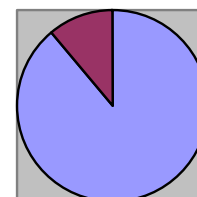
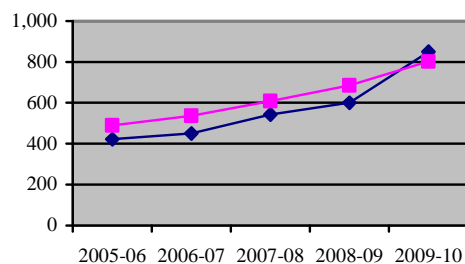
#### 9.2 Trend of receipts

Actual forest receipts during the last five years 2005-06 to 2009-10 along with the total non-tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual Forest receipts vis-a-vis total non-tax receipts
2005-06	422.00	490.40	(+) 68.40	(+) 16.21	2,208.20	22.21
2006-07	450.00	536.50	(+) 86.50	(+) 19.22	2,658.46	20.18
2007-08	543.00	608.89	(+) 65.89	(+) 12.13	2,738.18	22.24
2008-09	600.00	685.60	(+) 85.60	(+) 14.27	3,342.86	20.51
2009-10	850.00	802.00	(-) 48.00	(-) 5.65	6,382.04	12.57

The percentage contribution of forest receipts to the total non-tax receipts of the State has been registering a declining trend during the last three years.



◆ Budget estimates    ■ Actual receipts

■ Total non-tax receipts (2009-10)  
■ Forest receipts (2009-10)

### 9.3 Impact of audit

During the last five years, audit had pointed out non/short realisation of revenue with revenue implication of ₹ 946.15 crore in 657 cases. Of these, the department/Government had accepted audit observations in 35 cases involving ₹ 81.70 crore and had since recovered ₹ 27.60 crore. The details are shown in the following table.

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	41	185	191.65	05	0.44	-	-
2005-06	69	127	199.74	08	1.09	01	0.0009
2006-07	69	110	37.08	01	36.50	01	27.59
2007-08	79	117	91.59	07	0.95	01	0.0043
2008-09	103	118	426.09	14	42.72	-	-
<b>Total</b>	<b>361</b>	<b>657</b>	<b>946.15</b>	<b>35</b>	<b>81.70</b>	<b>03</b>	<b>27.60</b>

The percentage of recovery as compared to the accepted cases has been very low except in the year 2006-07. We have brought this issue to the notice of the head of the department as well as the Finance Secretary to the Government.

### 9.4 Working of internal audit wing

Total nine posts (Director Finance/Budget and Financial Advisor-01, Dy. Director-01, Assistant Director-01, Assistant Internal Audit Officer-06 of which 01 post is vacant) have been sanctioned by the Finance Department for internal audit in the Forest Department. As per departmental orders dated 28 October 1992, audit manual for internal audit in the department has been made effective. Internal audit is conducted in accordance with the roster prepared for each year.

As per the roster prepared for the year 2009-10, internal audit of 70 unit offices was planned against which internal audit was conducted only in 27 unit offices. Particulars of major comments/observations of the IAW and corrective action taken by the department have not been received (December 2010).

## B. MINING RECEIPTS

### 9.5 Tax administration

The Mining Department functions under the overall charge of Secretary, Mining, Government of Madhya Pradesh. The Director, Geology and Mining is the head of the department who is assisted by Deputy Directors at headquarters and District Mining Officers (DMO) at the district level. The latter is assisted by Assistant DMOs and Mining Inspectors. The DMOs, Assistant DMOs and Inspectors are under the administrative control of the Collector at the district level.

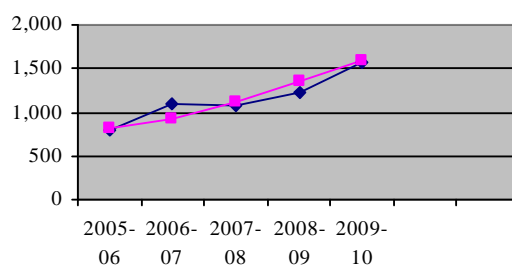
### 9.6 Trend of receipts

Actual mining receipts during the last five years 2005-06 to 2009-10 along with the total non-tax receipts during the same period is exhibited in the following table and graph.

