

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 Sales Tax, State Excise, Land Revenue, Taxes on Motor Vehicles, Stamp Duty and Registration Fees, Other Tax and Non-Tax Receipts of the State.

The cases mentioned in this Report are among 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, which could not be included in previous reports.

OVERVIEW

This Report contains 31 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) and one performance review on “Assessment, levy and collection of taxes and other receipts in the motor vehicles Department” relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 4.50 crore and audit observations involving financial effect of ₹ 55.17 crore (total ₹ 59.67 crore). Some of the major findings are mentioned below:

I. General

- The total receipts of the State during the year 2009-10 amounted to ₹ 86,821.65 crore, of which the revenue raised by the State Government was ₹ 67,370.30 crore and receipts from the Government of India were ₹ 19,451.35 crore. The revenue raised constituted 78 *per cent* of the total net receipts of the State. The receipts from the Government of India included ₹ 8,248.12 crore on account of the State’s share of divisible Union taxes which registered an increase of 2.86 *per cent* and ₹ 11,203.23 crore as grants-in-aid which decreased by two *per cent* over 2008-09.
(Paragraph 1.1.1)
- At the end of June 2010, 9,811 Inspection Report paragraphs involving ₹ 1,419.02 crore relating to 4,681 inspection reports issued upto 31 December 2009 remained outstanding.
(Paragraph 1.2.1)
- During the period 2001-02 to 2008-09, out of 284 paras involving monetary value of ₹ 10,546.76 crore, the Department/Government accepted audit observations involving ₹ 3,432.03 crore, out of which an amount of ₹ 981.96 crore was recovered till 31 March 2010.
(Paragraph 1.2.6)
- Test check of the records of Sales tax, State excise, Motor vehicles tax, Stamp duty and Registration fees, Land revenue and other departmental offices conducted during the year 2009-10 revealed underassessment, short levy and loss of revenue, etc., amounting to ₹ 1,934.54 crore in 23,730 cases. The concerned Departments accepted underassessment, short levy, etc., of ₹ 23.95 crore in 3,625 cases pointed out in 2009-10 and earlier years and recovered ₹ 12.09 crore.
(Paragraph 1.5.1)

II. Sales tax

- Failure to register 169 licenced dealers of sand resulted in non-realisation of Value Added Tax of ₹ 2.77 crore.
(Paragraph 2.3.1)
- Incorrect grant of concessional rate of tax to two dealers resulted in underassessment of tax of ₹ 21.25 lakh.
(Paragraph 2.3.3)
- Non-levy of interest/purchase tax resulted in non-realisation of Government revenue of ₹ 16.54 lakh.
(Paragraph 2.3.4 and 2.3.5)

III. Stamp duty and registration fees

- Undervaluation of property resulted in short levy of stamp duty of ₹ 4.05 crore.
(Paragraph 3.3.1)
- Incorrect application of rate of stamp duty resulted in short levy of stamp duty of ₹ 0.32 crore in two cases.
(Paragraph 3.3.2)
- Incorrect application of market value resulted in short levy of stamp duty of ₹ 0.24 crore.
(Paragraph 3.3.3)

IV. Land Revenue

- Short levy and recovery of non-agricultural assessment amounting to ₹ 2.80 crore due to non-application of prescribed rates.
(Paragraph 4.3.1)

V. Taxes on Motor vehicles and State Excise

A review on “Assessment, levy and collection of taxes and other receipts in the motor vehicles Department” revealed as under:

- Lack of adequate follow up action by the Department resulted in huge accumulation of arrears of ₹ 230.61 crore in respect of fleet owners, Transport Undertakings of Municipal Corporations operators of stage carriages and motor vehicle owners.
(Paragraph 5.2.7.1 and 5.2.7.2)
- Internal controls in the Department were weak as evidenced from shortfalls in internal inspections of Dy. RTOs and Border Check Posts. The internal audit was inadequate and ineffective due to absence of internal audit in 13 offices and huge pendency of observations.
(Paragraph 5.2.8.1(i) and 5.2.8.1(ii))

- Non-application of revised rates, incorrect application of rate of tax, etc., resulted in short levy of tax of ₹ 1.37 crore in respect of 215 vehicles.

(Paragraph 5.2.10.1)

- Incorrect grant of exemption from tax in respect of 132 vehicles resulted in short levy of tax of ₹ 26.84 lakh.

(Paragraph 5.2.12.1 to 5.2.12.2)

- Non-application of revised rates for choice registration marks resulted in short recovery of fees of ₹ 42.99 lakh in respect of 172 vehicles.

(Paragraph 5.2.13)

- The Department did not take prompt action against those vehicle owners who had dishonoured cheques relating to payment of Motor Vehicle Taxes. The Department also delayed presentation of demand drafts within their time limits to the banks resulting in return of these drafts by the banks. The revenue involved in 695 cases was ₹ 1.34 crore.

(Paragraph 5.2.16.1 and 5.2.16.2)

- Non-inspection of 10,58,218 vehicles for fitness during the period 2004-05 to 2008-09 resulted in jeopardising public safety and also non-recovery of inspection fees of ₹ 21.16 crore.

(Paragraph 5.2.17)

- Application of incorrect population slab resulted in short recovery of licence fees of ₹ 1.67 crore

(Paragraph 5.5.1)

VI. Other tax receipts

- Non/short recovery of entertainment duty from 261 cable operators resulted in non-realisation of ₹ 81.18 lakh.

(Paragraph 6.3.1)

- Short levy of tax on sale of electricity and non-levy of interest on delayed remittance of tax amounted to ₹ 92.94 lakh.

(Paragraph 6.8)

- Non-recovery of inspection fees from 726 consumers amounted to ₹ 1.41 crore.

(Paragraph 6.10)

- Non-enrolment of 17,707 medical practitioners liable for enrolment under the Profession Tax Act resulted in non-realisation of ₹ 18.76 crore.

(Paragraph 6.11)

VII. Non-tax receipts

- Guarantee fees and penal interest of ₹ 18.14 crore was not recovered from Maharashtra State Financial Corporation for periods between April 2006 and March 2009.
(Paragraph 7.2)
- Non-recovery of escort charges for deployment of police amounted to ₹ 1.35 crore.
(Paragraph 7.3)

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

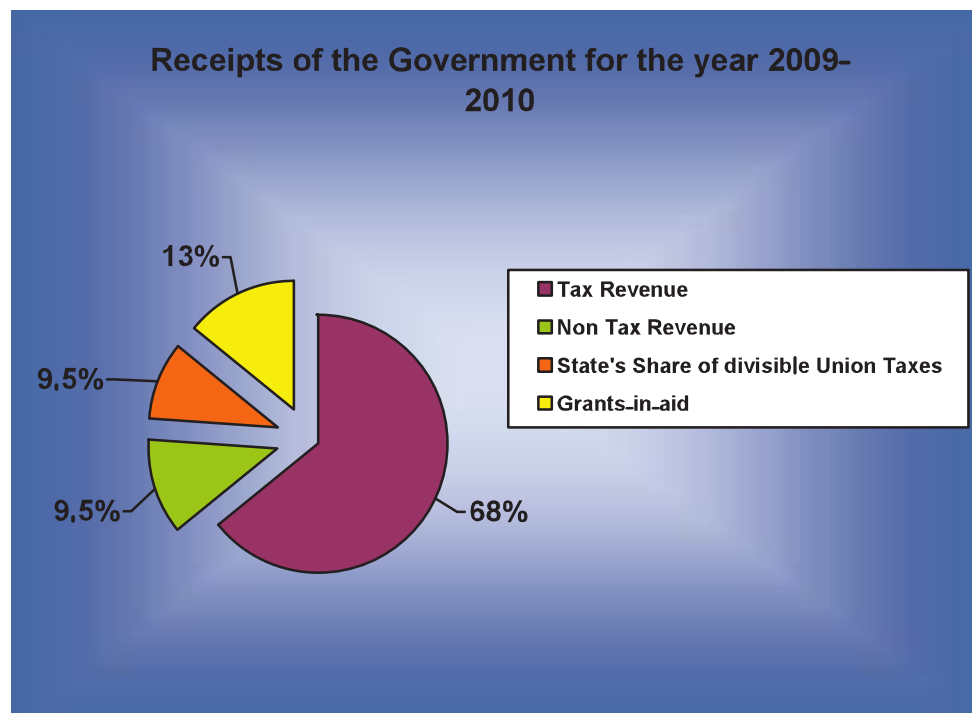
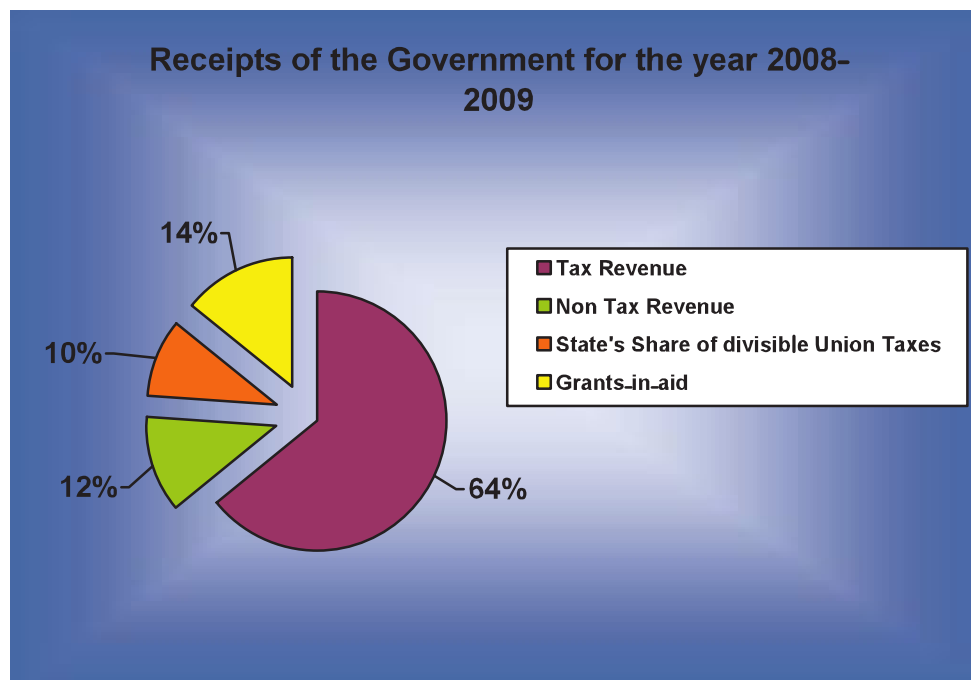
1.1.1 The tax and non-tax revenue raised by the Government of Maharashtra during the year 2009-10, the State's share of divisible Union taxes, grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)						
Sl. no.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
I.	Revenue raised by the State Government					
	• Tax revenue	33,540.24	40,099.24	47,528.41	52,029.94	59,106.33
	• Non-tax revenue ¹	5,167.92 (5,935.05)	6,706.50 (7,518.25)	16,935.25 (16,947.97)	9,750.77 (9,789.94)	8,263.97 (8,352.61)
	Total	38,708.16 (39,475.29)	46,805.74 (47,617.49)	64,463.66 (64,476.38)	61,780.71 (61,819.88)	67,370.30 (67,458.94)
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	4,982.00	6,022.76	7,597.22	8,018.41	8,248.12
	• Grants-in-aid	3,981.00	8,555.13	7,509.55	11,432.39	11,203.23
	Total	8,963.00	14,577.89	15,106.77	19,450.80	19,451.35
III.	Total revenue receipts of the State Government	47,671.16 (48,438.29)	61,383.63 (62,195.38)	79,570.43 (79,583.15)	81,231.51 (81,270.68)	86,821.65 (86,910.29)
IV.	Percentage of I to III	81	76	81	76	78

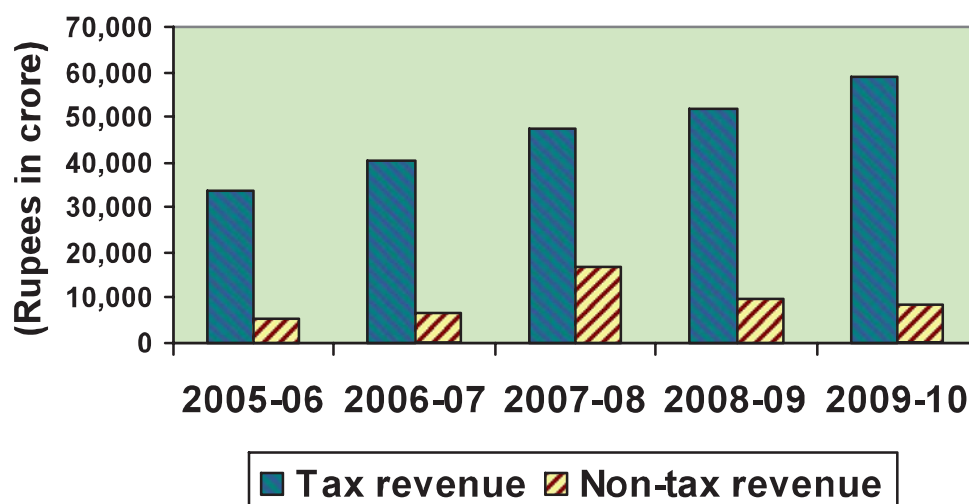
The above table indicates that during the year 2009-10, the revenue raised by the State Government was *78 per cent* of the total net revenue receipts (₹ 86,821.65 crore) against *76 per cent* in 2008-09. The balance *22 per cent* of receipts during 2009-10 was received from the Government of India.

¹ Figures in brackets indicate gross receipts, the details of which are available in Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Maharashtra for the year 2009-10. The figures above those in brackets are lower because of netting of expenditure on prize winning tickets from Lottery receipts. Further, figures under the heads '0020 - corporation tax, 0021 - taxes on income other than corporation tax, 0028 - other taxes on income and expenditure, 0032 - wealth tax, 0037 - customs, 0038 - Union excise duties, 0044 - service tax and 0045 - other taxes and duties on commodities and services' - share of net proceeds assigned to the State booked in the Finance Accounts under 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.

The comparative figures of sources of revenue for 2008-09 and 2009-10 and trend of growth of tax and non-tax revenue during the period 2005-06 to 2009-10 are shown below in the pie charts and the bar chart.



**Growth of tax and non-tax revenue
from 2005-06 to 2009-10**



As can be seen from the bar chart the tax revenue of the State increased by 76 *per cent* in 2009-10 as compared to 2005-06 and the non-tax revenue increased by 228 *per cent* in 2007-08 as compared to 2005-06 and then decreased by 51 *per cent* in 2009-10 as compared to 2007-08.

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

(Rupees 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.	Sales tax/VAT						
	• State sales tax, VAT etc.	17,358.56	21,583.06	24,368.22	27,805.30	30,170.70	(+)8.51
	• Central sales tax	2,318.18	2,547.66	2,384.58	2,875.23	2,505.32	(-)12.87
2.	State excise	2,823.85	3,300.70	3,963.05	4,433.76	5,056.63	(+)14.05
3.	Stamp duty and registration fees	5,265.86	6,415.72	8,549.57	8,287.63	10,773.65	(+)30.00
4.	Taxes and duties on electricity	1,660.87	1,577.19	2,687.87	2,394.86	3,289.32	(+)37.35
5.	Taxes on vehicles	1,309.11	1,841.06	2,143.11	2,220.22	2,682.30	(+)20.81
6.	Taxes on goods and passengers	504.63	224.48	388.27	891.95	976.60	(+)9.49

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
7.	Other taxes on income and expenditure- taxes on professions, trades, callings and employments	1,157.70	1,246.72	1,488.26	1,561.17	1,612.35	(+)3.28
8.	Other taxes and duties on commodities and services	712.40	878.31	1,043.17	1,013.58	1,325.39	(+)30.76
9.	Land revenue	428.97	484.17	512.22	546.22	714.04	(+)30.72
10.	Service tax	0.11	0.17	0.09	0.02	0.03	(+)50.00
	Total	33,540.24	40,099.24	47,528.41	52,029.94	59,106.33	

The reasons for significant variations in the receipts in 2009-10 from that of 2008-09 in respect of principal heads of revenue are as under:

State Excise: The increase was mainly due to increase in rates of state excise duties on country fermented liquors (90 *per cent*), on sale of commercial and denatured spirits and medicated wines (585 *per cent*) and medicinal and toilet preparations containing alcohol, opium, etc., (105 *per cent*).

Stamp duty and registration fees : The increase is mainly due to increase in receipts on account of court fees realised from stamps and increase in sale of stamps under the sub head “Stamps judicial” which increased by 37 *per cent* and 158 *per cent*, respectively. Increase was also due to increase in duty on impressing of documents, sale of stamps and other receipts under the sub head Stamps “Non-judicial” which increased by 21 *per cent*, 39 *per cent* and 475 *per cent*, respectively. Under the sub head “registration fees” there was an increase in fees for registering documents and “other receipts” which increased by 32 *per cent* and 263 *per cent*, respectively.

Taxes and duties on electricity: The increase was due to increase in rate of electricity duty and tax on sale of electricity which resulted in increase under the sub heads taxes “consumption and sale of electricity” and “fees collected under the Indian Electricity Rules” which increased by 38 *per cent* and 37 *per cent*.

Taxes on vehicles: The increase was mainly due to increase in receipts of motor vehicles tax which increased by 29 *per cent*.

Other taxes and duties on commodities and services: The increase was mainly due to increase in receipts under the detailed heads - betting tax, education cess, health cess, cesses under other Acts and “other receipts” which increased by 61, 64, 275, 158 and 300 *per cent*, respectively.

Land Revenue: The increase was due to increase in receipts under land revenue tax, receipts from sale of Government estates and “other receipts” which increased by 41, 39 and 26 *per cent*, respectively.

The Departments did not inform (November 2010) the reasons for variation, despite being requested (April 2010), hence the reason for variations have been taken from the Finance Accounts.

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

(Rupees 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.	Interest receipts	1,737.24	2,503.92	1,170.17	1,016.67	1,342.00	(+)32.00
2.	Dairy development	612.25	611.87	453.60	471.01	487.30	(+)3.46
3.	Other non-tax receipts	614.21	696.03	953.87	1,200.60	1,681.01	(+)40.01
4.	Forestry and wild life	92.02	121.37	195.73	259.76	226.48	(-)12.81
5.	Non-ferrous mining and metallurgical industries	698.00	819.44	1,091.19	1,215.67	1,466.73	(+)20.65
6.	Miscellaneous general ² services (including lottery receipts)	390.69	801.64	11,509.38	3,913.08	979.89	(-)74.96
7.	Power	174.61	133.83	344.07	413.28	456.61	(+)10.48
8.	Major and medium irrigation	372.39	444.93	626.41	631.77	812.58	(+)28.62
9.	Medical and public health	126.92	159.20	170.69	131.22	234.30	(+)78.56
10.	Co-operation	55.76	64.46	67.72	87.78	97.28	(+)10.82
11.	Public works	88.82	154.09	101.91	154.77	162.31	(+)4.87
12.	Police	106.60	101.84	140.20	137.27	163.45	(+)19.07
13.	Other administrative services	98.41	93.88	110.31	117.89	154.03	(+)30.66
Total		5,167.92	6,706.50	16,935.25	9,750.77	8,263.97	

The reasons for variations in the receipts for 2009-10 from that of 2008-09, in respect of principal heads of revenue though called for (April 2010) from

² Net of expenditure on prize winning lottery tickets.

concerned Departments were not furnished (November 2010). However, some of the significant variations in the receipts during 2009-10 over those of the previous year as seen from Finance Accounts were as follows:

Interest receipts: The increase was due to increase in receipts of interest realised on investment of cash balances and interest received from Public Sectors and other undertakings which increased by 181 and 111 *per cent*, respectively.

Other non-tax receipts: The increase was mainly due to increase in receipts under “family welfare” (336 *per cent*), “water supply and sanitation” (274 *per cent*), “other social services” (217 *per cent*) and “other rural development” (511 *per cent*).

Non-ferrous, mining and metallurgical industries: The increase was due to increase in receipts under the sub-head “mineral concession fees, rents and royalties” which increased by 32 *per cent*.

Miscellaneous General Services: The decrease was due to decrease in receipts of guarantee fees by 84 *per cent*.

Major and medium Irrigation : The increase in receipts was mainly due to increase in receipts from major irrigation projects - Amba, Bhatsa, Chankapur, Nimna-Terna, Purna, Vaitarna, Warna, Chaskaman and medium irrigation-commercial project.

Medical and public health: The increase was mainly due to increase in receipts from patients for hospital and dispensary services, Employees’ State Insurance Scheme and from drug manufactures under Urban Health Services and receipts/contributions from patients and others and other receipts under Rural Health Services and other systems under medical education, training and research.

Police: The increase was mainly due to increase in receipts on account of police supplied to other parties and fees, fines and forfeitures which increased by 126 and 38 *per cent*, respectively.

Other Administrative Services: The increase was mainly due to increase in receipts on account of sale proceeds of election forms and documents, fees, fines and forfeitures and other receipts which increased by 208, 849 and 335 *per cent*, respectively.

The Departments did not inform (November 2010) the reasons for variation, despite being requested (April 2010), hence the reason for variations were based on the Finance Accounts.

1.2 Response of the Departments/Government to audit observations

The offices of the Principal Accountant General (Audit)-I, Mumbai and the Accountant General (Audit)-II, Nagpur (AsG) arrange to conduct periodical inspections of the various offices of the Government Departments to test

check transactions of the tax and non-tax receipts and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. After inspections by field parties inspection reports (IRs) are issued to the heads of offices, with copies of the same to the next higher authorities. The Government of Maharashtra, Finance Department's circular dated 10 July 1967 provides for response by the executive to the IRs issued by the offices of the AsG, within one month, after ensuring action in compliance to the observations made during audit inspections. Serious irregularities are also brought to the notice of the heads of Departments by the offices of the AsG. Half yearly reports are sent to the secretaries of the concerned Departments in respect of the pending IRs to facilitate the monitoring of audit observations.