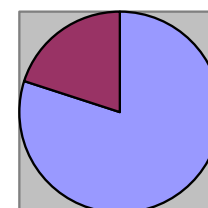
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual mining receipts vis-a-vis total non-tax receipts
2005-06	800.00	815.31	(+) 15.31	(+) 1.91	2,208.20	36.92
2006-07	1,100.00	923.91	(-) 176.09	(-) 16.01	2,658.46	34.75
2007-08	1,080.00	1,125.39	(+) 45.39	(+) 4.20	2,738.18	41.10
2008-09	1,235.00	1,361.08	(+) 126.08	(+) 10.21	3,342.86	40.72
2009-10	1,566.00	1,590.47	(+) 24.47	(+) 1.56	6,382.04	24.92

The percentage contribution of receipts from non-ferrous mining and metallurgical industries to the non-tax revenue of the state has been registering a declining trend from the last three years.



◆ Budget estimates    ■ Actual receipts



■ Total non-tax receipts (2009-10)  
■ Mining receipts (2009-10)

### 9.7 Impact of audit

During the last five years, audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue with revenue implication of ₹ 1,496.29 crore in 6,906 cases. Of these, the department/Government had accepted audit observations in 4,530 cases involving ₹ 662.50 crore and had since recovered ₹ 140.53 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	33	1,286	250.71	340	0.89	-	-
2005-06	21	2,455	359.13	619	31.13	21	2.90
2006-07	31	1,258	38.84	1,746	293.16	96	0.49
2007-08	34	1,474	513.88	1,457	97.25	53	129.74
2008-09	34	433	333.73	368	240.07	27	7.40
<b>Total</b>	<b>153</b>	<b>6,906</b>	<b>1,496.29</b>	<b>4,530</b>	<b>662.50</b>	<b>197</b>	<b>140.53</b>

The percentage of recovery as compared to the accepted cases has been very low except in the year 2007-08. We have brought this issue to the notice of the head of the department as well as the Finance Secretary to the Government.

### 9.8 Working of internal audit wing

The department reported that due to shortage of staff, internal audit wing has not been established.

### 9.9 Results of audit

Test check of the records of 132 units relating to mining receipts and forest receipts revealed underassessment, non/short realisation of revenue and other irregularities involving ₹ 1,869.11 crore in 1,507 cases which fall under the following categories.

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
<b>A. FOREST RECEIPTS</b>			
1.	Non-realisation due to non-exploitation of bamboo/timber coupes.	19	57.84
2.	Short realisation due to sale below the upset price.	05	1.54
3.	Non-realisation due to deterioration/shortage of forest produce.	17	1.20
4.	Short realisation due to non-accounting of forest produce.	06	4.25
5.	Short realisation due to low yield of timber/bamboos against estimated yield.	08	5.96
6.	Other irregularities.	68	24.12
	<b>Total</b>	<b>123</b>	<b>94.91</b>
<b>B. MINING RECEIPTS</b>			
1.	Non/short levy of dead rent/royalty.	378	74.43
2.	Non-realisation of rural infrastructure and road development tax.	126	428.00
3.	Short-realisation of contract money from quarries.	323	4.34
4.	Non-levy of interest on belated payment.	314	11.11
5.	Other irregularities.	243	1,256.32
	<b>Total</b>	<b>1,384</b>	<b>1,774.20</b>
	<b>Grand total (A+B)</b>	<b>1,507</b>	<b>1869.11</b>

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 1,433.50 crore in 680 cases, which were pointed out in audit during the year 2009-10 and recovered ₹ 13 lakh in two cases.

A few illustrative audit observations involving ₹ 447.89 crore highlighting important audit findings are mentioned in the following paragraphs.

### 9.10 Non/short-realisation of rural infrastructure and road development tax from the holders of mining lease

According to the provisions of Madhya Pradesh *Grameen Avsanrachna Evam Sadak Vikas Adhiniyam*, 2005 (*Adhiniyam*) and notification of September 2005, rural infrastructure and road development tax is levied at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee and ₹ 4,000 per hectare per year in case of idle mines. The tax is to be levied and demanded by the District Mining Officers.

We observed in 15 District Mining Offices<sup>1</sup> between December 2007 and December 2009 that the assessment of road development tax in respect of 132 mining leases for the period October 2005 to March 2009 had not been done. This resulted in non-realisation of tax of ₹ 295.35 crore.

After we pointed out the cases, all the District Mining Officers (DMOs), except Sidhi, Betul and Khargone, stated (between February and December 2009) that action would be taken as per rule after scrutiny.

DMO Sidhi, Betul and Khargone stated (June to December 2009) that action for forceful realisation has been restricted by the Supreme Court. The reply is not acceptable as the honourable court did not restrict assessment and issue of demand to the lessees. It only states that recovery of tax under this *Adhiniyam* cannot be made coercively.

We reported the cases to the Director of Geology and Mining (DGM) and the Government between December 2009 and March 2010; their reply has not been received (December 2010).

### 9.11 Tax collected but not deposited in Government account

All Government receipts should be collected and deposited regularly and promptly in the Consolidated Fund.

We observed during scrutiny of the records of three District Mining (DM) Offices<sup>2</sup> between March and August 2009 that two lessees of coal [M/s South Eastern Coalfields Ltd. (SECL) in Umaria and Shahdol district and M/s Northern Coalfields Ltd. in Singrauli district] collected ₹ 133.18 crore as *Grameen Avsanrachna Evam Sadak Vikas Kar* (tax) from their customers between September 2005 and March 2009 but the amount was retained by them and not deposited in Government account. As a result, the Government was deprived of revenue of ₹ 133.18 crore.

<sup>1</sup> Betul, Balaghat, Damoh, Dhar, Gwalior, Jabalpur, Katni, Khargone, Mandla, Narsinghpur, Rewa, Satna, Shahdol, Sidhi and Umaria.  
<sup>2</sup> Shahdol, Sidhi and Umaria.

After we reported the cases to the DGM and the Government in November and December 2009, the Mineral Resources Department directed (March 2010) all the Collectors to get the amount deposited in Government account in the same financial year.

Further progress is awaited (December 2010).

### 9.12 Short-realisation of royalty

Royalty is payable in respect of minerals removed or consumed by a lessee at the rates prescribed in the schedule of the Mines and Minerals (Development and Regulation) Act, 1957. The Pit Mouth Value of coal was revised by a notification of December 2007.

We observed during scrutiny of records of seven DMOs<sup>3</sup> between February and August 2009 that 16 lessees paid royalty of ₹ 131.29 crore for the period from January 2007 to March

2009 as against the payable amount of ₹ 139.03 crore as detailed below:

(₹ in lakh)

Sl. No.	Name of mineral	Quantity removed/ Consumed	Royalty payable	Royalty paid	Short realisation of royalty
1.	Coal	53.56 lakh tons	12,086.42	11,589.52	496.90
2.	White clay	4.35 lakh tons	99.95	19.59	80.36
3.	Limestone	34.37 lakh tons	1,565.87	1,388.26	177.61
4.	Dolomite	2.52 lakh tons	113.50	102.68	10.82
5.	Manganese	0.59 lakh ton	30.97	26.86	4.11
6.	Laterite	0.26 lakh ton	6.16	2.38	3.78
	<b>Total</b>		<b>13,902.87</b>	<b>13,129.29</b>	<b>773.58</b>

The DMOs concerned failed to notice the short payment/payment at incorrect rates which resulted in short realisation of royalty of ₹ 7.74 crore.

After we pointed out the cases, DMOs, Anuppur and Sidhi stated (August and October 2009) that demand notices would be issued. DMO, Shahdol and Umaria stated (June and August 2009) that the matter would be taken up with the SECL. DMO, Katni stated (May 2009) that the case was under scrutiny and the result would be intimated. DMO, Satna stated that reply would be given after scrutiny of the case. DMO, Chhindwara stated (March 2009) that action would be taken after scrutiny. Further developments have not been received (December 2010).

We reported the cases to the DGM and the Government (December 2009); their replies have not been received (December 2010).

<sup>3</sup> Anuppur, Chhindwara, Katni, Satna, Shahdol, Sidhi and Umaria.



### 9.13 Short-realisation of royalty on minor minerals

As per MPMM Rules, a lessee has to pay dead rent or royalty, whichever is higher. As per orders of the Mineral Resources Department dated 4 June 2006, quarries were reserved/sanctioned to Madhya Pradesh State Mining Corporation (MPSMC) on the basis of advance payment of royalty which is calculated against the quantity of mineral shown in transit passes for extraction and transportation.