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

Scrutiny of the inspection reports issued upto 31 December 2009 revealed that 9,811 observations relating to 4,681 IRs involving ₹ 1,419.02 crore, remained outstanding at the end of June 2010 as mentioned below, alongwith the corresponding figures for the preceding two years.

	2007-08 June	2008-09 June	2009-10 June
Number of outstanding IRs	4,566	4,672	4,681
Number of outstanding audit observations	10,037	10,101	9,811
Amount involved (Rupees in crore)	1,009.19	1,154.08	1,419.02

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 (Rupees in crore)
1.	Finance	Taxes/VAT on sales, trade, etc	1,368	3,408	169.38
2.	Revenue and Forest	Land Revenue	1,207	2,361	590.66
3.	Relief and Rehabilitation	Stamp duty and registration fees	945	2,218	378.82
4.	Revenue and Forest	Forest receipts	164	293	56.67
5.	Home	State Excise	115	195	4.51
6.	Home	Motor Vehicle tax	173	332	21.25
7.	Revenue and Forest	Entertainment Duty	265	421	9.58
8.	Finance	Profession Tax	105	143	1.12
9.	Urban Development	Repair Cess	8	9	2.63

10.	Urban Development	Residential Premises Tax	46	54	0.22
11.	Revenue and Forest	Education Cess and Employment Guarantee Cess	78	120	9.00
12.	Industry, Energy and Labour	Electricity duty	55	80	129.44
13.	Home, Irrigation, Revenue and Forest, Public Works, Agriculture & Co-operation, Industry, Energy and Labour, Education	Non-tax	152	177	45.74
	Total		4,681	9,811	1,419.02

In respect of the above observations, 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 in respect of 1,940 observations relating to 661 IRs, issued upto December 2009 involving revenue of ₹ 145.10 crore. Huge 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 have failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AsG in the IRs.

It is recommended that the Government takes suitable steps to evolve a mechanism 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 schedule 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 (ACM) held during the year 2009-10 and the paragraph settled are mentioned below:

(Rupees in crore)					
Administrative Department	Head of revenue	Number of meetings held	No. of paras discussed	Number of paragraphs settled	Amount
Finance	Sales tax	10	2,884	1,411	41.26
	Profession tax	1	105	22	0.23
Home	Motor vehicle tax	2	213	47	0.38
	State Excise	1	35	11	0.01

Revenue and Forest	Land Revenue	1	92	69	0.84
	Forest	1	45	37	14.90
	Entertainments duty	1	154	24	0.12
Urban Development	Education cess and employment guarantee cess	1	53	0	0
	Residential premises tax	1	38	0	0
Total		19	3,619	1,621	57.74

As can be seen from above, as against 3,619 paras discussed 1,621 (45 *per cent*) could be settled in the meetings, indicating that the Departments were not adequately prepared with full and final compliance in respect of the audit observations made in the local audit reports. Meetings were held only by four Departments. No meetings were held by the Industry, Energy and Labour, Public Works, Irrigation, and Agriculture and Co-operation Departments. As 9,811 paras were outstanding at the end of June 2010, it indicates that the machinery created for this purpose was not put to use effectively.

The Government may take proactive action to send replies in advance so that more number of paras could be settled in the ACM. Special efforts may also be made to comply to the old outstanding paras.

1.2.3 Non-production of records to Audit for scrutiny

The programme of local audit of Sales Tax/VAT receipts Offices is drawn up in advance and intimations are issued, usually much before the commencement of audit to the Department to enable them to keep the relevant records ready for audit scrutiny.

Upto 2009-10, 466 tax records of dealers whose returns were examined/accepted by the Sales Tax Department, for the audit periods 2001-02, 2002-03 and 2004-05 to 2009-10, were not made available to audit during those years. Out of this, in respect of 351 tax records, tax involved was ₹ 144.56 crore and in the remaining 115 cases the tax effect was not available in the Departmental records during audit. Of the 466 cases, 111 cases pertained to 32 units in which examination/acceptance of returns of major dealers are dealt with. Year wise break up of such cases are given below:

(Rupees in lakh)					
Name of Office	Year in which it was to be audited	Number of assessment cases not audited	Number of cases in which revenue involved could not be ascertained	Number of cases in which revenue involved could be ascertained	Revenue involved
Sales Tax Department	2001-02	1	1	-	-
	2002-03	16	11	5	4.54
	2004-05	6	4	2	95.81
	2005-06	4	2	2	2.19
	2006-07	14	3	11	306.26
	2007-08	60	12	48	355.16
	2008-09	61	11	50	1,538.33
	2009-10	304	71	233	12,153.36
	Total	466	115	351	14,455.65

Though these units are audited annually, 162 out of 466 tax records involving revenue of ₹ 20.02 crore though requisitioned during the audits of these units in subsequent years were not made available to audit (November 2010).

The Government/Department may ensure that the tax records are made available to audit during the audit period itself so that any underassessment/short recovery of tax involved in these cases could be pointed out by audit for timely action.

1.2.4 Response of the Departments to draft audit paragraphs

The Finance Department had issued directions to all the Departments in July 1967 to send their responses to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs were forwarded by Audit to the secretaries of the concerned Departments through demi-official letters, drawing their attention to the audit findings and requesting them to send their response within the prescribed time. The fact of non-receipt of replies from the Government was invariably indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs (clubbed into 32 paragraphs) included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 were forwarded to the secretaries of the respective Departments between April 2010 and August 2010 through demi-official letters. Replies to most of the paragraphs (clubbed into 32 paragraphs) have not been received. Such paragraphs have been included in this report.

1.2.5 Follow-up on Audit Reports - summarised position

According to the instructions issued by the Finance Department, all the Departments were required to furnish explanatory memoranda, vetted by Audit, to the Maharashtra Legislative Secretariat, in respect of paragraphs included in the Audit Reports, within one month of their being laid on the table of the House.

A review of the outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) which were still to be discussed by the Public Accounts Committee (PAC), disclosed that as on 30 September 2010, the Departments had not submitted remedial explanatory memoranda on 61 paragraphs for the years from 1997-98 to 2007-08 (excluding 1999-2000)³ as detailed below:

Sl. no.	Name of the department	1997-98	1998-99	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	Total
1.	Revenue and forests	3	2	--	5	--	3	2	2	6	5	28
2.	Finance	--	--	--	--	--	--	--	--	2	1	3
3.	Home	--	--	--	--	--	--	--	2	--	8	10
4.	Urban development	--	--	1	2	1	--	--	--	--	--	4
5.	Industries, energy and labour	--	--	--	1	--	--	--	--	1	2	4
6.	Relief and rehabilitation	--	3	--	1	1	--	--	3	1	--	9
7.	Co-operation	--	--	--	--	--	1	--	--	1	--	2
8.	Public Works Department	--	--	--	--	--	1	--	--	--	--	1
Total		3	5	1	9	2	5	2	7	11	16	61

With a view to ensure accountability of the executive in respect of all the issues dealt with in the Audit Reports, the PAC lays down in each case, the period within which action taken notes (ATNs) on its recommendations should be sent.

The PAC discussed 204 selected paragraphs pertaining to the Audit Reports for the years from 1986-87 to 2002-03 and its recommendations on 82 paragraphs were incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, 14th and 18th Reports (1996-97), 21st Report (1997-98), 5th Report (2000-01), 12th Report (2002-03), 5th Report (2006-07) and 6th Report (2007-08). However, ATNs have not been received in respect of 46 recommendations of the PAC from the Departments concerned as mentioned in the following table:

³ 1999-2000 – Explanatory memoranda were received and the Audit Report discussed.

Year	Name of the department					Total
	Home	Finance	Revenue and Forest	Industries, Energy and Labour	Relief and Rehabilitation	
1986-87	—	—	1	—	—	1
1987-88	—	1	—	—	—	1
1988-89	—	1	—	—	—	1
1989-90	1	2	4	—	—	7
1990-91	7	4	2	—	—	13
1991-92	1	—	—	1	1	3
1992-93	1	—	1	1	—	3
1993-94	3	1	2	—	—	6
1995-96	—	—	1	—	—	1
1996-97	—	—	—	—	1	1
1997-98	—	1	3	—	—	4
1998-99	—	1	4	—	—	5
Total	13	11	18	2	2	46

1.2.6 Compliance to the earlier Audit Reports

During the period from 2001-02 to 2008-09, the Departments/Government accepted audit observations involving ₹ 3,432.03 crore, out of which an amount of ₹ 981.96 crore had been recovered till 31 March 2010 as mentioned below:

Year of Audit Report	Total money value	Accepted money value	(Rupees in crore)
			Recovery made
2001-02 to 2004-05	4,295.04	1,787.80	816.33
2005-06	1,332.03	123.15	19.73
2006-07	854.63	495.92	8.77
2007-08	818.90	167.44	53.51
2008-09	3,246.16	857.72	83.62
Total	10,546.76	3,432.03	981.96

Despite the matter being taken up with the concerned secretaries a number of times, the position relating to recovery of dues as pointed out by audit, remains highly unsatisfactory.

The Government may institute a mechanism to monitor the position of recoveries pointed out in the audit reports and take effective steps to recover the amounts early.

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 and 1.3.2 discuss the performance of the State Excise Department to deal with the cases detected in the course of local audit conducted during the periods 2002-2003 to 2008-2009.

1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last seven years, paragraphs included in these reports and their status as on 31.3.2010 are tabulated below:

(Rupees in lakh)

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
2002-03 ⁴	72	94	180.27	48	87	43.98	64	100	185.26	56	81	38.99
2003-04	56	81	38.99	54	140	833.44	26	66	26.72	84	155	845.71
2004-05	84	155	845.71	71	147	189.53	61	140	162.63	94	162	872.61
2005-06	94	162	872.61	69	140	401.21	65	146	176.42	94	156	1097.40
2006-07	98	156	1097.40	67	118	188.14	57	114	553.84	108	160	731.70
2007-08	108	160	731.70	61	103	42.25	57	102	137.27	112	161	636.68
2008-09	112	161	636.68	95	200	308.33	67	143	333.17	140	228	611.84

During the period between 2002-03 to 2007-08, five ACMs were conducted by the Department, out of which in four ACMs 178 paras were discussed and 48 paras were cleared.

The Department may make effective use of the machinery created for settling outstanding audit observations.

In order to obtain speedy compliance to the outstanding paras statement of such paras are forwarded to the concerned Departments of the Government in January and July every year. The outstanding paras are also pursued through periodic references to the concerned offices and also through the field parties which visit these offices for audit in the subsequent years. Further, apart from the ACMs regular meetings are also held with heads of offices for discussion of issues wherein the Departmental views do not concur with the audit observation.

1.3.2 Recovery of accepted cases

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

⁴ The position is from May 2002.

(Rupees in lakh)						
Year of Audit Report ⁵	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2002-03	1	5.37	1	5.00	5.00	5.00
2004-05	1	104.65	1	42.18	42.18	42.18
2005-06	1	76.36	1	49.71	49.71	61.31
2006-07	2	260.60	2	260.60	217.53	230.02
2007-08	4	6,607.15	3	232.75	17.90	30.55
2008-09	1	18.62	1	18.27	10.13	18.27
Total	10	7,072.75	9	608.51	342.45	387.33

As seen from the above table, out of 10 paras involving ₹ 70.73 crore, nine paras involving ₹ 6.09 crore, were accepted by the Department. The amount recovered in respect of these paragraphs was ₹ 3.42 crore (November 2010).

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority.

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 5 years, features of the tax administration, audit coverage and its impact during past 5 years etc.

During the year 2009-10, the audit universe comprised of 2,865 auditable units, of which 991 units were planned and audited which is 35 *per cent* of the total auditable units. The details are shown in the **Annexure**.

Besides, the compliance audit mentioned above, one performance review was also taken up to examine the efficacy of the tax administration of these receipts.

⁵ There were no paragraphs on state excise during the years 2000-01, 2001-02 and 2003-04.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

Test check of the records of 991 units of sales tax, stamp duty and registration fees, land revenue, motor vehicles tax, state excise, other tax receipts, forest receipts and other non-tax receipts conducted during 2009-10 (except paragraph No. 6.4, 6.5 & 6.6.1 which were noticed in audit during May 2010) revealed underassessments/short levy/loss of revenue amounting to ₹ 1,934.54 crore in 23,730 cases. During the course of the year, the Departments accepted underassessments of ₹ 23.95 crore in 3,625 cases of which 819 cases involving ₹ 7.67 crore were pointed out in 2009-10 and rest in earlier years. The Departments collected ₹ 12.09 crore during 2009-10.

1.5.2 This Report

This report contains 31 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) and one performance review on “Assessment, levy and collection of taxes and other receipts in the motor vehicles Department” relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 4.50 crore and audit observations involving financial effect of ₹ 55.17 crore (total ₹ 59.67 crore). The Departments/Government have accepted audit observations involving ₹ 19.37 crore, out of which ₹ 2.39 crore has been recovered. The replies in the remaining cases have not been received (November 2010). These are discussed in succeeding chapters II to VII.

CHAPTER-II: SALES TAX

2.1 Introduction

2.1.1 Tax revenue administration

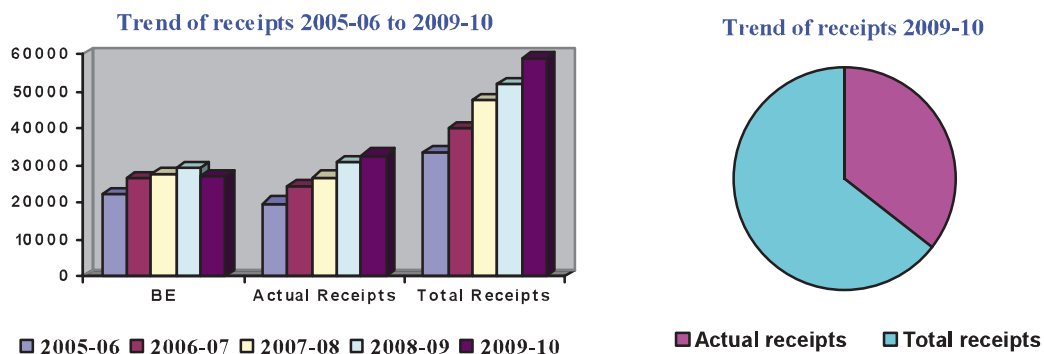
Levy and collection of receipts under the sales tax are regulated by the Maharashtra Value Added Tax (MVAT) Act, 2002 and MVAT Rules, 2005, read with notifications issued by the Government from time to time as well as circular instructions issued by the Sales Tax Department. The Act, Rules and instructions are implemented by the Commissioner of Sales Tax under the overall control of the Principal Secretary to the Government in Finance Department, assisted by the zonal Additional Commissioners of Sales Tax, Joint Commissioners of Sales Tax in respect of functional branches and Deputy Commissioners of Sales Tax and other officers at divisional level. The sales tax receipts mainly comprises of tax on sales, trade etc. The sales tax Department is also in the process of completing the pending assessment under the erstwhile Bombay Sales Tax Act and allied Acts.

2.1.2 Trend of receipts

Actual receipts from Sales tax, Value Added Tax (VAT), etc., during the years 2005-06 to 2009-10 alongwith the total tax receipts during the same period is exhibited in the following table and graphs.

(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	22,128.41	19,676.74	(-) 2,451.67	(-) 11.08	33,540.24	58.67
2006-07	26,314.51	24,130.72	(-) 2,183.79	(-) 8.30	40,099.24	60.18
2007-08	27,465.00	26,752.80	(-) 712.20	(-) 2.59	47,528.41	56.29
2008-09	29,039.00	30,680.53	(+) 1,641.53	(+) 5.65	52,029.94	58.97
2009-10	27,006.00	32,676.02	(+) 5,670.02	(+) 21.00	59,106.33	55.28

As can be seen from the above table, the revenue collection under VAT increased by 66 *per cent* in 2009-10 as compared to 2005-06.



The variation between the budget estimates and actual receipts for the year 2009-10 was 21 *per cent* which indicates that the budget estimates were not realistic.

2.1.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 in respect of sales tax/VAT as furnished by the Department amounted to ₹ 38,357.32 crore, of which ₹ 30,991.47 crore had been outstanding for more than five years, as mentioned in the following table:

(Rupees in crore)

Sl. no.	Head of revenue	Amount outstanding as on 31 March 2010	Amount outstanding for more than five years as on 31 March 2010	Remarks
1.	Sales tax, etc.	38,357.32	30,991.47	Stay orders were granted by the appellate authorities for ₹ 18,097.80 crore; recovery proceedings for ₹ 10,413.42 crore were not initiated as the time limit was not over and the remaining amount was in various stages of recovery.

2.1.4 Arrears in assessment

The following table shows the details of pending Sales tax assessment cases for the years 2007-08, 2008-09 and 2009-10 as furnished by the Departments:

Year	Opening balance	New cases due for assessment	Total assessments due	Disposal			Balance at the end of the year	Percentage of column 8 to 4
				Cases not to be assessed ¹	Cases disposed off	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Sales tax								
2007-08	9,19,504	Nil	9,19,504	2,86,634	95,755	3,82,389	5,37,115	58
2008-09	5,37,115	91,024	6,28,139	3,04,881	1,39,266	4,44,147	1,83,992	29
2009-10	1,83,992	1,20,248	3,04,240	91,524	1,29,990	2,21,514	82,726	27
Motor spirit tax								
2007-08	7,610	Nil	7,610	531	303	834	6,776	89
2008-09	6,776	102	6,878	2,384	152	2,536	4,342	63
2009-10	4,342	86	4,428	1,037	142	1,179	3,249	73
Purchase tax on sugarcane								
2007-08	709	3	712	—	68	68	644	90
2008-09	644	313	957	9	67	76	881	92
2009-10	881	144	1,025	51	57	108	917	89
Entry tax								
2007-08	366	496	862	—	809	809	53	6
2008-09	53	96	149	34	50	84	65	44
2009-10	65	308	373	36	259	295	78	21
Lease tax								
2007-08	5,551	Nil	5,551	475	322	797	4,754	86
2008-09	4,754	407	5,161	477	448	925	4,236	82
2009-10	4,236	363	4,599	1,015	448	1,463	3,136	68
Luxury tax								
2007-08	7,290	388	7,678	—	1,535	1,535	6,143	80
2008-09	6,143	3,547	9,690	1,455	2,040	3,495	6,195	64
2009-10	6,195	2,113	8,308	1,168	2,397	3,565	4,743	57
Tax on works contracts								
2007-08	1,55,862	Nil	1,55,862	9,501	5,146	14,647	1,41,215	91
2008-09	1,41,215	4,814	1,46,029	17,159	6,362	23,521	1,22,508	84
2009-10	1,22,508	13,311	1,35,819	31,833	15,707	47,540	88,279	65
Total								
2007-08	10,96,892	887	10,97,779	2,97,141	1,03,938	4,01,079	6,96,700	
2008-09	6,96,700	1,00,303	7,97,003	3,26,399	1,48,385	4,74,784	3,22,219	
2009-10	3,22,219	1,36,573	4,58,792	1,26,664	1,49,000	2,75,664	1,83,128	

Though five years have passed since introduction of VAT, 1,83,128 assessments pertaining to erstwhile Bombay Sales Tax Act and allied Acts are still pending. Immediate steps may be taken to complete these assessments within a definite time frame.

¹ These cases were not to be assessed according to the Government Resolution dated 5 January 2007.

2.1.5 Assessee Profile

During the year 2009-10 the position regarding number of dealers, dealers who failed to file returns in time and action taken by the Department was as under:

No of dealers	No of defaulters	Action Taken			Pending Action	Penalty levied
		Show cause notice ² issued	Unilateral Assessment Order passed	Prosecution lodged		No. of cases/ Amount (₹)
5,74,375	30,485	58,995	5,243	98	15	1,121/ 69.04

2.1.6 Cost of collection

The gross collection in respect of Value Added Tax, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2007-08, 2008-09 and 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the year 2008-09 are given in the following table:

Sl. no.	Head of revenue	Year	Gross collection ³	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2008-09
1.	Sales tax/ VAT	2007-08	26,752.80	155.53	0.58	0.88
		2008-09	30,680.53	216.38	0.71	
		2009-10	32,676.02	283.65	0.87	

As seen from the above, the cost of collection in the State of Maharashtra, during the periods 2007-08 to 2009-10 is less as compared to the all India average for the year 2008-09.

2.1.7 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessments of sales tax, entry tax and luxury tax for the year 2009-10

² Depending upon the periodicity of returns, namely monthly, quarterly or six monthly.

³ Figures as per the Finance Accounts.

and the corresponding figures for the preceding two years as furnished by the Department is as mentioned in the following table:

(Rupees in crore)							
Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales tax/VAT, etc.	2007-08	28,903.67	324.84	43.02	2,709.67	26,561.86	109
	2008-09	32,234.87	248.10	—	2,057.84	30,425.13	106
	2009-10	34,438.67	660.30 ⁴	—	2,616.14	32,482.83	106
Entry tax	2007-08	4.43	2.84	0.35	Nil	7.62	58
	2008-09	5.04	0.20	—	Nil	5.24	96
	2009-10	6.65	2.66	—	Nil	9.31	71
Luxury tax	2007-08	246.25	42.56	19.45	Nil	308.26	80
	2008-09	261.48	1.18	—	Nil	262.66	100
	2009-10	211.41	3.27	—	Nil	214.68	98

The above table shows that collection of revenue at the pre-assessment stage in respect of sales tax/VAT ranged between 106 and 109 *per cent* during 2007-08 to 2009-10. This indicates that the VAT collection is mainly through voluntary compliance. During the period 2007-08 to 2009-10, the amount collected at the pre-assessment stage was more than the amount due to the Government resulting in refunds aggregating ₹ 7,383.65 crore. The revenue collected after regular assessment was quite low.