**9.13.1** We observed during scrutiny of the records of DMO Gwalior and Bhind in October 2009 that 54 quarries were reserved/ sanctioned to MPSMC for extraction of sand. It was observed that as per the quantity for which transit passes were issued, MPSM was liable to pay royalty of ₹ 5.88 crore in advance upto March 2009 whereas the corporation had paid royalty of ₹ 3.35 crore

only. However, the department failed to work out correct amount of royalty. This resulted in short realisation of revenue of ₹ 2.53 crore.

After we pointed out the cases, both the DMOs stated (October 2009) that action would be taken after scrutiny.

**9.13.2** We observed during scrutiny of the records of five DMOs<sup>4</sup> between February and September 2009 that 12 lessees had removed 4,25,406.5 cubic metre road metal, 8,242.6 cubic metre marble and 4,641.465 cubic metre granite from the leased area between July 2004 and March 2009 on which royalty of ₹ 2.14 crore was payable. But it was noticed that the lessees had paid royalty of ₹ 99.70 lakh only. This resulted in short realisation of royalty of ₹ 1.14 crore.

After we pointed out the cases DMO, Seoni stated (August 2010) that ₹ 71,662 had been recovered in one case while in another case action for recovery was in process. The remaining DMOs stated between (February and September 2009) that action would be taken after scrutiny.

We reported the cases to the DGM and the Government between November 2009 and March 2010; their reply has not been received (December 2010).

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<sup>4</sup> Chhatarpur, Katni, Narsinghpur, Seoni and Shahdol.

### 9.14 Short realisation of contract money

A contractor of a trade quarry has to pay the contract money on the prescribed dates. If it remains unpaid for more than three months, the contract should be cancelled and the quarry re-auctioned. If any loss is sustained by the Government, it is to be recovered from the contractor as arrears of land revenue.

We observed during scrutiny of the records of 25 DMOs<sup>5</sup> between February and December 2009 that in case of 290 contractors, contract money of ₹ 9.95 crore was due for payment during the period from April 2002 to March 2009 whereas the contractors paid an amount of ₹ 6.33 crore only.

Thus, the contract money of ₹ 3.62 crore remained unpaid for a duration ranging from 2 to 33 months, yet the department had not initiated any action against the contractors under the terms of the contract to cancel the contract and to re-auction the quarries. It followed that the DMOs concerned allowed the contractors for quarrying despite their default in payment of contract money on due dates. This resulted in short-realisation of contract money of ₹ 3.62 crore.

After we pointed out the cases, all the DMOs, except Satna and Betul stated (May 2009 to December 2009) that action for recovery would be taken as per rule after scrutiny. DMO, Satna stated (February 2009) that reply would be furnished after scrutiny. DMO, Betul stated (November 2009) that action for cancellation of contract had been taken and action for realisation of dues was in progress. Further reports have not been received (December 2010).

We reported the cases to the DGM and the Government between November 2009 and March 2010, their reply has not been received (December 2010).

### 9.15 Short realisation of dead rent

According to Section 9A (1) of Mines and Minerals (Regulation and Development) Act, every lessee of mining lease has to pay dead rent at the rates prescribed in schedule III at the prescribed date. Further, as per the MPMM Rules, every lessee shall pay yearly dead rent for every year, except for the first year, at the rates specified in Schedule IV, in advance for the whole year at the prescribed date.

**9.15.1** We observed during scrutiny of the records of four DMOs<sup>6</sup> between February and August 2009 that 35 lessees holding mining leases of major mineral over 7,296.406 hectare land had paid dead rent of ₹ 2.55 lakh against the payable amount of ₹ 33.17 lakh. Thus, dead rent of ₹ 30.62 lakh was short paid which was not demanded and recovered by the respective

DMOs. This resulted in short realisation of dead rent of ₹ 30.62 lakh.

<sup>5</sup> Balaghat, Betul, Burharnpur, Chhatarpur, Chhindwara, Damoh, Datia, Dhar, Dindori, Gwalior, Harda, Hoshangabad, Indore, Katni, Khargone, Mandla, Narsinghpur, Rajgarh, Rewa, Satna, Shahdol, Shajapur, Sidhi, Tikamgarh and Umaria.  
<sup>6</sup> Dhar, Narsinghpur, Shahdol and Umaria.

After we pointed out the cases, all the DMOs stated (between May and August 2009) that action would be taken for realisation of dead rent as per rule. Further progress has not been received (December 2010).

**9.15.2** We observed during scrutiny of the records of 21 DMOs<sup>7</sup> between May and November 2009 that 189 quarry lessees of minor mineral had paid dead rent of ₹ 34.93 lakh against the payable amount of ₹ 1.82 crore due from January 2004 to December 2009. This resulted in short realisation of dead rent of ₹ 1.47 crore.

After we pointed out the cases, all the DMO's except Sagar, Bhind and Khargone stated (between May 2009 and December 2009) that action for recovery would be taken as per rule. DMOs of Sagar, Bhind and Khargone stated (between November 2009 and March 2010) that an amount of ₹ 3.13 lakh had been deposited by the lessees and action for recovery of balance amount would be taken. Further progress has not been received (December 2010).

We reported the cases to the DGM and the Government between October and November 2009; their replies have not been received (December 2010).

#### **9.16 Loss of revenue due to failure to re-auction trade quarries**

Under MPMM Rules, quarries of sand, *murrum* & stone minerals specified in Schedule II of the rules shall be allotted only by auction for a period of two years on the basis of highest bid.

We observed during scrutiny of the records of DMOs Mandla and Rewa between June and September 2009 that 14 trade quarries of sand/*murrum* and 10 trade quarries of stone were sanctioned (between April 2006 and March 2009) for ₹ 2.39 crore. It was observed that

14 trade quarries were surrendered by the contractors and an amount of ₹ 1.61 crore remained unpaid out of the payable amount of ₹ 2.34 crore. In case of 10 trade quarries, agreements were cancelled due to non-execution of deeds resulting in non-receipt of contract money of ₹ 4.82 lakh. However, no action was taken by the department to re-auction all the 24 trade quarries. As a measure to protect the interests of the exchequer and to avoid illegal extraction/transportation of minerals, trade quarries should be re-auctioned at the earliest in the interest of revenue whatever may be the reason of their surrender but the department failed to do so. This deprived the exchequer of revenue of ₹ 1.65 crore.

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<sup>7</sup> Balaghat, Bhind, Burhanpur, Chhatarpur, Chhindwara, Datia, Dhar, Dindori, Gwalior, Harda, Jabalpur, Katni, Khargone, Mandla, Narsinghpur, Rewa, Sagar, Seoni, Shajapur, Sidhi and Umaria.

After we pointed out the cases, the DMO, Mandla stated (June 2009) that the cases would be referred to the Government for further action. The reply is not acceptable because as per rule 7(4) of MPMM Rules, the power to sanction and control trade quarries is vested with the Collector/ Additional Collector of the district. DMO, Rewa stated (September 2009) that action would be taken after scrutiny. Further replies have not been received (December 2010).

We reported the cases to the DGM and the Government; their replies have not been received (December 2010).

### **9.17 Loss of revenue due to non-production according to mining plan**

As per Rule 22A of the Mineral Concession Rules, 1960, mining operations shall be undertaken in accordance with the duly approved mining plan. Further, where mining operations are not commenced for a continuous period of one year from the date of execution of the lease or is discontinued for a continuous period of one year after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed and communicate the declaration to the lessee.

We observed during scrutiny of the records of DMOs Damoh and Narsinghpur between May and July 2009 that two leases of dolomite/limestone over an area of 110.216 hectare had been sanctioned for a period of 20 to 30 years. Production of 3.12 lakh tons of mineral according to the mining plan and payment of ₹ 1.40 crore as royalty was anticipated during the period between 2005 and 2009 but no production was done by the lessees during this period.

The department did not take any action for declaring the mining leases as lapsed. This deprived the exchequer of revenue of ₹ 1.39 crore.

After we pointed out the cases, DMO, Damoh sent the proposal to the State Government (July 2009) for declaring the lease as lapsed. DMO, Narsinghpur stated (May 2009) that the matter would be forwarded to the Government after issuing show cause notice to the lessee. The replies shows apathy on the part of the DMOs to take timely action as per the rules. However, the Government may consider prescribing submission of reports/returns by the DMOs so as to strengthen the monitoring mechanism. Further replies have not been received (December 2010).