2.1.8 Impact of Audit Reports

Revenue impact

During the last five years, 2004-05 to 2008-09, we had pointed out cases of underassessments/non/short levy/loss of revenue of sales tax, etc., interest and other irregularities with revenue implication of ₹ 2,059.95 crore in 1,272 cases. Of these, the Department had accepted audit observations in 604 cases involving ₹ 544.38 crore and had recovered ₹ 8.81 crore in 237 cases. The details are shown in the following table:

⁴ Figure includes penalties for delay in payment of sales tax, etc. bifurcation of which was not made available.

Year	Amount objected		Amount accepted		(Rupees in crore) Amount recovered	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	254	175.42	178	25.84	134	6.90
2005-06	171	19.60	110	11.90	60	1.35
2006-07	83	8.97	83	8.97	28	0.52
2007-08	187	41.74	167	9.21	15	0.04
2008-09	577	1,814.22	66	488.46	-	-
Total	1,272	2,059.95	604	544.38	237	8.81

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority.

2.1.9 Results of audit

We reported underassessment/short levy/loss of revenue etc., amounting to ₹ 547.72 crore in 724 cases as shown below on the basis of test check of the records of the Sales Tax Department conducted during the year 2009-10:

Sl. no.	Category	(Rupees in crore)	
		No. of cases	Amount
1.	Claims for compensation under VAT	6	377.69
	Non-recovery of arrears of sales tax, etc.	8	124.68
2.	Incorrect grant of set off	113	8.01
3.	Non/short levy of tax	265	9.07
4.	Non-realisation of value added tax	169	2.77
5.	Non/short levy of interest/penalty	57	2.65
6.	Non-forfeiture of excess collection of tax	20	0.53
7.	Other irregularities	86	22.32
Total		724	547.72

In response to our observations made in the local audit reports during the year 2009-10 as well as during earlier years, the Department accepted underassessments/other deficiencies involving ₹ 5.44 crore in 258 cases. Out of this, 27 cases involving ₹ 80.81 lakh were pointed out during 2009-10 and the rest during earlier years. During the year 2009-10, the Department recovered ₹ 1.48 crore in 155 cases out of which ₹ 72.95 lakh in 23 cases were pointed out during 2009-10 and the rest in earlier years.

A few audit observations involving ₹ 0.65 crore are mentioned in the succeeding paragraphs numbers 2.3.1 to 2.3.7.

2.1.9.1 Claim for Value Added Tax - compensation of loss of revenue

The Maharashtra Value Added Tax (MVAT) was implemented with effect from 1 April 2005. The Government of India (GoI) agreed to compensate the Government of Maharashtra (GoM) for loss of revenue consequent to the implementation of VAT and issued guidelines in July 2005 and June 2008 on the modalities for calculation of compensation claim. As per these guidelines, the VAT receipts were to be compared with revenue of the pre-VAT period and suitably extrapolated on the basis of the average growth of the rate of revenue of the previous five years. Further, tax receipt from motor spirit tax (MST), tax on liquor and input tax credit (ITC) under VAT adjusted against Central Sales Tax (CST) were to be excluded while computing the receipts. The resultant net revenue was to be compared with the projected tax revenue for 2007-08 to arrive at the loss due to the introduction of VAT. The compensation was allowable at 50 *per cent* of such loss of revenue during the year 2007-08. The GoM preferred (May 2009) its final compensation claim of ₹ 2,726.10 crore for the year 2007-08, against which the GoI sanctioned ₹ 1,720 crore upto February 2010.

The refunds granted, receipts on account of the MST (non-VAT revenue), tax on liquor and input tax credit against the CST allowed as per the returns relating to the period from April 2007 to March 2008 in Mumbai and Nashik divisions were scrutinised between November and December 2009. The total amount of refund, MST, tax on liquor and input tax credit involved in the compensation claim under VAT and amounts test checked for the period 2007-08 in the selected divisions were as under:

(Rupees in crore)

Description	Total amount involved in compensation claim	Mumbai division	Nashik division
Refund	2,687.62	546.70	275.48
MST	6,780.80	6,780.80	NIL
Tax on liquor	1,081.53	391.83	252.48
ITC	1,622.09	471.16	98.06

We noticed the following irregularities:-

(Rupees in crore)

Sl. no.	Category	Amount
1.	Inclusion of excess receipts on account of tax on liquor	0.32
2.	Short claim of compensation due to ITC against CST	283.14
3.	Loss of compensation claim due to delay in grant of refund	2.83
Total		286.29

The matter regarding compensation claims were reported to the Government (June 2010), their reply has not been received (November 2010).

2.2 Audit observations

On the basis of scrutiny of the assessment records of Bombay Sales Tax/Value Added Tax (VAT), Central Sales Tax and Works Contract Tax maintained in Sales Tax Department we reported several cases of non-observance of provisions of Acts/Rules, non/short levy of tax, irregular grant of exemptions and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of Assessing Authorities (AAs) are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till we conduct audit. There is need for the Government to improve the internal control system including strengthening of internal audit.

2.3 Non-observance of the provisions of Acts/Rules

The BST/MVAT/CST/WCT Acts and Rules empowers/provide for:

- (i) registration of dealers liable for payment of tax under the VAT Act;*
- (ii) levy of tax/turnover tax/surcharge/interest at the prescribed rate;*
- (iii) exemption of tax on deemed export/branch transfers/inter-State sales subject to submission of the prescribed declarations/certificates;*

We noticed that the AAs, while finalising the assessments, did not observe some of the provisions of the Act/Rules and notification issued thereunder in cases mentioned in the paragraph 2.3.1 to 2.3.7. These mistakes resulted in non/short levy/non-realisation of tax/interest/excess grant of set-off, etc., of ₹0.65 crore.

2.3.1 Non-realisation of Value Added Tax from licencees extracting sand from river bed/sea

Sales Tax Officer (Registration branch), Kolhapur, Ratnagiri and Sindhudurg divisions

Under the provisions of MVAT Act, 2002, sand is covered by entry 1 of Schedule E of the Act during April 2005 and is taxable at 12.5 *per cent*. However, with the amendment of the description of the entry 69 of Schedule C with effect from 1 May 2005 sand is taxable at 4 *per cent* thereafter. Further, under Section 3 of the MVAT Act, 2002, every dealer is required to obtain a certificate of registration if the turnover of sales during the year is ₹ 5 lakh and above and VAT at the prescribed rate is leviable on the turnover of sales of sand. Besides, interest and penalty is leviable as per provisions of the Act.

The Commissioner of Sales Tax in his letter dated 28 March 2007 addressed to the Principal Secretary, Revenue and Forest Department had called for information in respect of these licenses regarding name, address, quantity of sand extracted and amount of royalty paid.

This was done as most of the licensees were found to be either unregistered or defaulters/evaders in payment of tax. The Sales Tax Department had not taken any follow-up action to get these dealers registered under MVAT Act though more than three years have elapsed since the Department called for the said information from the collectorates through the Revenue Department.

The licences for extraction of minor minerals and sand are issued by the district collectors. In order to ascertain whether dealers liable to be covered were registered under the Act and were paying taxes, details were independently collected by us between April and May 2010 from the offices of the three district Collectors at Kolhapur, Ratnagiri and Sindhudurg.

Information furnished by these three collectorates revealed that they had issued 178 licences during the periods from 2005-06 to 2009-10 for extraction of sand. We cross-checked this information with the sales tax Department to find out whether all these licencees have registered themselves under the MVAT Act. Cross-check revealed that 169 out of these 178 licensees in the three districts have not been registered under MVAT Act. These 169 unregistered licencees had extracted sand aggregating 7.91 lakh brass⁵.

In the absence of data regarding value of sand extracted for sale by the licensees, we worked out its value on the basis of the District Schedule of Rates available with the respective offices of the Public Works Department. The cost of sand extracted for sale, excluding transportation charges in respect of these unregistered dealers worked out to ₹ 69.21 crore for the period 2005-06 to 2009-10.

The non-realisation of revenue in respect of these 169 unregistered licencees was estimated at ₹ 2.77 crore.

After we reported the matter to the Department/Government in June 2010, the Finance Department directed (July 2010) the Sales Tax Department to furnish compliance to audit. The Deputy Commissioner of Sales Tax (Inspection) stated (November 2010) that out of 169 unregistered licencees, 15 licencees have since been got registered under VAT and action to register the remaining 154 licencees and assess them to tax is in progress. Further reply in the matter is awaited (November 2010).

⁵ Brass is 2.83 cubic meter.

2.3.2 Short levy of tax

Senior Deputy Commissioner, A-01, Nariman Point and Deputy Commissioner, B-114, B-143 of Worli and Andheri divisions

Under the provisions of the BST Act, the rate of tax applicable on any commodity was determined with reference to the relevant entry in schedule 'B' or 'C' of the Act. Further, the Government, by notification from time to time, exempted certain sales or purchases from payment of tax in full or any part thereof, which are payable under the provisions of the Act, subject to such conditions as are prescribed. Besides, turnover tax (TOT), surcharge (SC) and interest were also leviable as per the provisions of the Act.

During test check of the records of three divisions in July 2008, we noticed in the assessments of three dealers finalised between October 2007 and January 2008, for the periods between 2002-03 and 2003-04, that on sales valued at ₹ 2.02 crore, due to application of incorrect rates of tax and incorrect grant of exemption, there was underassessment of tax of ₹ 13.02 lakh, including interest of ₹ 15,000.

After we pointed out the cases, in August 2008, the Department accepted the observations and rectified/revised the assessments between May 2009 and October 2009, and raised additional demands totaling ₹ 13.02 lakh including interest of ₹ 15,000. A report on recovery is awaited (November 2010).

We reported the matter to the Government in May 2010; their reply is awaited (November 2010).

2.3.3 Short levy of Central Sales Tax

Senior Assistant Commissioner of Sales Tax, A-01, Nariman Point, Mumbai division and Sales Tax Officer, C-907, Jalna, Aurangabad division

Under Section 8 of the CST Act, 1956 and rules made thereunder, tax on sales in the course of inter-State trade, supported by valid declarations in Form 'C', is leviable at the rate of four *per cent* of the sale price. Otherwise, in respect of declared goods, tax is leviable at twice the rate applicable on sales and in respect of goods other than declared goods, at 10 *per cent* or at the rate applicable to the sale or purchase of goods, inside the State, whichever is higher. Besides, interest and penalty is also leviable as per the provisions of the BST Act.

During test check of the records between January 2008 and July 2008, we noticed in the assessment of two dealers finalised in March 2006 and December 2007 for the years 2000-01 and 2002-03 that in one case inter-State sales valued at ₹ 2.80 crore were taxed at 13 *per cent* instead of the applicable rate of 15.3 *per cent*. In other case on sales

valued at ₹ 68.53 lakh tax was levied at concessional rate of four *per cent*. Our scrutiny revealed that the dealer had purchased the goods valued at ₹ 68.53 lakh on 15 May 2002 and 2 October 2002, whereas he had obtained registration under the CST Act on 3 October 2002. As such the transactions in Form 'C' were not eligible for concessional rate of tax since they were prior to the date of registration of the dealer. These mistakes resulted in underassessment of tax of ₹ 21.25 lakh including interest of ₹ 6.69 lakh.

After we pointed out these cases in January 2008 and July 2008, the Department revised/rectified the assessments in March 2008 and May 2009 raising additional demands of ₹ 21.27 lakh including interest of ₹ 6.71 lakh. A report on recovery is awaited (November 2010).

We reported the matter to the Government in May 2010; their reply is still awaited (November 2010).

2.3.4 Non-levy of interest

Senior Assistant Commissioner of Sales Tax, A-01, Nariman Point division and Sales Tax Officer E-303, Aurangabad division

Under the provisions of Section 36(3)(b) of the Bombay Sales Tax Act, 1959, if any tax has remained unpaid for any period of assessment, then the dealer was liable to pay by way of simple interest at the rate of two *per cent* (1.25 *per cent* with effect from July 2004) of such tax for each month or part thereof from the date immediately following the date on which the period for which the dealer has been assessed expires till the date of order of assessment and where any payment of such unpaid tax whether in full or part is made on or before the date of order of assessment, the amount of such interest shall be calculated by taking into consideration the amount of and the date of such payment.

During test check of the records between January 2009 and May 2009, we noticed in the assessments of two dealers, finalised between October 2007 and March 2009, for the period 2003-04, that dues totaling ₹ 10.61 lakh, as a result of assessment, were not paid by the dealers for periods ranging from 43 to 60 months, from the period of assessment till the date of order of assessment. In these cases the assessing authorities had also not levied interest totaling

₹ 7.97 lakh on the unpaid dues.

After we pointed out these cases, between February and June 2009, the Department accepted the audit observations and rectified the mistakes between July and November 2009 raising additional demands of ₹ 7.97 lakh. A report on recovery is awaited (November 2010).

We reported the matter to the Government in May 2010; their reply is still awaited (November 2010).

2.3.5 Non-levy of purchase tax

Sales Tax Officer, C-629, Thane division

Under the provisions of the BST Act, 1959, Rules and notifications issued thereunder, certain class of purchases was exempt from payment of tax, subject to conditions prescribed therein. If the conditions were not complied with, purchase tax was leviable on the purchase price of such goods at the rate specified in the schedule to the Act. The amount of tax paid on such purchases was to be set-off against the purchase tax so leviable. Besides, surcharge and interest at the prescribed rates was also leviable under the provisions of the Act.

During test check of the records in January 2008, we noticed in the assessment of a dealer who was manufacturer-exporter of hot pots, casseroles and insulated wares, for the periods 2002-03 and 2003-04, finalised in September 2006, that purchases of packing material valued at ₹ 2.02 crore was exempted from tax on

declarations in form G-I. However, as per notification entry G-5 under which form G-I was issued, reseller-exporters alone were allowed to issue form G-I. This resulted in contravention of recitals under which form G-I was to be issued by the purchasing dealers for which purchase tax was required to be levied. As purchase tax was not levied during assessments it resulted in underassessment of tax of ₹ 8.57 lakh including interest of ₹ 2.51 lakh

After we pointed out the case, in February 2008, the Department accepted the observation and revised the assessments in June 2009 raising additional demands aggregating ₹ 8.57 lakh. A report on recovery is awaited (November 2010).

We reported the matter to the Government in May 2010; their reply is still awaited (November 2010).

2.3.6 Acceptance of declarations for stock transfer beyond the assessment period

Deputy Commissioner of Sales Tax ,B-161, Raigad division

Under Section 6A (i) of the CST Act, 1956, no tax is payable by a dealer on movement of goods to other States which is not by way of sale but by reason of transfer of stock to other places of his business or to his agent or principal. For claiming exemption the dealer may furnish to the assessing authority a declaration in form 'F' duly filled in and signed by the Principal Officer of the other place of business or his agent as the case may be along with evidence of despatch of the goods. Further, as per the CST (Registration and Turnover) Rules, 1957, a single declaration in form 'F' is required for transfer of goods, effected during a period of one calendar month.

During test check of the records in August 2008, we noticed in the assessment of a dealer, finalised in January 2008, for the period 2003-04, that claim relating to transfer of goods valued at ₹ 70.93 lakh to the agents in other states was exempted from tax on production of declarations in form 'F'. Scrutiny revealed that the declarations in

form 'F' covered transactions for the entire year. As such, the declarations should have been restricted to the assessment year under consideration and the turnover of goods transferred to their agents should have been taxed under the local Act. The omission to do so resulted in underassessment of tax of ₹ 8.83 lakh including interest of ₹ 1.74 lakh.

After we pointed out this case, in September 2008, the Department accepted the observation and rectified the assessment in October 2009 raising additional demand of ₹ 8.83 lakh. A report on recovery is awaited (November 2010).

We reported the matter to the Government in May 2010; their reply is still awaited (November 2010).

2.3.7 Non-levy of turnover tax and surcharge

Sales Tax Officer, C-348, Churchgate division

Under the provisions of the Bombay Sales Tax Act, 1959, turnover tax at the rate of one *per cent* was leviable on the turnover of sales of goods specified in schedule C, after deducting resales of goods from such turnover. Further, surcharge at the rate of 10 *per cent* of the tax was also payable where the aggregate of taxes payable by a dealer exceeded ₹ one lakh. Turnover tax was also leviable on the turnover of sales supported by declarations issued under BST Act, subject to such conditions as were prescribed by the State Government from time to time.

During test check of records in December 2007, we noticed in the assessments of a dealer, finalised in July 2006, for the period 2004-05, that turnover tax and surcharge was not levied on sale of olive oil valued at ₹ 4.04 crore due to application of

incorrect notification entry A-4A under which turnover tax and surcharge was exempt. However this notification was applicable to edible oils excluding olive oil. Non-levy of turnover tax of ₹ 4.04 lakh and surcharge of ₹ 1.61 lakh resulted in underassessment of ₹ 5.65 lakh.

After we pointed out the case in January 2008, the Department reassessed the case in November 2009 raising additional demand of ₹ 11.40 lakh including interest of ₹ 3.74 lakh and penalty of ₹ 2 lakh. A report on recovery is awaited (November 2010).

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

CHAPTER-III : STAMP DUTY AND REGISTRATION FEES

3.1 Introduction

3.1.1 Tax administration

At the apex level, Principal Secretary, Relief and Rehabilitation (R&R) heads the Department. Responsibility for overall administration of stamp duty is entrusted to the Inspector General of Registration (IGR), Pune. He is assisted by 9¹ Deputy Inspectors General of Registration (DIG), Superintendent of Stamps (SOS) at Mumbai, six collector of stamps at Mumbai, 31 Joint District Registrars (JDRs) and 317 Sub-Registrars (SRs).

3.1.2 Trend of receipts

Actual receipts from Stamp Duty and Registration Fee, etc., during the years 2005-06 to 2009-10, alongwith the total tax receipts during the same period is exhibited in the following table:

(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	4,500.00	5,265.86	(+) 765.86	(+) 17.02	33,540.24	15.70
2006-07	5,600.00	6,415.72	(+) 815.72	(+) 14.57	40,099.24	16.00
2007-08	7,200.00	8,549.57	(+) 1,349.57	(+) 18.74	47,528.41	17.99
2008-09	9,600.00	8,287.63	(-) 1,312.37	(-) 13.67	52,029.94	15.93
2009-10	9,600.00	10,773.65	(+) 1,173.65	(+) 12.23	59,106.33	18.23

As can be seen from the above table, the revenue collection of the State under Stamp duty and Registration Fee increased by 62.36 *per cent* in 2007-08 as compared to 2005-06 and then decreased by three *per cent* in 2008-09 over 2007-08. In 2009-10, the revenue increased by 30 *per cent* over 2008-09.

3.1.3 Impact of Audit Reports

Revenue impact

During the last five years, 2004-05 to 2008-09, we had pointed out cases of underassessments/non/short levy/loss of revenue of stamp duty, etc., interest and other irregularities with revenue implication of ₹ 229.28 crore in 560 cases. Of these, the Department had accepted audit observations in 67 cases involving ₹ 11.45 crore and had recovered ₹ 2.45 crore in two cases. The

¹ Including one Dy.IGR, Headquarter at Pune.

details are shown in the following table:

(Rupees in lakh)

Year	Amount objected		Amount accepted		Amount recovered	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2004-05	22	425.45	17	330.55	1	234.00
2005-06	301	6,016.07	17	266.57	Nil	Nil
2006-07	212	13,570.00	19	220.00	Nil	Nil
2007-08	9	2,582.00	3	56.00	1	11.00
2008-09	16	335.00	11	272.00	Nil	Nil
Total	560	22,928.52	67	1,145.12	2	245.00

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority.

3.1.4 Results of audit

We reported underassessment, short levy, non-levy of stamp duty, loss of revenue etc., amounting to ₹ 35.39 crore in 457 cases as shown below, on the basis of test check of records of stamp duty and registration fees conducted during the year 2009-10:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-levy of stamp duty and registration fee	33	3.81
2.	Incorrect grant of exemption of stamp duty and registration fees	20	2.40
3.	Short levy due to misclassification of documents	35	5.10
4.	Short levy due to under valuation of property	364	22.35
5.	Other irregularities	5	1.73
	Total	457	35.39

In response to the observation made in the local audit during the year 2009-10 as well as during earlier years, the department accepted under assessments and other deficiencies involving ₹ 1.07 crore in 204 cases; out of which 16 cases involving ₹ 6.51 lakh were pointed out during 2009-10 and the rest during earlier years.

In one case of irregular remission of stamp duty, after we pointed out the case in June 2008, the Department recovered the full duty of ₹ 77.03 lakh in September 2010.

A few audit observations involving ₹ 4.97 crore are included in the succeeding paragraphs, against which ₹ 2.70 lakh had been recovered upto November 2010.

3.2 Audit observations

During scrutiny of records of the various registration offices, we noticed several cases of non-compliance of the provisions of the Bombay Stamp Act, 1958, Registration Act, 1908 and Government notifications and instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on our test check of records. The Government/Department need to improve internal control mechanisms so that such cases can be avoided, detected and corrected.

3.3 Non-compliance of provisions of Acts/Rules

The provisions of Bombay Stamp Act, 1958, Registration Act, 1908 and Government notifications and instructions require:-

- (i) Levy of stamp duty on market value of the property;*
- (ii) levy of registration fee as per the rate prescribed in the table of fee;*
- (iii) levy of stamp duty at prescribed rate; and*
- (iv) levy of stamp duty as per the substance or real nature of transaction.*

We observed that the registering authorities did not observe some of the above provisions at the time of registration of documents in cases mentioned in the paragraphs 3.3.1 to 3.3.6. This resulted in short levy of stamp duty and registration fee of ₹4.97 crore.