We reported the cases to the Government and DGM; their replies have not been received (December 2010).

**9.18 Loss of revenue due to irregularities in issue of temporary permits**

According to Rule 68 of MPMM Rules, the Collector shall grant permission for extraction, removal and transportation of any minor mineral from any specified quarry or land which may be required for the works of any department or undertaking of the Central Government or the State Government, subject to payment of royalty in advance calculated at the rates specified in Schedule III.

We observed during scrutiny of the records of 11 DMOs<sup>8</sup> between March and November 2009 that 28 temporary permits were issued for various minerals<sup>9</sup> to 21 contractors for construction of roads and buildings between December 2006 and February 2009 which attracted advance payment of royalty of ₹ 2.30 crore. However, it

was noticed that the contractors paid ₹ 1.14 crore only. This resulted in short realisation of revenue of ₹ 1.16 crore.

After we pointed out the cases, all the DMOs, except Sagar and Umaria, stated (between March and November 2009) that action for recovery would be taken. DMO, Sagar stated (November 2009) that an amount of ₹ 28.31 lakh had been recovered in August 2009. DMO, Umaria stated that the transit passes were issued to the contractors against the deposited amount. The reply is not acceptable because permission should have been granted only after receiving the entire amount of royalty of ₹ 8.40 lakh in advance whereas the contractor had paid only ₹ 1.35 lakh in four installments.

We reported the cases to the DGM and the Government between November 2009 and February 2010, their reply has not been received (December 2010).

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<sup>8</sup> Balaghat, Burhanpur, Chhatarpur, Dindori, Harda, Hoshangabad, Khargone, Mandla, Rewa, Sagar and Umaria.

<sup>9</sup> Road metal- 6.51 lakh cubic meter, murrum-80,700 cmt., sand and granular sub base-59844 cmt., selected soil-34783 cmt., boulder-3200 cmt. & lime stone 16393.44 ton.

**9.19 Non-imposition of penalty due to non-submission of returns by the lessees**

According to Rule 30 (20) (a) (b) (c) of the MPMM Rules, every lessee of quarry lease shall furnish monthly, six monthly and annual return to the DMO in the prescribed forms by the specified dates, failing which the lease sanctioning authority may require the lessee to pay a penalty not exceeding double the amount of annual dead rent.

We observed during scrutiny of the records of nine DMOs<sup>10</sup> between March and November 2009 that 57 lessees had not submitted monthly, six monthly and annual returns which were due between April 2004 and March 2009. Submission of returns is a vital mechanism for monitoring the working of the lessees. In the absence

of these basic records, the DMOs are constrained to assess the correct amount of royalty. Non-submission of returns resulted in non-realisation of revenue of ₹ 43.20 lakh in the form of maximum of penalty calculated at double the amount of annual dead rent.

After we pointed out the cases, all the DMOs except Seoni and Sagar stated that action would be taken against the lessees under the rules. DMOs Seoni and Sagar stated between November 2009 and January 2010 that penalty was to be imposed by the sanctioning authority. However, the reply does not explain why action was not taken to take up the case with the sanctioning authority as yet.

We reported the cases to the DGM and the Government between November 2009 and February 2010; their replies have not been received (December 2010).

<sup>10</sup> Burhanpur, Dindori, Gwalior, Harda, Narsinghpur, Sagar, Seoni, Sidhi and Umaria.

### 9.20 Loss of revenue due to deficiency in the Act

Where a mining lease period purports to be for more than ten years but not exceeding 20 years, stamp duty at the rate of 7.5 per cent of three times of the estimated royalty and registration fee at three fourth of the stamp duty is leviable. As per instructions of the department, dead rent or royalty payable on expected quantity of minerals mentioned in the application of lease or in the mining plan whichever is more, should be considered for calculation of stamp duty. Therefore, it becomes essential that when mining plan is modified during currency of the lease according to which the expected quantity of mineral increases, the modified lease deed should be executed and got registered. It was noticed that provision regarding execution of the modified agreement of lease after the mining plan is modified, does not exist in the Mines and Minerals (Regulation and development) Act, 1957, and the Rules made thereunder.