3.3.1 Short levy of stamp duty and registration fee due to undervaluation of property

As per the Bombay Stamp (BS) Act, 1958, stamp duty (SD) and as per the rate prescribed in table of fee to the Registration Act, 1908, registration fee (RF), on conveyance deed is leviable on the true market value of the property. Further, under the provisions of the BS Act, where the lease purports to be for a period exceeding 29 years, then SD&RF is leviable on instrument of lease as conveyance on 90 *per cent* of the market value (MV). The market value (MV) of open developed land is calculated as per potential/ consumed Floor Space Index (FSI). Moreover, when several instruments are used in a single transaction SD is leviable only on the principal instrument. The market value of the property is worked out by applying the rates of the ready reckoner applicable to the area in which the property is situated.

During test check of the records, we found that undervaluation of the property resulted in short levy of SD&RF of ₹ 4.05 crore. The details are mentioned in the following table :

Sl. No.	O/o the SR/ JSR	SD& RF Levied (₹ in lakh)	SD&RF leviable (₹ in lakh)	SD&RF short levied (₹ in lakh)	Irregularities in brief.
1.	JSR. City-II, Mumbai	5.00	323.00	318.00	The duty was levied considering market value of ₹ One crore without considering the incentive FSI of 2.5 as well as market valuation of tenanted property whereas correct market value of the property conveyed was to be ₹ 64.60 crore.
2.	JSR, City-II, Mumbai	26.66	57.90	31.24	On eight instruments of conveyance deeds the duty was levied considering market value of ₹ 5.26 crore whereas correct market value of the property conveyed was ₹ 11.58 crore.
3.	SR-VII Haveli, Pune	265.00	289.00	24.00	On the instrument of agreement deed the duty was levied considering market value of ₹ 50 crore whereas correct market value of the property conveyed worked out to ₹ 57.89 crore as per the ready reckoner.
4.	JSR. City-II, Nanded	10.22	24.90	14.68	On 10 instruments of conveyance deeds, the duty and fee was levied considering market value of ₹ 1.89 crore whereas correct market value of the properties conveyed worked out to ₹ 4.82 crore as per the ready reckoner.

5.	SR-V, Thane	5.68	17.30	11.62	The duty was levied considering market value of ₹ 1.14 crore whereas correct market value of the property conveyed worked out to ₹ 3.46 crore as per the ready reckoner.
6.	SR, Roha, District Raigarh	0.52	6.46	5.94	On the instrument of lease deed for 15 years, further renewable by 15 years, the duty and fee was levied considering market value of ₹ 14.73 lakh whereas correct market value of the property was ₹ 2.28 crore as per the ready reckoner.
Total		313.08	718.56	405.48	

After we pointed out these cases (between May 2008 to June 2010), the Department accepted the omissions and recovered an amount of ₹ 2.70 lakh in one case in respect of case at Sl. No. 4 of the table. Further report on recovery is awaited in the cases pointed above (November 2010).

We reported the matter to the Government (between February to June 2010); their reply is awaited.

3.3.2 Incorrect application of rate of stamp duty resulted in short levy of stamp duty

Sub Registrar II, Kurla, Mumbai and Jt. Sub Registrar, City - I, Mumbai

Under the provisions of the Bombay Stamp (BS) Act, 1958, an agreement to sell wherein the possession of any immovable property is transferred to the purchaser shall be deemed to be a conveyance and stamp duty thereon shall be leviable at the rate applicable at the time of execution of the agreement.

During test check of the records of **Sub Registrar II, Kurla, Mumbai** in March 2007, we noticed that an instrument of conveyance was executed in March 2006 and stamp duty of ₹ 45.47 lakh was levied on the market value of ₹ 9.09 crore at the rate of 5 *per cent* prevalent in the year 2006. However, the agreement to sale had already been executed on 16 September 2002 which attracted stamp duty of ₹ 72.33 lakh at the Slab rate² of the BS Act applicable at the time of

execution of agreement to sale as the possession was transferred to the purchaser in December 2002. Thus, incorrect application of rate of stamp duty resulted in short levy of stamp duty of ₹ 26.86 lakh.

2

Slab	Rates
Upto Rs. 1,00,000/-	- Nil -
Between Rs. 1,00,000 and Rs. 2,50,000	0.5 <i>per cent</i> of the value
Between Rs. 2,50,001 and Rs. 5,00,000	3 <i>per cent</i> of the value
Between Rs. 5,00,001 and Rs. 10,00,000	6 <i>per cent</i> of the value
Above Rs. 10,00,000	8 <i>per cent</i> of the value

Similarly, in case of **Joint Sub Registrar, City - I, Mumbai** during test check of the records in November 2007 we noticed that an instrument of sale deed executed in February 2006 and stamp duty of ₹ 5.49 lakh was levied on the market value of ₹ 1.09 crore at the rate of five *per cent* prevalent in the year 2006 instead of ₹ 10.99 lakh leviable at the rate of 10 *per cent* applicable at the time of agreement to sell which was executed on 27 February 2003. Possession was transferred to the purchaser in April 2003, itself. This resulted in short levy of stamp duty to the extent of ₹ 5.49 lakh.

Thus, incorrect application of rate of stamp duty in the above two cases resulted in short levy of stamp duty of ₹ 32.35 lakh.

After we pointed out these cases, the Inspector General of Registration (IGR), Pune accepted (March 2009 and May 2010) the omission. A report on recovery is awaited (November 2010).

The matter was reported to the Government in April and June 2010; their reply is awaited (November 2010).

3.3.3 Incorrect application of market value resulted in short levy of stamp duty

Sub Registrar City-I, Mumbai

Under the provisions of the Bombay Stamp Act, 1958, where the lease purports to be for a period exceeding twenty nine years, then stamp duty (SD) is leviable on instrument of lease as conveyance on 90 *per cent* of the market value (MV). The market value (MV) of open developed land is calculated as per potential/consumed Floor Space Index (FSI). Further, when several instruments are used in a single transaction SD is leviable only on the principal instrument.

During scrutiny of records in February 2009, we noticed that an instrument of lease was executed (January 2007) for demise of land admeasuring 1000 square meters (Sq M) for a period of 30 years. The market value of the land was calculated at ₹ 15.32 crore by considering the FSI of 1.33 and SD of ₹ 68.96 lakh was levied on 90 *per cent* of market value

i.e. on ₹ 13.79 crore including the SD of ₹ 17.10 lakh paid on the development agreement executed earlier (March 1995) by treating the present lease deed as the principal instrument. We noticed from the instrument that the lessee had constructed a building by consuming floor space index of 1793.68 Sq M. based on which, the market value of land worked out to ₹ 20.66 crore. Thus SD of ₹ 92.98 lakh was leviable on 90 *per cent* of MV i.e. on ₹ 18.60 crore, which resulted in short recovery of SD of ₹ 24.02 lakh.

After we pointed out the case, the Inspector General of Registration (IGR), Pune accepted (August 2009) the omission. A report on recovery is awaited (November 2010).

The matter was reported to the Government in May 2010; their reply is awaited (November 2010).

3.3.4 Incorrect application of rate of stamp duty resulted in short levy of stamp duty

Sub Registrar Haveli XV, Pune

Under the provisions of the Bombay Stamp (BS) Act, 1958, stamp duty at the rate of five *per cent* is leviable on conveyance when the property is situated within the Municipal Corporation limits

During test check of records in May 2008, we noticed that in an instrument of Sale deed, stamp duty of ₹ 12.15 lakh was levied on market value of ₹ 6.36 crore instead of ₹ 31.77 lakh leviable at the rate of five *per cent* as the property was situated at Sangamwadi which is within the Municipal Corporation limits of Pune. Incorrect application of rate of stamp duty resulted in short levy of stamp duty of ₹ 19.62 lakh.

After we pointed out the case, the Joint District Registrar, Pune City accepted the omission and referred the case to the Inspector General of Registration, Pune for reconsideration under Section 53 A of the BS Act, 1958. A report on recovery is awaited (November 2010).

The matter was reported to the Government in March 2010; their reply is awaited (November 2010).

3.3.5 Short levy of stamp duty due to incorrect application of rate

Sub Registrar, Haveli - II, Pune

As per the provisions of the Bombay Stamp Act, 1958, stamp duty on development agreement is leviable at the rate of one *per cent* whereas transfer of development rights (TDR) is treated as movable property and stamp duty is leviable at the rate of three *per cent* on the consideration.

During test check of the records in October 2007, we noticed that an instrument of development agreement was executed and stamp duty of ₹ 7 lakh was levied on the consideration of ₹ 7 crore at the rate of one *per cent*. Further, scrutiny revealed that the development agreement also involved the TDR of 67,400 sq ft and consideration of ₹ 4.72 crore was paid on which stamp duty was levied at the rate of one *per cent* instead of leviable three *per cent* which resulted in short levy of stamp duty of ₹ 9.44 lakh.

After we pointed out the case (November 2007), the Inspector General of Registration (IGR), Pune accepted (April 2010) the omission. A report on recovery is awaited (November 2010).

The matter was reported to the Government in June 2010; their reply is awaited (November 2010).

3.3.6 Short levy of stamp duty due to misclassification of instrument

Sub Registrar–XII, Haveli, Pune

Under the provisions of the Bombay Stamp Act, 1958, on instruments of conveyance and development agreements stamp duty at five *per cent* and one *per cent* respectively is leviable on the market value of the property. Further, for charging stamp duty, the instrument is not to be treated by the name it bears but by the substance or real nature of the transaction as derived from its recitals.

During scrutiny of records in June 2008, we noticed that for an instrument of conveyance executed (March 2007) for a consideration of ₹ 1.48 crore, stamp duty of ₹ 7.41 lakh was leviable at the rate of five *per cent*. However, the Sub Registrar treated the instrument as a development agreement and accordingly levied stamp duty of ₹ 1.48 lakh at the rate of one *per cent*. Thus, misclassification of the instrument of conveyance as development agreement resulted in

short levy of stamp duty of ₹ 5.93 lakh.

After we pointed out the case, the Joint District Registrar, Pune (City) accepted (December 2008) the omission and directed the Sub Registrar to recover the deficit of stamp duty. A report on recovery is awaited (November 2010).

The matter was reported to the Government in April 2010; their reply is awaited (November 2010).

CHAPTER-IV: LAND REVENUE

4.1 Introduction

4.1.1 Tax administration

The administration of Land Revenue Department vests with the Principal Secretary, Revenue Department. For the purpose of administration, the State has been divided into six divisions and each division is headed by the Divisional Commissioner who is assisted by district Collectors. There are 35 district Collectors, 110 revenue sub divisions, 370 talukas headed by the Tahsildar. The Revenue Inspector and village officers (talathi) are responsible at the grass root level for collecting the land revenue and dues recoverable as arrears of land revenue.

4.1.2 Trend of receipts

Actual receipts from Land Revenue and Registration Fee etc., during the years 2005-06 to 2009-10 alongwith the total tax receipts during the same period is exhibited in the following table:

(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	424.07	428.97	(+) 4.90	(+) 1.16	33,540.24	1.28
2006-07	940.00	484.17	(-) 455.83	(-) 48.49	40,099.24	1.20
2007-08	690.00	512.22	(-) 177.78	(-) 25.77	47,528.41	1.08
2008-09	700.00	546.22	(-) 153.78	(-) 21.97	52,029.94	1.05
2009-10	770.00	714.04	(-) 55.96	(-) 7.27	59,106.33	1.21

As may be seen from the above table, the revenue collection under Land Revenue increased by 66.45 *per cent* in 2009-10 as compared to 2005-06.

4.1.3 Impact of Audit Reports

Revenue impact

During the last five years, 2004-05 to 2008-09, we had pointed out cases of underassessments/non/short levy/loss of revenue of land revenue, etc., interest

and other irregularities with revenue implication of ₹ 751 crore in 40,280 cases. Of these, the Department had accepted audit observations in 40,222 cases involving ₹ 255.89 crore and had recovered ₹ 3.63 crore in 52 cases. The details are shown in the following table:

(Rupees in crore)

Year	Amount objected		Amount accepted		Amount recovered	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2004-05	58	202.44	58	202.44	Nil	Nil
2005-06	40,011	41.46	40,011	41.46	Nil	Nil
2006-07	44	0.91	44	0.91	Nil	Nil
2007-08	141	365.68	84	9.51	52	3.63
2008-09	26	140.51	25	1.57	Nil	Nil
Total	40,280	751.00	40,222	255.89	52	3.63

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority.

4.1.4 Results of audit

We reported underassessment, short levy, non-levy of Land Revenue, loss of revenue etc., amounting to ₹ 49.44 crore in 226 cases as shown below, on the basis of test check of records of land revenue conducted during the year 2009-10:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-levy/short levy of education cess etc.	77	23.35
2.	Non-levy/short levy of occupancy price/rent etc.	60	18.14
3.	Non-levy/short levy/incorrect levy of Non-Agriculture Assessment (NAA), ZP/VP cess, conversion tax and royalty	63	5.47
4.	Non-levy/short levy/incorrect levy of increase of land revenue	12	2.30
5.	Short levy of measurement fees, sanad fees etc.	14	0.18
	Total	226	49.44

In response to the observation made in the local audit during the year 2009-10 as well as during earlier years, the Department accepted underassessments and other deficiencies involving ₹ 7.61 crore in 285 cases, out of which 17 cases

involving ₹ 30.21 lakh were pointed out during 2009-10 and the rest during earlier years.

Few audit observation involving ₹ 2.80 crore are included in the succeeding paragraphs.

4.2 Audit observations

During scrutiny of records of the various land records and land revenue offices we noticed several cases of non-compliance of the provisions of the Maharashtra Land Revenue Code, 1966 (MLR code), Government notifications/instructions as mentioned in the succeeding paragraphs of this chapter. These are illustrative cases and are based on the test check carried out by us. As such cases are pointed out by us repeatedly; there is need on the part of the Government to improve the internal control system so that recurrence of such cases can be avoided.

4.3 Non-observance of the provisions of Acts/Rules

The provisions of the Maharashtra Land Revenue Code, 1966 (MLR code), Government notifications/instructions provides for:-

- (i) Levy of NAA on prescribed rates as per the classification of municipalities.*

We noticed non-compliance of the above provision in one case which resulted in short levy of ₹ 2.80 crore as mentioned in paragraph 4.3.1.

4.3.1 Short levy and recovery of NAA tax amounting to ₹ 2.80 crore due to non-application of prescribed rates of NAA

Government of Maharashtra vide their gazette notification dated 30-06-2003, upgraded the Ahmednagar Municipal Council as Ahmednagar Municipal Corporation with effect from 30 June 2003. Hence, NAA tax was required to be recovered at the rates applicable to Municipal Corporation area with effect from 1 July 2003 by applying three times and six times of NAA rates of the rate applicable in the year 1991 for NAA cases assessed prior to 1 August 2001 and assessed after 1 August 2001 respectively as specified by the Government of Maharashtra Resolution dated 27-09-2001.

During test check of records of Collector, Ahmednagar in December 2009 we noticed that the NAA assessment was done at the rates applicable for the Municipal Council and not as applicable to Municipal Corporation. Accordingly, the Tahsildar, Ahmednagar had recovered NAA during the years 2003-04 to 2008-09 of ₹ 5.61 crore instead of the recoverable amount of ₹ 8.41 crore. This resulted in short levy of NAA of ₹ 2.80 crore detailed as

under:

(Rupees in lakh)			
Year	NAA tax recoverable @ 3 times and 6 times of rate of 1991	NAA tax recoverable @ 2 times and 4 times of rate of 1991	Short levy of NAA tax
2003-04	94.60	63.06	31.53
2004-05	94.60	63.07	31.53
2005-06	99.69	66.46	33.23
2006-07	140.63	93.76	46.88
2007-08	179.85	119.90	59.95
2008-09	231.76	154.51	77.25
Total	841.13	560.76	280.37

After we pointed out these cases, Collector, Ahmednagar stated (April 2010) that after verification of the facts, action would be taken.

We reported the matter to the Government in July 2010; their reply is awaited (November 2010).

CHAPTER-V

TAXES ON MOTOR VEHICLES AND STATE EXCISE

5.1 Introduction

5.1.1 Tax revenue administration

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

5.1.2 Cost of collection

The gross collection in respect of motor vehicle tax receipts, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2007-08, 2008-09 and 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the year 2008-09 are given in the following table:

(Rupees in crore)					
Head of revenue	Year	Gross collection ¹	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2008-09
Taxes on vehicles	2007-08	2,143.11	46.52	2.17	2.93
	2008-09	2,220.22	57.93	2.61	
	2009-10	2,682.29	76.96	2.86	

As can be seen from the above table that though the percentage of expenditure to gross collection had increased from 2007-08 to 2009-10, it was lower than the all India average.

5.1.3 Impact of Audit Reports

Revenue impact

During the last five years i.e. 2004-05 to 2008-09 we had pointed out cases of underassessments, loss of revenue, non/short levy/recovery and other irregularities with revenue implication of ₹ 26.23 crore in 13,95,948 cases. Of these, the Department had accepted audit observations in 13,95,948 cases involving ₹ 26.23 crore and had recovered ₹ 1.09 crore in 1,144 cases. The

¹ Figures as per the Finance Accounts.

details are shown in the following table:

Year	Amount objected		Amount accepted		(Rupees in crore) Amount recovered	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	13,93,270	22.58	13,93,270	22.58	254	0.27
2005-06	456	0.67	456	0.67	161	0.18
2006-07	509	0.60	509	0.60	194	0.15
2007-08	633	0.91	633	0.91	200	0.16
2008-09	1,080	1.47	1,080	1.47	335	0.33
Total	13,95,948	26.23	13,95,948	26.23	1,144	1.09

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority basis.

5.1.4 Results of audit

We reported under assessments, non/short levy/recovery, loss of revenue and other similar cases amounting to ₹ 11.85 crore in 1,262 cases as shown below, on the basis of test check of the records of taxes on motor vehicles and State excise conducted during the year 2009-10:

(Rupees in crore)			
Sl. no.	Nature of receipts	No. of cases	Amount
A - TAXES ON MOTOR VEHICLES			
1.	Assessment, levy and collection of taxes and other receipts in the motor vehicles Department (A review)	1	4.50
2.	Non/short levy of tax due to application of incorrect rates	945	4.87
3.	Short levy of tax due to incorrect exemption/classification/excess refunds/miscellaneous	26	0.06
Total		972	9.43
B - STATE EXCISE			
4.	Non/short recovery of licence/privilege fees/excise duty/application fee	261	2.30
5.	Non/short recovery of supervision charges	6	0.05
6.	Toddy instalments/miscellaneous	23	0.07
Total		290	2.42
Grand total		1,262	11.85

In response to our observations in the local audit reports during the year 2009-10 as well as during earlier years, the Department concerned accepted the underassessment, short levy, etc. and recovered ₹ 1.65 crore in 1,071 cases, out of which 55 cases involving ₹ 20.86 lakh were pointed out during the year 2009-10 and the rest during the earlier years.

A review on “Assessment, levy and collection of taxes and other receipts in the motor vehicles Department” with a total financial effect of ₹ 4.50 crore and a few audit observations involving ₹ 1.89 crore are included in the following paragraphs against which ₹ 13.93 lakh had been recovered upto November 2010.

SECTION A TAXES ON MOTOR VEHICLES

5.2 Assessment, levy and collection of taxes and other receipts in the motor vehicles Department

Highlights

Lack of adequate follow up action by the Department resulted in huge accumulation of arrears of ₹ 230.61 crore in respect of fleet owners, Transport Undertakings of Municipal Corporations, operators of stage carriages and motor vehicle owners.

(Paragraph 5.2.7.1 and 5.2.7.2)

Internal controls in the Department were weak as evidenced from shortfalls in internal inspections of Dy. RTOs and Border Check Posts. The internal audit was inadequate and ineffective due to absence of internal audit in 13 offices and huge pendency of observations.

(Paragraph 5.2.8.1(i) and 5.2.8.1(ii))

Non-application of revised rates, incorrect application of rate of tax, etc., resulted in short levy of tax of ₹ 1.37 crore in respect of 215 vehicles.

(Paragraph 5.2.10.1)

Incorrect grant of exemption from tax in respect of 132 vehicles resulted in short levy of tax of ₹ 26.84 lakh.

(Paragraph 5.2.12.1 to 5.2.12.2)

Non-application of revised rates for choice registration marks resulted in short recovery of fees of ₹ 42.99 lakh in respect of 172 vehicles.

(Paragraph 5.2.13)

The Department did not take prompt action against those vehicle owners who had dishonoured cheques relating to payment of Motor Vehicle Taxes. The Department also delayed presentation of demand drafts within their time limits to the banks resulting in return of these drafts by the banks. The revenue involved in 695 cases was ₹ 1.34 crore.

(Paragraph 5.2.16.1 and 5.2.16.2)

Non-inspection of 10,58,218 vehicles for fitness during the period 2004-05 to 2008-09 resulted in jeopardising public safety and also non-recovery of inspection fees of ₹ 21.16 crore.

(Paragraph 5.2.17)

5.2.1 Introduction

The Motor Vehicles Department has been established under section 213 (1) of the Motor Vehicles (MV) Act, 1988. This is a Central Act and is applicable throughout the country. Motor vehicles Department is mainly responsible for

enforcing various provisions of this Act. The main functions of the Motor Vehicles Department are (i) enforcement of the provisions of the Motor Vehicles Act, 1988, the MV Rules, 1989 and the Maharashtra Motor Vehicles (MMV) Rules, 1989, (ii) ensure a co-ordinated development of Road Transport through the regime of permit and (iii) levy and collection of tax on Motor Vehicles under the Bombay Motor Vehicles (BMV) Tax Act, 1958 and on Passengers under the BMV Transportation of Passengers Act (TOP), 1958.

Activities performed by the Motor Vehicles Department:

Issue of learner licence, permanent licence, renewal of licence, international driving permits, issue permits/authorisation to transport vehicles; stage and contract carriages; national permit vehicles and All India Tourist Vehicles.

Registration of vehicles, issue of badges to drivers of public service vehicles like auto rickshaws, taxis, etc. Assignment of registration marks to vehicles and grant of fitness certificates.

Inspect private vehicles which are more than 15 years old and renew their registration. Ensure that the vehicles are covered by valid certificates and insurance. Take action of the vehicle owners who violate the provisions of the Act.

Levy and collection of motor vehicle Tax under the BMV Tax Act, 1958; and enforce the related provisions; levy and collect tax on passengers under the BMV (Taxation on Passengers) Act, 1958 and enforcement of the related provisions.

5.2.1.1 Computerisation

In the RTO offices, the registration of Non-Transport Category vehicles has been covered by the software called “Vahan” developed by NIC, Delhi. The Registration Certificates are issued on the Smart Cards, with the help of service provider who operates on the BOOT model. The vehicles in this category are taxed as one time tax payment mode.

The system has been put into operation since December 2006, in phased manner in the State across 39 out of 46 offices as on the date. The remaining seven offices are expected to be covered by March 2011. In these seven offices taxation records are maintained in electronic form in a system known as TOOLS which was developed by NIC Pune which is under operation since 1996. A total of 4,28,339 Smart Card Registration Certificates have been issued so far, and the records of the tax payment are maintained in “Vahan” in the electronic form. Taxation records of the vehicles registered prior to the implementation of “Vahan” are maintained manually in the form of registers called as the CBR-Cash Balance Registers, maintained vehicle number wise.

As regards Transport Vehicles, the necessary software modules in “Vahan” were developed by NIC, Pune with the help of the department which were under trials at Dy. RTO, Pimpri-Chinchwad. The Registration of Transport

Category Vehicles has been put on the trial run with effect from 27 December 2010.

For catering to the needs of licensing of drivers an application software entitled “SARATHI” is used. “SARATHI” is in use in all the 46 offices and operates under the BOOT model with the help of service provider. So far 71,95,215 Smart Card driving licences have been issued.

The Department is also using software developed to test the candidates for issue of learner licenses. This software is in operation in 12 offices and work to provide the facility at another 12 offices is under way. The software is to be provided in all the offices in a phased manner.

5.2.2 Organisational set-up

The Principal Secretary (Transport), Home Department (HD) is the administrative authority at the Government level and is responsible for the administration of the Acts. The Transport Commissioner (TC), Maharashtra State, Mumbai is the head of the Motor Vehicles Department and is assisted by an Additional Commissioner, a Joint Commissioner and seven Deputy Commissioners of Transport. The State is divided into 14 regions² each under the charge of a Regional Transport Officer (RTO) for administration and enforcement of various provisions of the Acts. 31 sub-offices³ under the charge of Deputy (Dy.) RTO are also functioning in the State. Besides, there are 22 border check posts⁴ in the State which are responsible for collecting revenues from vehicles entering into the State and checking documents and vehicles for compliance to the provisions of the Acts and Rules.

5.2.3 Scope of audit

A test check of records was conducted in the offices of the TC, Mumbai, 14 RTOs⁵, 22 Dy. RTOs⁶ and 15 Border Check Posts⁷ for the period 2004-05 to 2008-09 with a view to examine the correctness of assessment, levy and collection of taxes and other receipts. Records of all the above RTOs/Dy. RTOs were test checked for the review.

² Amravati, Aurangabad, Dhule, Kolhapur, Latur, Mumbai (Central), Mumbai (East), Mumbai (West), Nagpur (city), Nagpur (Rural), Nanded, Nashik, Pune and Thane.

³ Ahmednagar, Akhuj, Akola, Ambejogai, Baramati, Beed, Bhandara, Buldhana, Chandrapur, Gadchiroli, Gondia, Hingoli, Jalgaon, Jalna, Kalyan, Malegaon, Nandurbar, Navi Mumbai, Osmanabad, Parbhani, Pen, Pimpri-Chinchwad, Ratnagiri, Sangli, Satara, Shrirampur, Sindhudurg, Solapur, Wardha, Washim and Yavatmal.

⁴ Achad, Akkalkuva, Billoli, Borgaon, Chandgad, Chorwad, Deglur, Deori, Insuli, Kagal, Kharapi, Mandrup, Manegaon, Maravade, Navapur, Omerga, Palasner, Pimpalkutti, Purnad, Rajura, Saoner and Warud.

⁵ All RTOs shown at foot note 2.

⁶ Dy. RTOs excluding Akola, Bhandara, Buldhana, Chandrapur, Gadchiroli, Gondia, Wardha, Washim and Yavatmal shown at foot note 3.

⁷ Border check posts excluding Deori, Kharapi, Manegaon, Pimpalkutti, Rajura, Saoner and Warud shown at footnote 4.

5.2.4 Audit objectives

The review was conducted to ascertain whether:

- the levy, assessment and collection of taxes, fees and interest under various Acts and Rules administered by the Motor Vehicles Department was done correctly;
- the costs of vehicles was determined correctly for levy of one time tax (OTT) on non-transport series vehicles and for levy of periodic tax on transport vehicles;
- the classification of vehicles was done correctly for levy of tax;
- the refunds of tax was granted correctly;
- various exemptions/concessions from payment of tax was granted correctly;
- arrears of revenue are pursued and recovered according to the provisions of the Acts; and
- an internal control mechanism is in existence in the Department and it is adequate and effective.

5.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Home Department and its subordinate offices for providing necessary information and records for audit. An entry conference for the review was held on 8 January 2010 with the Additional Commissioner of the Motor Vehicle Department and the executive was informed about the scope, objective and methodology of audit. The Additional Commissioner of the Motor Vehicles Department explained the various aspects of assessment, levy and collection of Motor Vehicle Tax and also its administration and implementation. The draft review report was forwarded to the Government and the Department in August 2010 and the audit conclusions and recommendations were discussed in the exit conference held on 26 November 2010. The Transport Commissioner, Joint Commissioner, Deputy Commissioner and other senior officers represented the Motor Vehicles Department. However, no officers from the Government attended the meeting. The replies given during the exit conference and at other times have been appropriately included in the relevant paragraphs.

5.2.6 Trend of revenue

The budget estimates, actuals and percentage increase/decrease of revenue for the period 2004-05 to 2008-09 are as under:

(Rupees in crore)

Trend of revenue of taxes on vehicles				
Year	Budget estimates	Actuals	Variation excess (+) shortfall (-)	Percentage of variation
1	2	3	4	5
2004-2005	1,200.00	1,177.14	(-) 22.86	(-) 1.91
2005-2006	1,275.00	1,309.11	(+) 34.11	(+) 2.68
2006-2007	1,800.00	1,841.06	(+) 41.06	(+) 2.28
2007-2008	2,215.31	2,143.11	(-) 72.20	(-) 3.26
2008-2009	2,200.00	2,220.22	(+) 20.22	(+) 0.92

Trend of revenue of taxes on goods and passengers				
Year	Budget estimates	Actuals	Variation excess (+) shortfall (-)	Percentage of variation
1	2	3	4	5
2004-2005	455.50	427.75	(-) 27.75	(-) 6.09
2005-2006	500.00	504.63	(+) 04.63	(+) 0.93
2006-2007	545.67	224.48	(-) 321.19	(-) 58.86
2007-2008	594.00	388.27	(-) 205.73	(-) 34.63
2008-2009	617.80	891.95	(+) 274.15	(+) 44.38

It would be seen from the above that there has been a constant increase in the revenue collection during the period 2004-05 to 2008-09 in respect of taxes on vehicles. The collection of revenue in the year 2008-09 had increased by 89 per cent in comparison to the revenue collected in the year 2004-05.

To ascertain the reasons for decrease in revenue for 2006-07 and 2007-08 in case of passenger tax (PT) the minor head-wise revenue figures for the years 2006-07 and 2007-08 were obtained from the office of the Principal Accountant General (A&E), Mumbai and it was noticed that there were huge variations in the figures during these years in respect of Mumbai region. Reasons for variation though called for have not been received from the Department. For the year 2008-09 increase was due to receipt of passenger tax of ₹ 298.53 crore receivable from Maharashtra State Road Transport Corporation for the year 2007-08 which was adjusted during the year 2008-09.

5.2.7 Arrears of revenue

5.2.7.1 Non-recovery of arrears of tax from fleet owners and operators of stage carriages

According to the provisions of the BMV (TOP) Act, 1958, fleet owners and operators have to submit a return every month in respect of the tax payable by them and shall pay the tax into the Government account in the succeeding month. As per Section 8 of the said Act, if tax is not paid as prescribed in the Act penalty is leviable not exceeding 25 *per cent* of amount due at the discretion of the taxation officer. Further, as per Section 9 of the Act the unpaid tax can be recovered as arrears of land revenue.

During test check of the records, we noticed that in respect of six fleet owners⁸ and two operators the arrears of tax for PT and Child Nutrition Surcharge (CNS) as on 31 March 2009, was ₹ 105.10 crore as shown below:

(Rupees in crore)			
Sl. No.	Name of the operator	Total arrears as on 31 March 2009	
		PT	CNS
	Fleet owners		
1.	Pune Municipal Transport	39.60	25.00
2.	Pune Mahanagar Parivahan Mahamandal	9.11	4.23
3.	Pimpri-Chinchwad Municipal Transport	4.18	2.16
4.	Kolhapur Municipal Transport	4.82	4.13
5.	Thane Municipal Transport	2.71	1.74
6.	Kalyan-Dombivali Municipal Transport	1.37	0.89
	Sub-total (i)	61.79	38.15
1.	Aurangabad Municipal Transport	0.31	0.34
2.	Solapur Municipal Transport	0.94	3.57
	Sub-total (ii)	1.25	3.91
	Total (i) + (ii)	63.04	42.06
	Grand total	105.10	

Information regarding arrears of revenue in respect of Mira-Bhayander Municipal Corporation Transport Undertaking and Nagpur Municipal Transport was not made available to us. In respect of Solapur Municipal Transport, the arrears of PT and CNS of ₹ 4.51 crore related to the period upto 31 October 2007 only, as returns for the periods November 2007 to March 2009 were not filed with the Department by the operator.

Out of the arrears of ₹ 99.94 crore in respect of six fleet owners, ₹ 64.60 crore related to Pune Municipal Transport (PMT), ₹ 6.34 crore to Pimpri-Chinchwad Municipal Transport (PCMT) and ₹ 13.34 crore to Pune Mahanagar Parivahan Mandal Ltd. (PMPML). While, the transport Department is under the jurisdiction of the HD, the Municipal Corporation to

⁸ Fleet owner is an operator holding a permit for 100 or more stage carriages.

which the transport fleet belonged is under the administrative control of the Urban Development Department (UDD). The UDD vide G.R. issued in April 2007 merged PMT and PCMT into a limited company namely, PMPML, but the concurrence of the Home Department was not taken for this purpose though the transport activity fall under the jurisdiction of the Home Department (Transport). However, in February 2007 itself the HD had informed Pune Municipal Corporation (PMC) that the recovery of arrears of tax of ₹ 64.60 crore (upto March 2007) was to be effected from the grants received by PMC from the State Government. The PMC has not taken any action in this regard as PMT was merged into the above limited company. Thus, absence of coordination between the UDD and HD resulted in the arrears of revenue of ₹ 64.60 crore being lost sight of, resulting in non-recovery of revenue.

We also noticed that though references were made to the fleet owners and operators by the Department, no concrete steps were taken to liquidate the mounting arrears; hence there is a need to evolve an action plan to recover the arrears.

The Joint Transport Commissioner stated that necessary legal steps shall be taken for recovery of passenger tax from the defaulters.

5.2.7.2 Inadequate action to realise the arrears of BMV Tax

According to Section 12 of the BMV Tax Act, 1958, any tax or interest due and not paid as provided by or under the Act shall, subject to the other provisions of this Act, be recoverable in the same manner as arrears of land revenue as per the provisions of the Maharashtra Land Revenue (MLR) Code.

Information received from 21 offices⁹ revealed that the arrears of revenue was ₹ 125.51 crore as on 31 March 2009. On analysis of the data and also scrutiny of records collected by us, we noticed that in eight offices¹⁰, out of ₹ 84 crore of arrears, ₹ 40.74 crore related to periods prior to 2004-05.

We observed that the Department did not prepare the list of defaulters and hand over the same to the field investigation staff for recovery of the arrears. The Department also did not identify the defaulting vehicle owners as 'live' or 'not traceable' in order to identify and chase the defaulters for recovery.

In respect of RTOs at Mumbai (Central) and Mumbai (West) out of ₹ 24.41 crore, the arrears prior to 2004-05 was of ₹ 22.90 crore.

⁹ RTOs: Amravati, Aurangabad, Kolhapur, Latur, Mumbai (Central), Mumbai (East), Mumbai (West), Nagpur (city), Nagpur (Rural), Nanded, Pune and Thane; Dy. RTOs: Beed, Kalyan, Osmanabad, Pen, Pimpri-Chinchwad, Sangli, Satara, Shrirampur and Solapur.

¹⁰ RTOs: Kolhapur, Nagpur, Pune and Thane; Dy. RTOs: Kalyan, Pen, Sangli and Satara.

The TC stated that the arrears was inclusive of notional arrears for which action would be taken for write-off and for the remaining amount it was stated that recovery proceedings would be initiated under the MLR code.

5.2.7.3 Improper maintenance of registers and records

As prescribed in the Departmental manual the RTOs and Dy. RTOs have to maintain various registers and records for assessment, levy and collection of motor vehicle tax.

During test check of the records in 21 offices¹¹, we noticed that a register entitled 'dormant register' to watch the position of arrears of tax and its recovery were not maintained in seven offices¹² and in seven other

offices¹³ though maintained were not being updated. Due to this the Department could not keep track of the arrears for effecting timely recovery of revenue.

The TC stated that the matter would be looked into.

The Government may devise a suitable mechanism to recover the amounts of arrears from the defaulters.

5.2.8 Internal control

The internal controls help in creation of reliable financial and management information system for adequate safeguards against non/short collection or evasion of taxes. The internal controls should also be reviewed and updated from time to time to keep it effective. Deficiencies noticed in the internal control mechanism have been commented in the succeeding paragraphs.

5.2.8.1(i) Internal audit

We noticed from the information furnished by the TC office that out of 335 (67x5) inspections to be carried out during the period 2004-05 to 2008-09, only 217 inspections were carried out as shown below:

An inspection wing is established in the Transport Commissioner's office. This wing is required to conduct audit of the 14 RTOs, 31 Dy. RTOs and 22 border check posts. After completion of audit, inspection reports (IRs) are issued and compliance of observations made is to be watched by the TC office.

¹¹ RTOs: Amravati, Aurangabad, Kolhapur, Latur, Mumbai (Central), Mumbai (East), Mumbai (West), Nagpur (city), Nagpur (Rural), Nanded, Pune and Thane; Dy. RTOs: Beed, Kalyan, Osmanabad, Pen, Pimpri-Chinchwad, Sangli, Satara, Shirampur and Solapur.

¹² RTOs: Amravati, Mumbai (Central), Mumbai (East), Nagpur, and Pune; Dy. RTOs: Kalyan, and Pimpri-Chinchwad.

¹³ RTOs: Aurangabad, Kolhapur, Mumbai (West), Nanded and Thane; Dy. RTOs: Beed and Pen.

Year	RTOs		Dy. RTOs		Border check posts		Total	
	Inspections due/done		Inspections due/done		Inspections due/done		Inspections due/done	
2004-05	13	9	32	17	22	10	67	36
2005-06	13	13	32	18	22	5	67	36
2006-07	13	13	32	18	22	12	67	43
2007-08	13	13	32	27	22	22	67	62
2008-09	14	14	31	18	22	8	67	40
Total	66	62	159	98	110	57	335	217
Overall percentage of inspection	94		62		52		65	

The above table shows that the shortfall in percentage of inspections of the Dy. RTOs and border check posts were at 38 and 48 *per cent* respectively.

5.2.8.1(ii) Scrutiny of information received from 26 offices¹⁴ revealed that

An internal audit wing is also in existence in the RTO/Dy. RTO offices, which has to maintain a monthly progress register to watch the compliance of observations made by it. A report of the internal audit conducted is to be sent to the TC office every month.

internal audit wing was not functioning in 13 offices¹⁵. In the remaining 13 offices¹⁶ though internal audit was conducted, only in seven offices the audit findings were

consolidated; six of whom had sent their report to the TC office.

Further, out of 220 IRs containing 247 observations involving ₹ 40.50 lakh for the years 2004-05 to 2008-09, clearance of 200 observations (81 *per cent*) involving ₹ 36.08 lakh were still pending. Inaction on part of the Departmental officials to take prompt remedial action on the Internal Audit findings has rendered the same ineffective.

This indicated that the internal audit was inadequate and also ineffective. No system was also put in place in the TC office to deliberate upon the audit observations for speedy clearance of observations and ensuring that the coverage is as prescribed.

¹⁴ RTOs: Aurangabad, Dhule, Kolhapur, Latur, Mumbai (Central), Nagpur (city), Nagpur (Rural), Nashik, Pune and Thane; Dy. RTOs: Ahmednagar, Akhuj, Baramati, Beed, Hingoli, Jalgaon, Nandurbar, Navi Mumbai, Osmanabad, Pen, Pimpri-Chinchwad, Sangli, Satara, Shrirampur, Sindhudurg and Solapur.

¹⁵ RTOs: Aurangabad, Dhule, Kolhapur, Mumbai (Central), Nashik, Pune and Thane; Dy. RTOs: Ahmednagar, Jalgaon, Pen, Satara, Shrirampur and Solapur.

¹⁶ RTOs: Latur, Nagpur (city) and Nagpur (Rural); Dy. RTOs: Akhuj, Baramati, Beed, Hingoli, Nandurbar, Navi Mumbai, Osmanabad, Pimpri-Chinchwad, Sangli and Sindhudurg.

5.2.8.2 Incomplete records

As per the provisions of the MV Act, 1988 and rules made thereunder, at the time of registration of a vehicle the authority concerned has to inspect the vehicle and determine the classification (Schedule entry) and rate of tax payable on the basis of the details filled in form 20 by the vehicle owner. An endorsement to this effect is to be made in the vehicle records along with a copy of receipt of payment of tax.

The record of payment of taxes is kept in Cash Balance Review Register and in Motor Vehicles Register in respect of transport and non-transport registers respectively.

During test check of the vehicle records of RTOs at Nashik and Pune regions, for the periods 2007-08 and 2008-09 we noticed that out of 76,276 vehicles registered

with the RTOs, in respect of 11,300 vehicles neither an endorsement of the schedule entry/rate of tax applicable to the vehicle was made in the vehicle records nor the copy of receipt in proof of payment of tax was kept on record. The correctness of the tax assessed and payment made thereof by the vehicle owner thus could not be verified.

After we pointed this irregularity, the Department agreed to take necessary action.

5.2.8.3 Non-updating of Departmental manual

A Departmental manual was prepared in 1985 for use of the office and field staff. Though the MV Act, 1988, has been modified in 1989 by the Government of India (GoI), the manual prepared in 1985 is yet to be updated.

The TC stated that a new manual is under preparation.

5.2.8.4 Inconsistency in fixation of un-laden weight

According to the prescribed practice the un-laden weight (ULW) of a vehicle is to be recorded in the vehicle records as measured in the weigh bridge after body building is completed.

During test check of the vehicle records of transport series vehicles in 21 offices¹⁷, we noticed that in 159 cases the ULW recorded was not as per the weigh bridge certificate, in 222 cases the ULW was recorded as per the sales certificate and in 272 cases the ULW recorded was not authenticated by any documents. Since recording of the correct ULW has implications relating to overloading of the vehicles and consequential levy of penalty, it is essential that the vehicle records be checked for ascertaining the correctness of

¹⁷ RTOs: Aurangabad, Dhule, Kolhapur, Latur, Mumbai (East), Mumbai (West), Nanded, Pune and Thane; Dy. RTOs: Ahmednagar, Baramati, Jalgaon, Kalyan, Nandurbar, Navi Mumbai, Pen, Pimpri-Chinchwad, Sangli, Satara, Sindhudurg and Solapur.

information filled in. The RTOs had failed in their duties to ensure that the entries were made as per the Rules.

After we pointed out these cases, the Department agreed to verify the details and record correct ULW in the registration records of the vehicle owners.

The Government/Department may review the internal control measures and also enforce the system already prescribed to make it an effective tool for safeguarding the Government revenue.

5.2.9 Implementation of circular instructions

5.2.9.1 Delay in implementation of circular instruction issued by the Government of India for omni buses – loss of revenue thereof

The classification of “omni buses” was changed to transport category as per amendment of the MV Act, 1988 in November 2004. Hence, the omni bus was required to be registered as transport vehicles only with contract carriage permits. In such cases tax was leviable at the minimum rate of ₹ 1,500 PSPA with effect from November 2004. However, TC, Mumbai issued instructions in this regard on 30 May 2009 after a lapse of 55 months.

During test check of the records of 14 offices¹⁸ of the RTOs/Dy. RTOs we noticed that, for the periods between November 2004 and March 2009, in respect of 304 vehicles wherein the Department had either treated the vehicle owners as without

permits or had granted new registration to vehicles without permits as non-transport vehicles and tax was collected at lower rate of ₹ 500 per seat per annum (PSPA) instead of ₹ 1,500 PSPA for transport vehicles.

Though there is no reply on this issue from TC office it is understood that the matter was under consideration and was delayed/pending due to the issue regarding issue of permits to transport category vehicles. The RTOs took the view that since permits were not to be issued in keeping with the State Government nationalisation of transport policy, there was no point in registering these vehicles as transport category vehicles. The matter was also under litigation in the High Court and the State Government decided to register the omni buses as transport category vehicles for new registration with effect from 30 May 2009.

The fact, however, remains that had the decision been taken early, the State Government could have earned more revenue.

¹⁸ RTOs: Amravati, Dhule, Mumbai (West), Nagpur (city), Nagpur (Rural), Nashik and Thane; Dy. RTOs: Hingoli, Jalgaon, Nandurbar, Navi Mumbai, Sangli, Shrirampur and Sindhudurg.