We observed during scrutiny of the records of DMO, Rewa (September 2009) that an agreement of lease for 20 years was executed in February 2006 on which stamp duty and registration fee of ₹ 93,000 was paid on royalty of expected quantity of 3,171.80 ton per year as mentioned in the mining plan. Further, the plan was modified in December 2006 and as per the modified mining plan, the expected revised quantity of mineral was 52,530 ton. Notwithstanding the manifold increase in the earlier quantity, the department did not ask the lessee for execution of modified agreement in accordance with the

modified mining plan. The stamp duty and registration fee leviable on the modified agreement worked out at ₹ 23.46 lakh. Thus, Government was deprived of revenue of ₹ 22.53 lakh. **The Government may consider incorporating a clause in the conditions of mining lease for providing execution of modified agreement in case of modification in the mining plan.**

After we pointed out the cases, the DMO, Rewa stated (September 2009) that necessary action would be taken after investigation. Further progress has not been received (December 2010).

We reported the case to the DGM and the Government (December 2009); their replies have not been received (December 2010).

**Bhopal,  
The**

**(M. RAY BHATTACHARYYA)  
Accountant General  
(Works & Receipt Audit)  
Madhya Pradesh**

*Countersigned*

**New Delhi,  
The**

**(VINOD RAI)  
Comptroller and Auditor General of India**



### **Annexure- A**

Footnote No. 2 (Para 5.2.3)

Alirajpur, Anuppur, Ashoknagar, Ater (Bhind), Badnagar (Ujjain), Bairasiya (Bhopal), Balaghat, Baldeogarh (Tikamgarh), Bina (Sagar), Biora (Rajgarh), Burhanpur, Chhatarpur, Damoh, Dewas, Dhar, Dharampuri (Dhar), Dindori, Gadarwara (Narsinghpur), Gairatganj (Raisen), Gohad (Bhind), Gopadniwas (Sidhi), Guna, Gwalior, Gyaraspur (Vidisha), Harda, Hoshangabad, Huzur (Bhopal), Huzur (Rewa), Indore, Ishagarh (Ashoknagar), Itarsi (Hoshangabad), Jabalpur, Jabera (Damoh), Jaura (Morena), Jawad (Neemuch), Jawra (Ratlam), Jhabua, Jobat (Alirajpur), Kailaras (Morena), Kalapipal (Shajapur), Kasrawad (Khargone), Khargone, Khategaon (Dewas), Lakhanadon (Seoni), Lateri (Vidisha), Maiher (Satna), Mandasaur, Mhow (Indore), Moman Badodiya (Shajapur), Mudwara (Katni), Mungawali (Ashoknagar), Nagda (Ujjain), Narsinghpur, Naugaon (Chhatarpur), Neemuch, Nepanagar (Burhanpur), Pandurna (Chhindwara), Panna, Raisen, Rajgarh, Ratlam, Sagar, Sanver (Indore), Sardarpur (Dhar), Seoda (Datia), Seoni, Seonimalwa (Hoshangabad), Shajapur, Sheopur, Shujalpur (Shajapur), Singrauli, Sironj (Vidisha), Sohagpur (Shahdol), Tendukhera (Damoh), Tikamgarh, Ujjain, Vidisha and Vijaypur (Sheopur).

### **Annexure- B**

Footnote no. 13 (Para 5.2.8.2)

Anuppur, Badnagar (Ujjain), Bairasiya (Bhopal), Balaghat, Baldeogarh (Tikamgarh), Bina (Sagar), Biora (Rajgarh), Chhatarpur, Dindori, Gadarwara (Narsinghpur), Gairatganj (Raisen), Gohad (Bhind), Gopadniwas (Sidhi), Guna, Hoshangabad, Huzur (Bhopal), Huzur (Rewa), Indore, Itarsi (Hoshangabad), Jabera (Damoh), Jaura (Morena), Jawad (Neemuch), Jhabua, Jobat (Alirajpur), Kailaras (Morena), Kalapipal (Shajapur), Kasrawad (Khargone), Khargone, Mandasaur, Moman Badodiya (Shajapur), Mudwara (Katni), Nagda (Ujjain), Naugaon (Chhatarpur), Nepanagar (Burhanpur), Pandurna (Chhindwara), Panna, Raisen, Sanver (Indore), Seoni, Seonimalwa (Hoshangabad), Shajapur, Shujalpur (Shajapur), Singrauli, Sohagpur (Shahdol), Tendukhera (Damoh), Tikamgarh, Ujjain and Vidisha.