5.2.9.2 Delay in communication of notification issued by the State Government resulting in short levy of tax

The Home Department by notifications dated 26 October 2005 and 28 April 2008 enhanced the rate of tax in respect of contract carriage buses, AC buses and AC sleeper buses with tourist permits with effect from 19 September 2005 and 1 May 2008 respectively.

During test check of the records of 13 offices¹⁹, we noticed that in respect of 442 vehicles, for various periods between September 2005 and February 2010, there were delays ranging from five to 15 days in communicating the enhanced rates from the TC office to its

subordinate offices resulting in short realisation of tax of ₹ 15.04 lakh due to non-recovery at enhanced rate of tax.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 2.50 lakh in respect of 142 vehicles. A report on recovery on the balance amount is awaited (November 2010).

The TC agreed to minimise the delay by sending instructions through e-mail.

The Department may consider instituting a mechanism for timely implementation the Government instructions in the interest of revenue.

Compliance deficiencies

5.2.10 Levy of tax

5.2.10.1 Short levy of tax due to application of incorrect rate

As per the BMV Tax Act, 1958, the levy of OTT on registration of motor vehicles depends on the category of the vehicle owner as defined in the Act and the rates of tax are regulated by the notifications issued by the Government from time to time. Further, the office of the TC periodically issues circular for approving the model and registering vehicles as imported vehicle/motor car under non-transport category or under the transport category.

During test check of the records of 19 offices,²⁰ we noticed for various periods between 2007-08 and 2008-09, that due to levy of tax at the rates applicable to domestic vehicles, on vehicles approved as imported category by the TC, non-levy of tax at revised rates and application of incorrect rate of tax, there was short levy of tax in respect of 215 vehicles. These mistakes resulted in short levy of tax aggregating ₹ 1.37 crore.

¹⁹ RTOs: Dhule, Kolhapur, Latur, Mumbai (West) and Nanded; Dy. RTOs: Jalgaon, Jalna, Nandurbar, Osmanabad, Pimpri-Chinchwad, Ratnagiri, Shrirampur and Solapur.

²⁰ RTOs: Amravati, Aurangabad, Dhule, Mumbai (West), Nagpur, Nanded, Nashik, Pune and Thane; Dy. RTOs: Ahmednagar, Ambejogai, Baramati, Jalna, Navi Mumbai, Osmanabad, Pen, Pimpri-Chinchwad, Sangli and Sindhudurg.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 1.72 lakh in 19 vehicles. A report on recovery on the balance amount is awaited (November 2010).

5.2.10.2 Short levy of tax due to deduction of discounts, concessions, etc., while determining the cost of vehicle

In case of non-transport series vehicles tax is to be assessed on the basis of the cost of the vehicle. The Act does not provide for deductions on account of discounts/concessions allowed in the purchase invoice to the purchaser by the selling dealer.

During test check of the vehicle records of 26 offices²¹, we noticed that the Department had allowed discount/concession shown in the purchase invoices in respect of 918 cases resulting in short

determination of the cost of vehicle. The mistake resulted in short levy of tax to the extent of ₹ 26.91 lakh.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 2.44 lakh in 116 vehicles. A report on recovery on the balance amount is awaited (November 2010).

However, the TC observed that since the amount was not paid by the purchaser, discounts, concessions, etc., were not to be considered for computing the tax.

5.2.10.3 Non-confirmation/cross verification of genuineness of payment of import duty on imported vehicles from concerned Customs Department

As per Section 2 of the BMV Tax Act, 1958, in respect of a vehicle imported into India the cost of the vehicle would be the cost as per the Bill of Entry filed by the importer for clearing the vehicle from Customs enclosure including the Customs duty paid by the vehicle owner while clearing the vehicle from the Customs enclosure. The rate of OTT leviable on the cost of vehicle is 14 *per cent* of the cost of imported vehicle with effect from 14 September 2006.

During test check of vehicle records in four offices²² we noticed that in 50 cases the Department had assessed OTT without ascertaining the correctness of the import duty paid by the owner on imported motor vehicles from the Custom Department.

In three of these cases even the copies of challans in proof of payment of

²¹ RTOs: Amravati, Aurangabad, Dhule, Kolhapur, Latur, Mumbai (West), Nanded, Nashik, Pune and Thane; Dy. RTOs: Ahmednagar, Ambejogai, Beed, Hingoli, Jalna, Nandurbar, Navi Mumbai, Osmanabad, Parbhani, Pen, Pimpri-Chinchwad, Ratnagiri, Sangli, Satara, Shirampur and Solapur.

²² RTO: Pune; Dy. RTOs: Navi Mumbai, Pen and Pimpri-Chinchwad.

customs duty was not kept on record. Due to this audit could not ascertain the genuineness of the import transactions as well as correctness of cost of vehicles determined for levy of OTT.

The JC stated that the Customs Department would be approached for communicating the amount of custom duty levied in respect of imported vehicles.

5.2.11 Classification of vehicles

5.2.11.1.(i) The Department classifies Google Internet Bus, Fun school Bus, Computer

According to the provisions of Section 3 read with Section 4 of the BMV Tax Act, 1958, there shall be levied and collected on all motor vehicles used or kept for use in the State, a tax in advance at the rates prescribed by Government by notification in the Official Gazette, from time to time but not exceeding the maximum rates specified in the First Schedule. The First Schedule provides separate tax rates for the vehicles which are fitted with any equipment such as cranes, compressors or projectors [A VI (2) of the First Schedule] and Excavators (A VI A of the First Schedule). However, tax rates applicable for Google Internet Bus, Fun school Bus, Computer Classes on Wheels Bus, construction equipment and oil field equipment vehicles have not been specified in the Schedule to the Act.

Bus, Computer Classes on Wheels Bus, etc., under A VI (2) and levies tax as applicable to cranes, compressors or projectors though these vehicles are neither used for lifting purpose nor fitted with any compressor or projector. These are specially designed vehicles either fitted with other equipment or are used for special services.

Hence, the classification of these vehicles under A VI (2) is not in order.

During test check of the records of the RTO Mumbai (Central), RTO Mumbai (East) and Pune and Dy. RTO at Baramati, we noticed that the special purpose utility vehicles were classified under the entry clause A VI (2). These vehicles should have been brought within the scope of the entry; 'Camper Van' IX of part A of first schedule to the Act, by expanding the description of the entry. In the State of Karnataka these vehicles are taxed under a separate entry and not under the entry pertaining to cranes.

5.2.11.1 (ii) The Department is levying tax in respect of construction equipment and oil field equipment vehicles treating them as vehicles covered under Clause A VI (2) though these vehicles are not specified in this category. The Department classifies these vehicles under A VI (2) and levies tax as applicable to cranes, compressors or projectors though construction equipment and oilfield equipment vehicles are neither used for lifting purpose nor fitted with any compressors or projectors. They are specially designed vehicles fitted

with high pressure pumping system, refuse compactors and/or are used for drilling purposes.

‘Construction equipment vehicle’ under Central MV Rules, 1989, means rubber tyred (including pneumatic tyred) rubber padded or steel drum wheel mounted, self-propelled, excavator, loader, backhoe, compactor roller, dumper, motor grader, mobile crane, dozer, fork lift truck, self-loading concrete mixer or any other construction equipment vehicle or combination thereof designed for off-highway operations in mining, industrial undertaking, irrigation and general construction but modified and manufactured with “on or off” or “on and off” highway capabilities.

The ‘construction equipment vehicle’ is purely of highway construction equipment vehicle designed and adapted for use in any other enclosed premises, factory or mines other than road network, not equipped to travel on public roads on their own power. Hence, the classification of these vehicles under A VI (2) is not in order.

During test check of the records of the Dy. RTO at Navi-Mumbai and Pen, we noticed that due to classification of these vehicles under clause A VI (2) of part I of First Schedule, tax was levied at a lower rate in respect of 10 vehicles during the year 2008-09. This resulted in short realisation of tax of ₹ 2.83 lakh.

The JC agreed with the observation made and stated that the matter would be looked into.

5.2.11.2 Short levy of tax due to incorrect classification of vehicles

According to the provisions of BMV Tax Act, 1958, OTT is to be levied on the non-transport vehicles having seating capacity upto 12, as a percentage of its cost. However, if the same vehicle is registered under the transport category, tax is levied annually on the basis of seating capacity.

During test check of the records of the RTOs at Kolhapur and Latur, we noticed in three cases, for the year 2008-09, that the Department had short levied tax of ₹ 1.40 lakh because of misclassification of non-transport vehicles as transport vehicles.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 89,889 in respect of two vehicles. A report on recovery on the balance amount is awaited (November 2010).

5.2.12 Incorrect grant of exemptions

5.2.12.1 Incorrect grant of exemptions from payment of tax in respect of buses carrying college students

According to sub-section 2 of section 13 of BMV Tax Act, 1958 read with notification issued on 27 July 1989, exemption of 2/3rd of the annual rate of tax payable was available in respect of the buses owned or operated for the schools to carry children upto secondary level. Such exemptions were not admissible to the school buses carrying college students.

During test check of the cash balance review registers (CBRR) of eight offices²³ in respect of transport series vehicles we noticed that during various periods between 2005-06 and 2009-10 exemption from the payment of tax was granted incorrectly to 20 buses of 15 institutions though these buses were used for carrying college students. This mistake

resulted in short levy of tax aggregating ₹ 16.45 lakh.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 1.48 lakh in respect of one vehicle. A report on recovery on the balance amount is awaited (November 2010).

5.2.12.2 Incorrect grant of exemption from payment of tax to educational institutions

As per sub-section 2 of section 13 of the BMV Tax Act, 1958 read with the notification issued by Home Department, the school buses taken on contract by school authorities and used as school buses as well as contract carriages for other purposes on regular basis on holidays or outside school hours are eligible for exemption of 1/3rd of quarterly tax applicable for respective quarters. Thus, in respect of the above category of school buses tax was assessed/paid on quarterly basis rather than on yearly basis.

During the scrutiny of the CBRR of transport series vehicles in seven offices²⁴, we noticed that the Department had levied tax on the buses hired by the schools for carrying school children as well as for other purposes, on the basis of annual rate of tax instead of quarterly rate of tax. This mistake resulted in short levy of tax aggregating ₹ 10.39

lakh in 112 cases, during the period 2004-05 to 2008-09.

²³ RTOs: Aurangabad, Dhule and Latur; Dy. RTOs: Akulj, Jalgaon, Osmanabad, Sangli and Solapur.

²⁴ RTOs: Mumbai (Central), Mumbai (West), Nashik, Pune and Thane; Dy. RTOs: Navi Mumbai and Pen.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 72,597 in respect of four vehicles. A report on recovery on the balance amount has not been received (November 2010).

5.2.13 Short recovery due to non-application of revised rates of fees in respect of choice registration marks

According to the notification dated 12 December 2007 issued by the State Government, the Registering Authority (RTOs/Dy. RTOs) shall reserve a registration mark as per the choice of the owner of the motor vehicle from amongst the registration marks, on payment of fees which are notified by the Government from time to time. The registration marks contained in one series cannot be interchanged with another. Further, a new registration series can be started only with the permission of the TC. In case a registration mark from a new series is to be allotted at the request of the owner of the motor vehicle when the existing series has not been exhausted the owner of the motor vehicle is required to pay three times the fees payable as prescribed in the Schedule to the notification.

During test check of the records of 14 offices²⁵ we noticed that in respect of 172 vehicles, for various periods between December 2007 and April 2009, there was short levy of fees aggregating ₹ 42.99 lakh due to non-application of revised rate of fees for allotment of registration marks as per the owner's choice.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 1,000 in respect of one vehicle. A report on recovery on the balance amount is awaited (November 2010).

²⁵ RTOs: Aurangabad, Mumbai (Central), Mumbai (East), Nanded and Pune; Dy. RTOs: Jalgaon, Kalyan, Nandurbar, Navi Mumbai, Osmanabad, Pimpri-Chinchwad, Satara, Shirampur and Solapur.

5.2.14 Incorrect determination of Registered Laden Weight/Seating Capacity and non-recovery of OTT from transport vehicles having registered laden weight upto 7500 kg

According to section 3 of the BMV Tax Act, 1958 and the relevant schedules to the Act, tax is levied on transport series vehicles as per their registered laden weight (RLW) and surcharge (SC). Further, as per the notification issued by the Home Department in May 2001, payment of OTT on transport series vehicles bearing RLW upto 7500 kg was made compulsory with effect from June 2001.

During test check of the transport series vehicles of 19 offices²⁶, we noticed, that in respect of 152 vehicles the RLW/SC was not determined correctly. Further, in respect of 12 vehicles whose RLW was upto 7500 kg., periodic tax was collected instead of OTT. These mistakes resulted in short levy of tax aggregating ₹ 12.34 lakh in respect of 164 vehicles.

After the cases were pointed out, the Department accepted the observations and recovered ₹ 2.28 lakh in respect of 27 vehicles. A report on recovery on the balance amount is awaited (November 2010).

5.2.15 Non-registration of other state vehicles

According to the provisions of the BMV Tax Act, 1958, the vehicles brought into the State of Maharashtra from other States and kept for use in the State for more than one year are required to be assigned new registration mark on payment of prescribed fees and tax. The registering authority has to maintain a register (form 'FT') for this purpose indicating the date on which the vehicle was removed from the State.

During test check of the records ('FT' forms) in 17 offices²⁷ of the RTOs/Dy. RTOs, we noticed that for 6,615 vehicles brought and kept for use in the State during the periods 2004-05 to 2008-09. In all these cases form FT was submitted with the prescribed fee of ₹ 100.

These vehicles used for the period of more than a year required to be registered and a new registration number to be assigned. However, the Transport Department had not put in place any mechanism to verify whether these vehicles continued to ply in State and for assigning new registration marks.

²⁶ RTOs: Aurangabad, Mumbai (Central), Mumbai (West), Nanded and Nashik; Dy. RTOs: Ahmednagar, Akluj, Beed, Jalna, Kalyan, Malegaon, Nandurbar, Navi Mumbai, Parbhani, Pen, Sangli, Satara, Shrirampur and Solapur.

²⁷ RTOs: Amravati, Kolhapur, Latur, Mumbai (Central), Mumbai (West), Nagpur, Nagpur (Rural), Nashik, Pune, and Thane; Dy. RTOs: Hingoli, Navi Mumbai, Parbhani, Pimpri-Chinchwad, Sangli, Satara and Sindhudurg.

Department needs to take action to send notices to the owners of these vehicles to get these vehicles registered if they are still used in the State.

5.2.16 Remittances into treasury

5.2.16.1 Non-recovery of BMV tax in case of dishonoured cheques

According to the provisions of the BMV Rules 1959, tax can either be paid in cash or through cheque. Further, if the tax paid through cheque is dishonoured by the collecting bank for any reasons whatsoever, the Department has to recover the amount involved immediately along with interest from the vehicle owners and also initiate action under the provisions of the Negotiable Instrument (NI) Act.

During test check of seven offices²⁸, we noticed from the cheque/dishonoured cheque register that during various periods between 2004-05 and 2008-09, in respect of 215 cases aggregating ₹ 1.03 crore, tax paid by vehicle owners by cheques were dishonoured by the concerned banks. These amounts were to be recovered in cash along with interest. The concerned RTOs/Dy. RTOs

neither took any action to recover the amounts from these vehicle owners nor took action as contemplated under the NI Act. This resulted in non-recovery of BMV tax amounting to ₹ 1.03 crore. Further, interest at the prescribed rate was also leviable.

The Deputy Commissioner (Accounts) stated that necessary action would be taken in the matter.

5.2.16.2 Non-validation of demand drafts

According to Rule 87 of the MV Rules, 1989, the composite/authorisation fee for National Permit (NP) shall be paid by demand draft (DD). The State Transport Authorities (STAs) are required to issue separate receipts in respect of each bank draft and such receipts shall be on security printed water mark paper carrying hologram of the concerned State/Union Territory. In case the DDs received from vehicle owners are dishonoured by the drawee banks, the same are to be entered in a register and action is to be initiated for revalidation of the DDs.

During test check of the records of the TC office, we noticed, that as per the dishonoured cheque register and revalidation files for the periods 2004-05 to 2008-09, 480 demand drafts (DDs) issued between 7 March 2000 and 26 March 2008, the aggregate value of which was ₹ 30.44 lakh were returned as dishonoured by the

²⁸ RTOs: Mumbai (Central), Mumbai (West), Pune and Thane; Dy. RTOs: Jalgaon, Navi Mumbai and Pimpri-Chinchwad.

Reserve Bank of India. These DDs had not been got revalidated from the concerned banks/ vehicle owners by the Department. This resulted in non-realisation of fee amounting to ₹ 30.44 lakh as on March 2010.

After these cases were pointed out the TC stated that references had been made to the concerned persons for revalidation of the DDs. However, the fact remains that due to absence of adequate follow-ups in the matter, ₹ 30.44 lakh could not be realised though six to 102 months have passed in these cases since issue of these DDs.

The Deputy Commissioner (Accounts) stated that necessary action would be taken in the matter.

5.2.16.3 Non-reconciliation of receipts

According to the Rule 98 (2) (v) of the Maharashtra Treasury Rules (MTR), 1968, the head of the office responsible for passing the challans is required to prepare a list of remittances and send it to treasury/Pay and Accounts Officer (PAO) every month and get it reconciled with treasury/PAO figures and obtain a certificate thereof from the treasury/PAO, stating that the amounts credited are found to be correctly accounted for.

During test check of the records of six offices²⁹ we noticed that reconciliation with the treasury/PAO accounts were not carried out for periods ranging from three to 14 months. Further, in respect of five of these offices³⁰, the respective treasuries namely Pay and Accounts Office, Mumbai

and Treasury Offices at Pune and Thane had intimated non-accounting of credits aggregating ₹ 3.34 crore to the respective offices between April 2007 to March 2009. The Department had not taken any action to ascertain the reasons for non-accounting of credits. Failure of the Department to reconcile the remittances *vis-a-vis* non-verification of credits which were not accounted for by the treasuries exposed the Department to the risk of misappropriation.

The Deputy Commissioner (Accounts) stated that instructions have been issued to the concerned RTOs for carrying out the reconciliation on a regular basis.

²⁹ RTOs: Kolhapur, Mumbai (Central), Mumbai (East), Pune and Thane; Dy. RTO: Navi Mumbai.

³⁰ RTOs: Mumbai (Central), Mumbai (East), Pune and Thane; Dy. RTO: Navi Mumbai.

5.2.16.4 Delayed remittance of Government money by banks and non-levy of interest thereon

As per Rule 8(1) of the Maharashtra Treasury Rules, 1968, all moneys received by or tendered to the Government officers are to be paid in full within two days of their receipt into a treasury/bank. Further, as per the instructions issued by RBI (February 2006), the banks authorised to collect Government revenue should credit the revenue so collected in the Government account within three days after its realisation, failing which interest at two *per cent* above bank rate is chargeable from banks.

During scrutiny of the records of RTOs at Mumbai (Central), Mumbai (West) and Thane we found that in 457 cases aggregating ₹ 184.56 crore there were delays ranging from one to 176 days (calculated after five days of the date of deposit) in crediting the amounts into the Government account by the banks. Further, due to

delay in remittance, interest amounting to ₹ 51.06 lakh was also leviable at the rate of eight *per cent* (bank rate is six *per cent*).

Transport Commissioner stated that necessary action would be taken.

5.2.17 Non-realisation of inspection fee due to non-inspection of vehicles

As per the Section 56 /Rule of the MV Act, 1988, and the rules made thereunder, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness. Fitness certificate is issued after inspection of the vehicles. A fitness certificate issued under the Act in respect of newly registered transport vehicle is valid for two years and is required to be renewed every year thereafter on payment of prescribed fees. Similarly, after 15 years from the date of registration, non-transport vehicles are required to be inspected, re-registered and a certificate of fitness is required to be issued on payment of prescribed fees.

During test check of the records and from the information furnished by 24 offices³¹ of the RTOs/Dy. RTOs we noticed that total number of inspections actually conducted were much less than the number of inspections required to be conducted during the periods from 2004-05 to 2008-

09. Scrutiny revealed that in respect of 9,58,811 transport vehicles and 99,407 non-transport vehicles inspections were not conducted.

³¹ RTOs: Amravati, Aurangabad, Dhule, Kolhapur, Latur, Mumbai (West), Nagpur, Nagpur (Rural), Nashik, Pune and Thane; Dy. RTOs: Ahmednagar, Baramati, Hingoli, Nandurbar, Osmanabad, Navi Mumbai, Parbhani, Pimpri-Chinchwad, Sangli, Satara, Shirampur, Sindhudurg and Solapur.

Non-inspection of motor vehicles had not only resulted in huge number of vehicles plying without valid fitness certificates thus jeopardising public safety but also non-recovery of inspection fees of ₹ 21.16 crore in respect of 10,58,218 un-inspected vehicles as calculated at the average rate of ₹ 200 per inspection per vehicle.

The TC stated that the Department is considering to publish a fitness calendar every year, in cases where vehicle owners are not turning up for obtaining fitness certificate and also considering levy of penalty for non-compliance.

5.2.18 Pendency of prosecution cases for offences

According to the circular instructions issued by the TC, Mumbai in March 1974, on detection of the vehicle for breach of provisions of the MV Act, 1988 and rules made thereunder the authority concerned should prepare a checking report in the prescribed form indicating therein the nature of offences and the relevant section or the rule under which the action is proposed to be contemplated. A copy of the same is required to be submitted to the registering authority. The registering authority is required to compound the offences in each case for levy of penalty.

Information collected from 31 offices³² of the RTOs/Dy. RTOs revealed that 1,76,904 prosecution cases were pending for settlement during the periods 2004-05 to 2008-09. In few cases the Department replied that despite issue of notices there was no response from the accused. The reply is not tenable as the

Department is equipped with all the powers to proceed against the defaulters. The large number of cases pending shows that the Department has diluted the deterrence effect of these provisions.