### **Annexure- C**

Footnote no.15 (Para 5.2.12)

Badnagar (Ujjain), Baldeogarh (Tikamgarh), Biora (Rajgarh), Chhatarpur, Damoh, Dewas, Dhar, Gadarwara (Narsinghpur), Guna, Harda, Hoshangabad, Itarsi (Hoshagabad), Jabera (Damoh), Jaura (Ratlam), Jobat (Alirajpur), Kasrawad (Khargone), Maiher (Satna), Mandasaur, Mhow (Indore), Neemuch, Nepanagar (Burhanpur), Pandurna (Chhindwara), Panna, Raisen, Ratlam, Shajapur, Shujalpur (Shajapur), Sohagpur (Shahdol) and Vidisha.

**Annexure- D**

Footnote no. 17 (Para 5.2.13)

Alirajpur, Anuppur, Ashoknagar, Balaghat, Baldeogarh (Tikamgarh), Bina (Sagar), Biora (Rajgarh), Burhanpur, Chhatarpur, Damoh, Dewas, Dhar, Dharampuri (Dhar), Dindori, Gadarwara (Narsinghpur), Gairatganj (Raisen), Gohad (Bhind), Gopadniwas (Sidhi), Guna, Gwalior, Harda, Hoshangabad, Huzur (Bhopal), Huzur (Rewa), Indore, Ishagarh (Ashoknagar), Itarsi (Hoshangabad), Jabalpur, Jaber (Damoh), Jaura (Morena), Jawad (Neemuch), Jawra (Ratlam), Jhabua, Jobat (Alirajpur), Kailaras (Morena), Kalapipal (Shajapur), Kasrawad (Khargone), Khargone, Khategaon (Dewas), Lakhanadon (Seoni), Maiher (Satna), Mhow (Indore), Moman Badodiya (Shajapur), Mudwara (Katni), Mungawali (Ashoknagar), Nagda (Ujjain), Narsinghpur, Nepanagar (Burhanpur), Pandurna (Chhindwara), Panna, Raisen, Ratlam, Sagar, Sanver (Indore), Sardarpur (Dhar), Seoda (Datia), Seoni, Seonimalwa (Hoshangabad), Shajapur, Sheopur, Shujalpur (Shajapur), Singrauli, Sohagpur (Shahdol), Tikamgarh, Ujjain, Vidisha and Vijaypur (Sheopur).

**Annexure- E**

Footnote no. 19 (Para 5.2.15.1)

Alirajpur, Ashoknagar, Ater (Bhind), Badnagar (Ujjain), Bairasiya (Bhopal), Baldeogarh (Tikamgarh), Bina (Sagar), Biora (Rajgarh), Chhatarpur, Damoh, Dewas, Dhar, Dharampuri (Dhar), Dindori, Gairatganj (Raisen), Gohad (Bhind), Gopadniwas (Sidhi), Gyaspur (Vidisha), Harda, Hoshangabad, Huzur (Rewa), Ishagarh (Ashoknagar), Itarsi (Hoshangabad), Jabalpur, Jaber (Damoh), Jaura (Morena), Jawad (Neemuch), Jawra (Ratlam), Jhabua, Jobat (Alirajpur), Kailaras (Morena), Kalapipal (Shajapur), Kasrawad (Khargone), Khargone, Lakhanadon (Seoni), Lateri (Vidisha), Maiher (Satna), Mandsaur, Mungawali (Ashoknagar), Nagda (Ujjain), Naugaon (Chhatarpur), Nepanagar (Burhanpur), Pandurna (Chhindwara), Panna, Rajgarh, Sagar, Sanver (Indore), Sardarpur (Dhar), Seoda (Datia), Seoni, Seonimalwa (Hoshangabad), Shajapur, Sheopur, Shujalpur (Shajapur), Singrauli, Sironj (Vidisha), Sohagpur (Shahdol), Tendukhera (Damoh), Tikamgarh, Vidisha and Vijaypur (Sheopur).