5.2.19 Conclusion

We noticed that there were huge arrears of passenger tax, CNS and motor vehicle tax due to lack of effective steps for recovery. There were delays in implementation of circular instruction issued by the Government of India as well as delays in communication of notification issued by the State Government. There were several instances of application of incorrect rate of tax, inappropriate classification of vehicles for registration and incorrect exemptions leading to short levy of tax. Inaction on the part of Department resulted in non-recovery of amount involved in dishonoured cheques. There were large numbers of offence cases pending for settlement. There were short falls in inspection and also lack of follow-up of observations during inspections.

³² RTOs: Amravati, Aurangabad, Dhule, Kolhapur, Latur, Mumbai (Central), Mumbai (East), Mumbai (West), Nagpur (city), Nagpur (Rural), Nashik, Pune and Thane; Dy. RTOs: Ahmednagar, Akhuj, Baramati, Beed, Hingoli, Jalgaon, Nandurbar, Navi Mumbai, Osmanabad, Parbhani, Pen, Pimpri-Chinchwad, Ratnagiri, Sangli, Satara, Shrirampur, Sindhudurg and Solapur.

5.2.20 Summary of recommendations

The Government may consider:

- *devising a mechanism to monitor and recover the huge amounts of arrears from the defaulters. The arrears from transport undertakings of Municipal Corporations may be recovered at Government level;*
- *instituting a mechanism for timely implementation of the circular instructions/notifications of GoI/TC's office in the interest of revenue;*
- *strengthening the internal control mechanism of Departmental inspections and internal audit for its adequacy and effectiveness in terms of action taken to resolve the outstanding paragraphs;*
- *take prompt action against owners who have dishonoured cheques of Motor Vehicle taxes. Department may also ensure prompt credit to the exchequer of demand drafts received;*
- *strict monitoring of remittances by designated banks of Motor Vehicle Taxes, to ensure their credit to Government account within prescribed time limit;*
- *to take proactive measures to take stringent action against offenders of motor vehicle laws with the help of police and by advertising their names and registration number in print media; and*
- *gearing up the Departmental machinery for checking of mechanical fitness of vehicles in interest of public safety.*

SECTION B STATE EXCISE

5.3 Introduction

5.3.1 Tax revenue administration

Levy and collection of taxes and other receipts under the State excise are regulated by the Bombay Prohibition Act, 1949, Bombay Prohibition (Privileges Fees) Rules, 1954, Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licence) Rules, 1996. These Acts and Rules are implemented by the Commissioner of State Excise under the overall control of the Principal Secretary to the Government in Home Department, assisted by Joint Commissioners and Deputy Commissioners. At the district level he is assisted by the Superintendents of State Excise working under the Regional Deputy Commissioners. The state excise receipts mainly comprise of excise duty leviable on spirits and fees on licences and privilege fees.

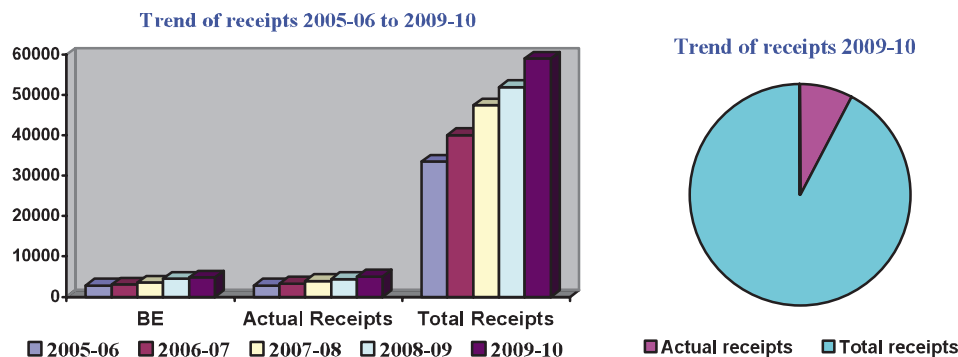
5.3.2 Trend of receipts

The actual receipts from State Excise sector during the years 2005-06 to 2009-10 and the total tax receipts during the same period is exhibited in the following table and graphs:

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	2,800.00	2,823.85	(+) 23.85	(+) 0.85	33,540.24	8.42
2006-07	3,100.00	3,300.70	(+) 200.70	(+) 6.47	40,099.24	8.23
2007-08	3,500.00	3,963.05	(+) 463.05	(+) 13.23	47,528.41	8.34
2008-09	4,500.00	4,436.76	(-) 66.24	(-) 1.47	52,029.94	8.53
2009-10	4,800.00	5,056.63	(+) 256.63	(+) 5.35	59,106.33	8.56

As can be seen from the above table, the revenue collection under state excise increased by 79 *per cent* in 2009-10 as compared to 2005-06.



5.3.3 Cost of collection

The gross collection in respect of state excise, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2007-08, 2008-09 and 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the year 2008-09 are given in the following table:

(Rupees in crore)

Head of revenue	Year	Gross collection ³³	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2008-09
Taxes on vehicles	2007-08	3,963.05	39.45	1.00	3.66
	2008-09	4,433.76	39.25	0.89	
	2009-10	5,056.63	62.68	1.24	

As can be seen from the above table the cost of collection for the year 2009-10 is far low as compared to the all India average.

5.3.4 Impact of Audit Reports

Revenue impact

During the last five years i.e. 2004-05 to 2008-09 we had pointed out cases of loss of revenue, non/short levy, non/short realisation of interest and other irregularities etc., with revenue implication of ₹ 70.68 crore in 1,146 cases. Of these, the Department had accepted audit observations in 948 cases involving ₹ 6.30 crore and had since recovered ₹ 3.38 crore in 533 cases. The details are shown in the following table:

³³ Figures as per Finance Accounts.

Year	Amount objected		Amount accepted		(Rupees in crore) Amount recovered	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	234	1.05	172	0.42	172	0.42
2005-06	136	0.76	136	0.76	98	0.50
2006-07	232	2.61	232	2.61	188	2.18
2007-08	524	66.07	390	2.33	66	0.18
2008-09	20	0.19	18	0.18	9	0.10
Total	1,146	70.68	948	6.30	533	3.38

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority.

5.4 Audit observations

On the basis of scrutiny of records of the State Excise Offices we reported several cases where provisions of Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licence) Rules, 1996, and Bombay Prohibition (Privilege Fees) Rules, 1954, were violated. These are mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such violations are pointed out by us repeatedly, but the irregularities persist. Moreover, these remain undetected till we conduct audit. There is need for the Government to improve the internal control system so that occurrence of such cases can be minimised.

5.5 Non-compliance of the provisions of the Acts/Rules

The Maharashtra Potable Liquor Rules, 1996, provides for levy and collection of licence fees at the rates notified annually by the Commissioner of State Excise. The State Excise authorities did not ensure that the correct rates of licence fees were levied and recovered resulting in short recovery of licence fees of ₹ 1.73 crore as mentioned in the succeeding paragraphs.

5.5.1 Short recovery of licence fees due to application of incorrect population slab

Office of Superintendent of State Excise (SPE), Thane

Under the provisions of the Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licence) Rules, 1996, licences are issued in the preceding year for sale or storage of imported foreign liquor/Indian made foreign liquor (FL I, FL II, FL III) and country liquor (CL II and CL III) in the succeeding year. The rates of licence fees are notified annually by the Commissioner of State Excise. The fees payable for the licences are based on the population slabs for the city, town or village in which the liquor shops are located. These rates were last revised in January 2009 in respect of licences to be renewed during the year 2008-09 for the year 2009-10.

During test check of the records in October 2009, we noticed that though the population as per census 2001 in Kalyan-Dombivali Municipal Corporation (KDMC) was more than 10 lakh, the licence fees for issue/renewal of licences for the year 2009-10 in respect of 171 (FL II, FL III and CL III) licensees were levied corresponding to population slabs below 10 lakh. This resulted in short recovery of revenue of ₹ 1.67 crore.

The SPE, Thane (January 2010) contested our observation stating that the population slab of the area was below 10 lakh. However, we are aware that the Tahsildar, Kalyan had informed SPE, Kalyan in June 2007 itself that the population of KDMC was more than 10 lakh as per Census 2001 and the census data for KDMC also shows that the population was more than 10 lakh. Therefore there was no valid reason for the SPE to levy the fees at a lower rate for renewal of the licence for the year 2009-10.

However, on reporting the matter to the Government/Department in May 2010 SPE, Thane accepted the observation and issued demand notice for recovery in July 2010. A report on recovery is awaited (November 2010).

5.5.2 Short recovery of licence fees due to non-application of revised rate

Superintendent of State Excise (SPE) in Buldhana and Pune and Excise Officer, Pune

Under the provisions of Maharashtra Potable Liquor (Periodicity and Fees for Grant, Renewal or Continuance of Licence) Rules, 1996, the rates of licence fees are notified annually by the Commissioner of State Excise (CSE). In respect of manufacture of country liquor (CL I) the rate of licence fees depended upon the quantity of bulk litres desired to be manufactured and for wholesale trade of foreign liquor (FL I) the rates of licence fees depended upon the quantity of bulk litres desired to be sold. These rates were revised periodically for the years 2005-06 to 2008-09. In case of default in payment of dues, interest at the rate of two *per cent* per month was chargeable on the amounts from the date they became due.

During test check of the records between January 2009 and November 2009, we noticed that in respect of three licensees of FL I and CL I where licences were renewed for the periods 2007-08 and 2008-09, there was short recovery of licence fees aggregating ₹ 5.87 lakh due to non-application of revised rate of licence fee. Further, interest at the prescribed rate was also leviable.

After we pointed out these cases, SPEs at Buldhana and Pune recovered amounts totaling ₹ 1.87 lakh between November 2009 and

January 2010 in two cases. In the remaining case the Excise Officer, Pune accepted the observation involving ₹ 4 lakh and stated that recovery would be made. A report on recovery is awaited (November 2010).

We reported the matter to the Government in June 2010; their reply has not been received (November 2010).

5.6 Short recovery of privilege fees

The Bombay Prohibition (Privileges Fees) Rules, 1954, provides for levy and collection of privilege fees at the rates prescribed in the rules. The State authorities did not ensure that correct rates of privilege fees were levied and recovered, resulting in short recovery of privilege fees of ₹ 15.76 lakh.

Superintendent of State Excise of five districts³⁴

Under the provisions of the Bombay Prohibition (Privileges Fees) (BPPF) Rules, 1954, privilege fees are payable by the licensees for transfer of licences from one name to another (including change in entity) or for the admission/withdrawal of a partner or partners as per Rules 5 and 6 of the said Rules. The fee chargeable for change in entity is 100 *per cent* of the licence fee and for withdrawal of a partner is 50 *per cent* of the licence fee. As per a proviso dated 4 October 1996, Rule 5 was not applicable to cases regarding transfer of licences for sale or storage of imported foreign liquor/Indian made foreign liquor (FL I and FL II) and country liquor (CL II and CL III). The proviso was amended on 18 June 2004, whereby non-applicability of Rule 5 in respect of licences issued under FL I and CL II was deleted.

During test of the records between November 2008 and December 2009, we noticed that privilege fees for the period between 2007-08 and 2008-09, in respect of 15 licensees were recovered at 50 *per cent* of licence fees applicable for withdrawal of partners in respect of FL II and CL III licences. However, these cases also involved changes in entities³⁵ of licences from partnership to proprietorship, therefore 100 *per cent* of licence fees were recoverable in such cases. This resulted in non-realisation of privilege fees aggregating ₹ 15.76 lakh.

After we pointed out these cases SPE, Dhule accepted the observation and stated that recovery would be made. SPEs at Nagpur and Nashik stated that the matter would be referred to the Commissioner of State Excise, Mumbai and SPEs at Pune and Thane reiterated that action was according to the rules.

We reported the matter to the Government in June 2010; their reply is awaited (November 2010).

³⁴ SPEs: Dhule, Nagpur, Nashik, Pune and Thane.

³⁵ Proprietorship to partnership or *vice versa*; clarification issued by the Commissioner of State Excise, Mumbai under his circular dated 18 November 1992.

CHAPTER-VI : OTHER TAX RECEIPTS

6.1 Results of audit

We reported short levy, excess grant of refund, loss of revenue etc., amounting to ₹ 925.13 crore in 20,981 cases as mentioned below, on the basis of test check of the records relating to entertainment duty, electricity duty, state education cess, employment guarantee cess, tax on buildings (with larger residential premises), repair cess and profession tax conducted during the year 2009-10 (except paragraph No. 6.4, 6.5 & 6.6.1 which were noticed in audit during May 2010):

(Rupees in crore)			
Sl. No.	Nature of receipts	No. of cases	Amount
1.	State education cess and employment guarantee cess	45	473.91
2.	Non/short recovery of electricity duty, inspection fees and excess refund	1,375	298.96
3.	Repair cess	16	119.99
4.	Profession tax	17,995	18.90
5.	Tax on buildings (with larger residential premises)	433	7.51
6.	Entertainment duty	1,117	5.86
	Total	20,981	925.13

In response to our observations made in the local audit reports during the year 2009-10 as well as during earlier years, the concerned Departments accepted underassessment, short levy, etc. and recovered ₹ 8.16 crore in 1,806 cases of which 704 cases involving ₹ 6.28 crore related to 2009-10 and the rest to earlier years.

A few audit observations involving ₹ 24.60 crore are included in the succeeding paragraphs, against which ₹ 1.45 crore had been recovered upto November 2010.

SECTION A ENTERTAINMENTS DUTY

6.2 Audit observations

During scrutiny of records in the offices of the Dy. Collectors/Resident Deputy Collectors/Taluka Magistrates/Entertainment Duty Officers, Municipal Corporations, Offices of the Chief Engineer (Electrical) and the Electrical Inspectors, Directors of Industries, Mumbai and Profession Tax Officers, we noticed cases of non-observance of provisions of the Acts and rules as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. There is a need for the Government to evolve suitable mechanism so that mistakes can be avoided, detected and corrected.

6.3 Non/short recovery of entertainment duty

The Bombay Entertainments Duty (BED) Act, 1923, provides for levy and collection of entertainment duty (ED) from cable operators and owners of video games, pool parlours and bowling alleys at the prescribed rates. The Entertainment Duty Officers did not observe some of the provisions which resulted in non-recovery of entertainment duty of ₹90.13 lakh.

6.3.1 Non-recovery of entertainment duty from cable operators

**Deputy Collectors/Resident Deputy Collectors/Taluka Magistrates/
Entertainment Duty Officers**

Under Section 3(4) of the BED Act, 1923, ED was payable by the cable operators at flat rates of ₹ 30, ₹ 20 or ₹ 10 per television set per month with effect from 1 April 2000 depending on whether the area is a municipal corporation (MC), A and B class municipality or other area. The rates were revised to ₹ 45, ₹ 30 or ₹ 15 per television set per month with effect from June 2006. Further, ED is payable on or before the 10th of the subsequent month to which it relates. Interest at the rate of 18 *per cent* per annum for the first 30 days and 24 *per cent* thereafter is to be levied in case of default in payment.

During test check of the records of 15 units¹ in nine districts², between June 2007 and January 2009, we noticed that ED amounting to ₹ 46.17 lakh was not paid by 154 cable

¹ Deputy Collectors: Mumbai-Zone X and XI; Resident Deputy Collectors: Amravati, Jalgaon, Jalna, Nagpur and Solapur; Entertainment Duty Officers, Zone M, Pune; and Taluka Magistrates: Lonar at Buldhana, Panhala at Kolhapur, Zone III, Andheri; Zone V: Borivali (West); Zone VI: Borivali; Zone IX: Kurla at Mulund and Parseoni at Nagpur.

² Amravati, Buldhana, Jalgaon, Jalna, Kolhapur, Mumbai, Nagpur, Pune and Solapur.

operators and ₹ 35.01 lakh was recovered short from 107 cable operators during various periods between May 2005 and March 2008. Action was not taken by the Department to recover these amounts from the cable operators. This resulted in non-recovery of ED aggregating ₹ 81.18 lakh from 261 cable operators. Besides, interest at the prescribed rates was also leviable.

After we pointed out the cases, between July 2007 and February 2009, the Department accepted the observations and recovered ED amounting to ₹ 23.94 lakh, between September 2007 and June 2010 from 99 cable operators. A report on recovery of the balance amount has not been received (November 2010). The Deputy Collector (Entertainment), Mumbai further stated that demand notices have been issued to the defaulters after issue of audit objection.

We reported the matter to the Government in April and May 2010; their reply has not been received (November 2010).

6.3.2 Non/short recovery of entertainment duty and surcharge from operators of video games, pool parlours and bowling alleys

Resident Deputy Collector/Taluka Magistrates

Under the provisions of the (BED) Act, 1923, ED is payable by the owners/operators of video games, pool parlours and bowling alleys at the rates notified by the Government from time to time with effect from May 2003. In respect of video games, entertainment duty is payable at ₹ 1,000, ₹ 750 or ₹ 500 per machine per month, depending on whether the area is a Municipal Corporation (MC), other MCs or other areas. For pool parlours entertainment duty is payable at ₹ 5,000, ₹ 3,000, ₹ 2,000 or ₹ 1,000 per pool table per month in advance, depending on whether the area is within Brihanmumbai Municipal Corporation; Navi Mumbai and Thane, Pune Municipal Corporation, other MCs or any other area. In respect of bowling alleys entertainment duty is payable at ₹ 5,000 in Brihanmumbai Municipal Corporation and ₹ 3,000 in other areas, per lane per month. Further, surcharge at 10 *per cent* is payable on all payments of admission to every entertainment.

During test check of the records of eight units³ in five districts⁴, between April 2007 and July 2009, we noticed that ED/ surcharge amounting to ₹ 5.88 lakh, ₹ 1.96 lakh and ₹ 1.11 lakh was not paid by 23 video game operators, 16 operators of pool parlours and 6 owners of bowling alleys, respectively. Action was not taken by the Department to recover the amounts from these operators/owners of video games, pool

³ Resident Deputy Collectors: Chandrapur, Mumbai-Zone: III, VI, VII, XI, Solapur and Thane, Taluka Magistrate : Wani, Yavatmal.

⁴ Chandrapur, Mumbai, Solapur, Thane and Yavatmal.

parlours and bowling alleys. This resulted in non-recovery of ED and SC aggregating ₹ 8.95 lakh.

After we pointed out the cases between April 2007 and July 2009, the Department accepted the observations and recovered ₹ 2.90 lakh against 12 cases between December 2008 and March 2010. A report on recovery of the balance amount has not been received (November 2010). The Deputy Collector (Entertainment), Mumbai further stated that demand notices have been issued to the defaulters after issue of audit objection.

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

SECTION B

STATE EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS

6.4 Non-remittance of education and employment guarantee cess

Non-observance of the provisions of Maharashtra Education and Employment Guarantee Cess (Cess), Act, Tax on Lands and Buildings (Collection and Refund) Rules, 1962 resulted in non-remittance of State education cess and employment guarantee cess to the extent of ₹ 259.39 crore.

Assessor and Collector, Brihanmumbai Municipal Corporation (BMC)

Education and Employment Guarantee (Cess) and penalty collected by the Municipal Corporations (MC) during a calendar week are required to be credited into the Government account before the expiry of the following week. For defaults in payment of any sum the Government may, after holding such enquiry fix a period for the payment of such sum. The Government is empowered to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from the bank account to the Government.

Mention was made in paragraph No. 6.5 of Comptroller & Auditor General (C&AG) Audit Report for the year 2008-09 regarding non-remittance of State education cess and employment guarantee cess by the Municipal Corporations. The BMC remitted/adjusted against the grants due to them from the Government ₹ 160.37 crore between July 2009 and July 2010.

During test check of the records in May 2010, we noticed that BMC did not remit revenue amounting to ₹ 259.39 crore relating to State education cess and employment guarantee cess which was collected during the year 2009-10. The Government also did not initiate any action either to fix a period for the payment of the dues or direct the bank to pay the amounts due from the accounts of the BMC.

After we pointed out the case, the Deputy Assessor and Collector (City), BMC, Mumbai stated (May 2010) that the collected amounts will be remitted to the Government account after receipt of the audited collection reports from the wards. The fact, however, remains that the amount collected on behalf of the Government is required to be remitted before the expiry of the following week in which it was recovered.

We reported the matter to the Government in June 2010. In response to the draft para the Government (Finance Department) replied (January 2011) that it has asked the Municipal Commissioner to issue instructions to the concerned authorities to henceforth credit the amount collected into the Government treasury in accordance with the provisions of the Act/Rules.

SECTION C REPAIR CESS

6.5 Non-remittance of repair cess

Non-observance of the provisions of the Maharashtra Housing and Area Development Act, 1976, resulted in non-remittance of repair cess of ₹ 73.79 crore.

Assessor and Collector, Brihanmumbai Municipal Corporation

The tax recovered by an MC on behalf of the Government is to be credited to the Consolidated Fund of the State within fifteen days from the date of its recovery. If any MC defaults in payment the Government may fix a period for the payment of such sum. The Government is empowered to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from the bank account to the Government.

During test check of the records in May 2010, we noticed that BMC did not remit revenue amounting to ₹ 73.79 crore, collected on account of repair cess during the year 2009-10. The Government also neither initiated action to fix a period for payment nor directed the bank to pay the amounts due from the accounts of the MC. This resulted in non-remittance of cess of ₹ 73.79 crore.

After we pointed out the matter, the Deputy Assessor and Collector (City), BMC, Mumbai remitted ₹ 50 crore into Government account

in September 2010. A report on recovery of the balance amount is awaited (November 2010).

We reported the matter to the Government in June 2010. In response to the draft para the Government (Finance Department) replied (January 2011) that it has asked the Municipal Commissioner to issue instructions to the concerned authorities to henceforth credit the amount collected into the Government treasury in accordance with the provisions of the Act/Rules.

SECTION D TAX ON BUILDINGS (With Larger Residential Premises)

6.6 Non-remittance of tax

Non-observance of the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re-enacted) (MTOB) Act, 1979 resulted in non-remittance of tax of ₹ 4.33 crore and non-levy of tax of ₹ 10.76 lakh.

6.6.1 Non-remittance of tax on buildings

Assessor and Collector, Brihanmumbai Municipal Corporation

Under section 14 of the Maharashtra Tax on Building (with Larger Residential Premises) (Re-enacted) (MTOB) Act, 1979, tax recovered by a municipal corporation (MC) on behalf of the State Government is to be credited to the Consolidated Fund of the State within 30 days from the date of its recovery. If any MC defaults in payment to the State Government any sum due under the Act, the State Government can, after holding such enquiry as it thinks fit, fix a period for payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of the Government shall be a sufficient discharge to such bank/treasury from all liabilities to the MC. There is no provision in the Act to levy interest or penalty on delay in remittance of Government revenue by the MC.

Mention was made in paragraph No. 6.7 of CAG Audit Report for the year 2008-09 –Government of Maharashtra regarding non-remittance of revenue amounting to ₹ 2.14 crore. The BMC remitted tax on building of ₹ 1.44 crore in July 2009.

During test check of the records in May 2010, we noticed that BMC did not remit revenue amounting to ₹ 4.33 crore which was collected during the year 2009-10 on account of tax on

building (with larger residential premises). Further, the Government had not directed the bank/treasury to pay the sum into the Government account as required. This resulted in non-remittance of tax of ₹ 4.33 crore.

After we pointed out the matter, the Deputy Assessor and Collector, BMC, Mumbai stated (June 2010) that the collected amounts will be remitted to the Government account after receipt of the audited collection reports from the concerned wards. The fact, however, remains that the amount collected on behalf of the Government is required to be remitted within 30 days from the date of its recovery.

We reported the matter to the Government in June 2010. In response to the draft para the Government (Finance Department) replied (January 2011) that it has asked the Municipal Commissioner to issue instructions to the concerned authorities to henceforth credit the amount collected into the Government treasury in accordance with the provisions of the Act/Rules.

There is need for a provision to levy interest/penalty on delayed remittances to curb the tendency on the part of the MC for retention of Government money. A mechanism also needs to be evolved at Government level, to watch the timely credit of revenues into its accounts.

6.6.2 Non-levy of tax on building with larger residential premises

Deputy Commissioner, Municipal Corporation (city), Jalgaon

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re-enacted) Act, 1979, tax is leviable (with effect from 1 April 1974) on all buildings in MC area containing residential premises with floor area exceeding 125 square metres and whose rateable value exceeds ₹ 1,500. In other corporation areas, tax is leviable in respect of residential premises with floor area exceeding 150 square metres and whose rateable value exceeds ₹ 1,500. The rate of tax is 10 *per cent* of the rateable value of the residential premises and tax is collected in the same manner in which property tax is collected by the MCs.

During test check of records in December 2009, we noticed from the assessment register that there were 203 properties since the inception of the corporation on 21 March 2003 upto December 2009, with an area in excess of 150 square meters and the rateable value of which exceeded ₹ 1,500. No action was taken by the corporation to levy and recover the tax in respect of these

properties. Out of these properties, we worked out the tax leviable in respect of 86 properties, for the periods between 2003-04 and 2008-09, which aggregated to ₹ 10.76 lakh. In respect of the remaining properties the corporation was asked to assess, levy and recover the tax.

After we pointed out, the Deputy Commissioner, Municipal Corporation (city) Jalgaon stated (December 2009) that the matter would be investigated and compliance sent to audit. Further report is awaited (November 2010).

The aspect of non assessment and consequent non-levy of tax was brought to the notice of the corporation during its first audit in May 2006 itself although the observation was of general nature as detailed evaluation of the properties had not been done by the Department. In reply the Deputy Commissioner of the corporation had stated (July 2006) that the tax would be assessed after revaluation of properties. Though revaluation of properties has since been done, action to assess and levy tax had still not been initiated though more

than four years passed since we pointed out the matter. This resulted in non-realisation of Government revenue.

We reported the matter to the Government in May and November 2010; their reply is awaited (November 2010).

A mechanism needs to be evolved at Government level to ensure that a watch is kept for timely assessment, levy and realisation of revenues by the corporation.

SECTION E ELECTRICITY DUTY

6.7 Non/delayed remittance of electricity duty and interest thereon

Non-observance of the provisions of the Bombay Electricity Duty Act, 1958, resulted in non-remittance of electricity duty and non-levy of interest of ₹ 2.14 crore on delayed remittance of electricity duty (ED).

6.7.1 Incorrect retention of electricity duty and non-levy of interest on delayed remittance of ED

Chief Engineer (Electrical), Mumbai (CE)

6.7.1.1 During test check of the records in September 2009, we noticed

Under Section 4 of the Bombay Electricity Duty Act read with Rule 2 of the Bombay Electricity Rules, 1962, every licensee who supplies electricity to consumers is required to collect duty from the consumers and pay it to the State Government on or before the last date of the succeeding calendar month in which the bills are raised. Further, as per Section 8 of the said Act, in case of default, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

from the report of collection of electricity duty submitted by Maharashtra State Electricity Distribution Company Ltd., (MSEDCL) to the CE that electricity duty aggregating ₹ 1,184.03 crore was collected by it during the period April 2008 to March 2009. Out of this, ₹ 1,056.28 crore was remitted into the treasury by MSEDCL

as per the remittance challans sent to this office by the CE in March 2010. This resulted in retention of electricity duty of ₹ 127.75 crore by MSEDCL.

After we pointed out the matter in September 2009, the CE stated that the matter will be referred to the Government for recovery of arrears from the subsidy to be paid to MSEDCL along with penal interest. However, the fact remains that instead of crediting the amounts collected on behalf of the

Government into the treasury, MSEDCL had retained the duty without any authorisation from the State Government. The MSEDCL should have simultaneously intimated the Government about the retention for adjustment against Government dues if any.

We reported the matter to the Government/Department in June 2010; their reply has not been received (November 2010).

6.7.1.2 Further, we noticed that out of ₹ 1,056.28 crore remitted into the treasury by MSEDCL, ₹ 474.19 crore for the months of April to June 2008, August to October 2008 and December 2008 to March 2009 were remitted into the Government account after delays ranging from two to 40 days. On delayed payment, interest amounting to ₹ 2.14 crore was leviable. However, the CE had neither levied nor demanded interest from MSEDCL.

After we pointed out the matter in September 2009 and July 2010, the CE stated that the interest on delayed payment of electricity duty would be recovered. Further action taken was awaited (July 2010).

We reported the matter to the Government/Department in July 2010; their reply is awaited (November 2010).

6.8 Short levy and incorrect retention of tax on sale of electricity

Non-observance of the provisions of the Maharashtra Tax on Sale of Electricity (TOS) Act, 1963, resulted in short levy of tax of ₹ 78.03 lakh and non-levy of interest of ₹ 14.91 lakh on incorrect retention of tax on sale of electricity.

6.8.1 Short levy of tax on sale of electricity

Electrical Inspector (Duty), Mumbai

Under Section 3 and 4 of the Maharashtra Tax on Sale of Electricity Act, 1963, every bulk licensee shall pay tax in respect of all his sales of energy in bulk. The Government under notification issued in May 2008 increased the tax on sale of electricity to industrial or commercial consumers from 19 paisa to 23 paisa per unit with effect from 1 May 2008.

During test check of the records in August 2009, we noticed that Brihanmumbai Electric Supply and Transport Undertaking (BEST), Mumbai had paid tax on 1,950.87 lakh units of electricity sold during the month of May 2008

at 19 paisa per unit instead of 23 paisa per unit. This resulted in short payment of tax of ₹ 78.03 lakh. The Department had not taken any action to recover the differential amount of tax from BEST.

After we pointed out the matter in September 2009, the Department accepted the observation and recovered ₹ 77.19 lakh in April 2010. A report on recovery of balance amount ₹ 83,655 is awaited (November 2010).

We reported the matter to the Government in April 2010; their reply is awaited (November 2010).

6.8.2 Incorrect retention of tax on sale of electricity and non-levy of interest

Chief Engineer (Electrical), Mumbai

Under Section 3 and 4 of the Maharashtra Tax on Sale of Electricity Act, 1963, every bulk licensee shall pay tax on or before the last date of the succeeding calendar month in respect of all his sales of energy in bulk. Further, in case of failure to pay the tax on sale of electricity collected, by the due date, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of tax remaining unpaid till the date of payment.

During test check of the records in September 2009, we noticed that between April 2008 and August 2008, the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected tax on sale of electricity aggregating ₹ 22.72 crore from the consumers but remitted the tax in the Government treasury after delays ranging from 10 to 40 days. Interest amounting to ₹ 14.91 lakh on the delayed payment was neither levied nor demanded by the CE from MSEDCL.

After we pointed out the matter in September 2009, the CE stated that the interest on delayed payment of tax on sale of electricity would be recovered.

We reported the matter to the Government in April 2010; their reply is awaited (November 2010).

6.9 Excess grant of refund of electricity duty

Non-observance of the prescribed conditions of the eligibility certificate under the Package Scheme of Incentives resulted in excess grant of refund of electricity duty of ₹ 35.63 lakh.

Director of Industries, Mumbai

Under the Package Scheme of Incentives which was introduced in 1964 to encourage dispersal of industries outside Mumbai-Pune-Thane belt, sales tax incentives, special capital incentives for Small Scale Industrial units, refund of octroi/entry tax/electricity duty, etc. were given to new/pioneer/prestigious units as well as existing units under expansion/diversification. Under the scheme the Industries Department issues an eligibility certificate (EC) to such a unit specifying the period of eligibility and quantum of incentives to be availed. Incentives to the eligible units in the form of refund of electricity duty paid to Maharashtra State Electricity Board (MSEB) were available for a period of five, seven or 10 years depending on the area in which the unit was located. If the EC is issued to an existing/new/pioneer unit for expansion/diversification then the refund of electricity duty is sanctioned proportionately by considering the original connected load and connected load after expansion.

During test check of the records in March 2010, we noticed that M/s. Jindal Polyester Limited was granted EC, for the period April 1996 to April 2007, under the package scheme of incentives. The company was also granted EC under sales tax for expansion during the period December 2000 to May 2011 for addition to the fixed capital investment. The company was entitled to refund of electricity duty against consumption of electricity and payment of electricity duty made to MSEB in proportion to the original connected load and connected load after expansion. Scrutiny of records revealed that the Department had granted full refund of electricity duty paid to MSEB of ₹ 92.03 lakh, for the periods 1996-97 to 2001-02, as against the refund of electricity duty in proportion to the original connected load and the connected load after expansion. Due to this the company was entitled to refund of electricity duty of ₹ 56.40 lakh only. This resulted in excess grant of refund of electricity duty of ₹ 35.63 lakh.

After we pointed out the matter, the Deputy Director of Industries, Mumbai stated that the excess refund of electricity duty granted will be adjusted against the claim for the year 2002-03.

We reported the matter to the Government in June 2010. In turn the Finance Department, in July 2010, required the Industries, Energy and Labour Department to furnish compliance to audit in the matter. Compliance is awaited (November 2010).

6.10 Non-recovery of inspection fees

Electrical Inspectors (EI) of sixteen districts⁵

Under Rule 4 of the Indian Electricity Rules (IER), 1956, inspection fees are required to be paid by the consumers prior to or at the time of or within 10 days from the date of the inspection, examination or test of electrical installations. The rates of fees payable are regulated by notifications issued by the Government from time to time. Further, as per sub-rule 2 of rule 4, of the IER, if, for any reason, the fee is not paid by the consumer, upto or within 10 days from the date of inspection, examination or test, the EI may direct the licensee to disconnect the supply to the installation of such consumer or recover the same along with the energy bills.

During test check of the records between May 2009 and December 2009, we noticed that inspection fees aggregating ₹ 1.41 crore for the inspection of electrical installations carried out between 2006-07 and 2008-09 were not paid by 726 consumers. The EIs had not recovered the amounts from the consumers.

After we pointed out these cases, the EIs

accepted the observations and stated that recoveries would be made. Accordingly, the department recovered ₹ 41.38 lakh, between May 2009 and July 2010, from 214 consumers. A report on recovery of the balance amount is awaited (November 2010).

The Chief Engineer (Electrical), Mumbai stated (November 2010) that the position of recoveries is being watched through quarterly returns sent to him by the EIs and also stated that instructions are being issued to the EIs in review meetings of the Superintendent Engineer (SE) and also during the inspection of the offices of the EIs by the SE and Executive Engineer.

However, the fact remains that recovery process is slow as inspection fees from large number of consumers are pending recovery for more than two to four years. Mention was made in para 6.7 and 6.10 of the Reports of the Comptroller and Auditor General of India for the years ended 31 March 2008 and 31 March 2009 respectively.

We reported the matter to the Government in June 2010; their reply is awaited (November 2010).

The Government may devise a suitable mechanism to strengthen the existing system to ensure that inspection fees are recovered in time.

⁵ Electrical Inspectors: Aurangabad, Beed, Dhule, Hingoli, Jalgaon, Jalna, Kolhapur, Latur, Nagpur, Osmanabad, Parbhani, Pune, Ratnagiri, Sindhudurg, Solapur and Thane.

SECTION F PROFESSION TAX

6.11 Non-realisation of Profession Tax

Non-enrolment of the medical practitioners with the profession tax Department resulted in non-realisation of the profession tax to the tune of ₹ 18.76 crore.

Profession Tax Officers of five districts

Under Section 3 of the Profession Tax Act, 1975, every person liable to pay tax under the Act is required to obtain an enrolment certificate and pay tax annually at the rates specified in Schedule I to the Act. Section 5(5) of the Act provides that, if a person liable for enrolment fails to apply for such certificate, a penalty of Rupees two per day is leviable.

We collected the details of medical practitioners who were registered with the four medical councils⁶ between January and March 2010 in order to ascertain whether all the

medical practitioners in allopathic, homeopathy, ayurvedic and dental medicine of Amravati, Latur, Nanded, Sangli and Solapur districts had been brought under the purview of the Act.

As per the information received from the medical councils 19,843 medical practitioners were registered with the medical councils upto March 2009. We cross-checked these details with the information furnished by the profession tax offices of Amravati, Latur, Nanded, Sangli and Solapur districts and found that only 2,136 medical practitioners were enrolled with the Profession Tax Department. Non-enrolment of the other 17,707 persons for the period from 2005-06 to 2009-10 resulted in non-realisation of profession tax of ₹ 18.76 crore. Further penalty at the prescribed rate was also leviable.

We reported the matter to the Government/Department in June 2010; their reply is awaited (November 2010).

⁶ Maharashtra Medical Council (Allopathic), Mumbai, Homeopathic Medical Council Maharashtra, Mumbai, Medical Council for Indian Medicines (Ayurvedic), Mumbai and Maharashtra Dental Council, Mumbai.

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Results of audit

We reported non-recovery of fees, charges and interest of ₹ 364.99 crore in 80 cases as shown below on the basis of test check of the records of non-tax receipts conducted during the year 2009-10.

(Rupees in crore)			
Sl. no.	Category	No. of cases	Amount
1.	Non-recovery of guarantee fees and interest	2	322.63
2.	Loss of revenue due to deterioration in transit/in-sale/in re-sale due to non-extraction/non-lifting of material other than bamboo	11	5.80
3.	Loss of forest revenue	4	5.71
4.	Loss of revenue on sale of <i>tendu</i> leaves	6	2.10
5.	Non-recovery of escort charges	34	1.35
6.	Loss on miscellaneous items	23	27.40
Total		80	364.99

In response to the observation made in the local audit reports during the year 2009-10 as well as during earlier years, the Department accepted under assessments and recovered ₹ 2.10 lakh in one case which was pointed out during earlier years.

A few audit observations involving ₹ 19.49 crore are mentioned in the succeeding paragraphs.

7.2 Non-recovery of guarantee fees

As per the Government Resolutions dated 18 November 1988 and 15 April 1997, the rate of guarantee fees varies between 0.50 to 2 *per cent* per annum. The guarantee fees on the guaranteed sums outstanding on 31 March and 30 September are to be credited to the Government account on 1 April and 1 October respectively every year by the loanee corporations/organisations. For delays in payment of guarantee fees, penal interest is payable at the rate of 16 *per cent* per annum for the first three months and at the rate of 24 *per cent* thereafter.

On the basis of detailed analysis of the records of two corporations under two administrative Departments relating to funds raised through bonds and loans on the basis of guarantees given by the Government, we noticed that the two corporations have not paid the guarantee fees due for the period April 2006 to March 2009. The concerned administrative Departments have also not taken any effective steps to recover the

dues. This resulted in non-recovery of guarantee fees and penal interest aggregating ₹ 322.63 crore payable upto 31 March 2009 as shown below:

(Rupees in crore)						
Sl. No.	Name of Department Name of the Unit	Amount Guaranteed	Date of Guarantee Due date of payment	Amount		
				Guarantee Fees	Penal Interest	Total
(I)	Public Works Department: Maharashtra State Road Development Corporation (MSRDC), Mumbai					
A)	Bond Series No. II, VIII to X, XIII and XVI to XXIII	1,996.40	Between July 1999 and January 2005 April 2006 to March 2009	89.92	146.69	236.61
B)	Loans from banks (14 loans)	1,115.67	Between November 2003 and June 2005 April 2006 to March 2009	20.06	47.82	67.88
(II)	Industry, Energy and Labour Department: Maharashtra State Financial Corporation (MSFC), Mumbai					
A)	Open market borrowings	385.57	Between March 1997 and January 2004 April 2008 to March 2009	2.57	15.57	18.14
	Grand total (I+II)	3,497.64		112.55	210.08	322.63

After we pointed out these cases, the Public Works Department stated (November 2010) that out of ₹ 773.63 crore payable to the Government on account of guarantee fees by MSRDC upto February 2010, ₹ 454 crore had

been converted into equity share capital (ESC) as per the Government Resolution dated 23 March 2010. Further, it was stated that the Planning Department had approved conversion of the balance amount into ESC for which supplementary budget provision was being made in the year 2010-11.

During the discussion of a similar para (Paragraph 6.3) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) – Government of Maharashtra, for the year ended 31 March 2006, in the Public Accounts Committee (PAC) meeting held on 29 September 2010, we pointed out that conversion of such huge amounts due to the Government into ESC would tantamount to write-off of the dues as the corporation is a loss making entity. This aspect also finds mention in the minutes of the meeting issued by the Maharashtra Legislative Secretariat on 7 October 2010. In respect of MSFC, the Finance Department had asked (July 2010) the Industry, Energy and Labour Department to furnish compliance to this office. Reply is awaited (November 2010).

7.3 Non-recovery of escort charges

Superintendent of Police (Rural), Nashik

As per paragraph 484(i) of the Maharashtra Police Manual (Vol. III) and under section 47 and 48 of the Bombay Police Act, 1951, the cost of deployment of police forces is recoverable from the individuals/organisations in advance. The cost of deployment of police includes pay, dearness pay, special pay, house rent allowances and other admissible allowances including leave salary and pension contribution and supervision charges at the rates prescribed from time to time.

On the basis of test check of the records in February 2010, we noticed that in respect of 33 cases, for various periods between 2005-06 and 2009-10, the Department had short-recovered the escort charges due to not taking into account the revision of pay structure of the Sixth Pay commission in the demand raised for recovery of escort charges for deployment of police force on the Food Corporation of India (FCI), (Manmad) and Executive Engineer, Vaitarna

Project. The short recovery of escort charges from FCI (Manmad) was ₹ 95.29 lakh and in respect of the Vaitarna Project was ₹ 39.94 lakh which aggregated to ₹ 1.35 crore.

After we pointed out the lapse, Superintendent of Police (Rural), Nashik while accepting our observation stated that action would be taken to recover the differential amounts. A report on recovery has not been received (November 2010).

We reported the matter to the Government in June 2010; their reply is awaited (November 2010).



(ANITA PATTANAYAK)

Principal Accountant General (Audit)-I,
Maharashtra

Mumbai,
The

Countersigned



(VINOD RAI)

Comptroller and Auditor General of India

New Delhi,
The

ANNEXURE
Statement showing auditable units, units planned and audited during the year 2009-10
(Reference : Paragraph 1.4)

Sr.No	Tax	Total No of auditable units ¹					No of units planned during 2009-10					No of units audited during the year 2009-10				
		A	B	T	Q	Total	A	B	T	Q	Total	A	B	T	Q	Total
1	Sales tax, VAT	323	390	31	0	744	317	35	10	0	362	319	37	13	0	369
2	Stamp duty	162	97	111	0	370	162	51	9	0	222	162	57	9	0	228
3	Land Revenue	58	56	797	0	911	58	33	20	0	111	58	33	20	0	111
4	Motor vehicle tax	46	0	0	0	46	46	0	0	0	46	46	0	0	0	46
	State Excise	34	0	147	0	181	34	0	18	0	52	34	0	14	0	48
5	Entertainments duty	71	0	3	308	382	71	0	0	35	106	71	0	1	42	114
6	Profession tax	0	0	74	0	74	0	0	12	0	12	0	0	12	0	12
7	Repair Cess	0	0	11	0	11	0	0	2	0	2	0	0	2	0	2
8	Education Cess and Employment Guarantee Cess	0	0	54	0	54	0	0	9	0	9	0	0	9	0	9
9	Residential Premises Tax	0	0	46	0	46	0	0	8	0	8	0	0	6	0	6
10	Electricity Duty	46	0	0	0	46	46	0	0	0	46	46	0	0	0	46
	Total	740	543	1,274	308	2,865	734	119	88	35	976	736	127	86	42	991²

¹ A- Annual B-Biennial T - Triennial Q - Quadrennial

² The units audited is more than the units planned for the year due to cancellation of four units under State excise and two units under residential premises tax and audit of additional seven units under sales tax/VAT, six units under stamp duty and eight unit under entertainment duty.