

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, land revenue, taxes on vehicles, stamp duty and registration fees and other tax and non-tax receipts.

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 but which could not be included in the previous years' reports.

OVERVIEW

This Report contains 43 paragraphs including two reviews relating to non/short levy of tax, penalty, interest etc. involving ₹ 352.04 crore. Some of the major findings are mentioned below:

I General

The total revenue receipts of the Government of Gujarat in 2009-10 were ₹ 41,672.36 crore as against ₹ 38,675.71 crore during 2008-09. The revenue raised by the State from tax receipts during 2009-10 was ₹ 26,740.23 crore and from non-tax receipts was ₹ 5,451.71 crore. State's share of divisible Union taxes and grants-in-aid from the Government of India were ₹ 5,890.92 crore and ₹ 3,589.50 crore, respectively. Thus, the revenue raised by the State Government was 77 per cent of the total revenue receipts. The main source of tax revenue during 2009-10 was sales tax/VAT (₹ 18,199.79 crore) and taxes and duties on electricity (₹ 2,643.65 crore). The main receipt under non-tax revenue was from non-ferrous mining and metallurgical industries (₹ 2,138.98 crore).

(Paragraph 1.1)

In four treasury offices, the banks collecting Government revenue had delayed crediting of the Government revenue into the Government account in a large number of cases. Though there was a provision for levy of interest for belated credit of the Government revenue, it was not levied by the concerned treasuries. This resulted in non/short levy of interest of ₹ 4.91 crore for delay in credit of Government revenue by the banks.

(Paragraph 1.1.4.1)

The Gujarat Municipal Finance Board (GMFB) drew funds from the Government account in excess of requirements during 2004-05 to 2007-08 in respect of four schemes. The retention of Government fund without requirement ranged from ₹ 161.57 crore to ₹ 202.47 crore.

(Paragraph 1.1.4.2)

II Sales Tax/VAT

Incorrect classification/rates of goods resulted in under assessment of ₹ 11.36 crore in the case of 46 dealers.

(Paragraph 2.14)

Concession of ₹ 25.16 crore was allowed to 92 dealers without obtaining the required declaration/certificates as required under the Central Sales Tax Act, 1956.

(Paragraph 2.15)

In 18 offices, the assessing officers allowed excess set-off, either on purchase of prohibited goods or without ascertaining the fulfillment of prescribed conditions. This resulted in excess grant of set off of tax of ₹ 1.76 crore including interest and penalty.

(Paragraph 2.17.1)

In two offices, the assessing officers had not initiated any action to recover tax of ₹ 3.37 crore along with interest of ₹ 1.61 crore from three dealers under the deferment incentives schemes. The dealers had defaulted in payments resulting in non-realisation of the Government revenue amounting to 4.98 crore.

(Paragraph 2.28.1)

III Land Revenue

A review on “**Receipts from conversion of land**” disclosed that:

- In 121 cases, the restrictions of new and restricted tenure were removed by *Mamlatdar* & Agricultural Land Tribunal (ALT) Choryasi, working under the Collector, Surat, without observing the instructions issued by the Government and without recovering the premium as prescribed by the Government. The Collectors also did not review the orders within the prescribed time limit. The revenue forgone in the form of premium price on this account in these cases worked out to ₹ 136 crore.

(Paragraph 3.5.8)

- There was no system in place to compare the market rate of a particular survey number of the land fixed by District Land Price Committee (DLPC) and new *jantri* approved by the Government. In 16 cases of land conversion, we noticed wide variation (three to nine times) in market rate fixed by the Committee and the *jantri* fixed by the Government for a particular survey number though the Committee had fixed the rate just two months before the new *jantri* was made effective. The concerned Collector(s) did not inform the variation to Government for rectification of the *jantri* and adopted lower rates prescribed in the *jantri*. This loss of revenue in the form of premium price was estimated at ₹ 14.85 crore due to adoption of lower *jantri* rates.

(Paragraph 3.5.9)

- In 10 cases, the land was treated as “old tenure” though the scrutiny of title of land produced before competent authority indicated that the land was of “new and restricted tenure”. The concerned Collector/DDO did not ascertain the correctness of the tenure resulting in revenue loss of premium price of ₹ 6.64 crore.

(Paragraph 3.5.10)

- The internal audit and the internal inspection system was inadequate and ineffective in view of action not taken on large number of internal audit observations. The number of outstanding observations increased from 5,328 to 14,202 i.e. by 167 *per cent* during the last five years.

(Paragraph 3.5.14)

- There was no system for effective monitoring to detect breach of conditions in orders of allotment of Government land. In 16 cases, though the occupants had breached the conditions of allotment of land, the Departmental officials failed to detect the same and initiate action to regularise the cases for recovery of premium price of ₹ 16.81 crore.

(Paragraph 3.5.15)

- There was lack of effective mechanism at district level to watch compliance of conditions of various resolutions, orders and instructions issued by the Government from time to time in respect of the conversion of the land for various uses and monitoring the levy and collection of various receipts relating therewith. Absence of such mechanism lead to shortfall in Government revenue of ₹ 16.66 crore.

(Paragraph 3.5.16 and 3.5.17)

- The Departmental officials did not follow the decision of the Government to re-grant the land to purchaser under new and restricted tenure and recover premium at 100 *per cent* of market value. This resulted in short levy of premium price of ₹ 5.44 crore.

(Paragraph 3.5.19 and 3.5.20)

IV Taxes on Vehicles

Two fleet owners (GSRTC and AMTS) collected passenger tax of ₹ 199.75 crore but did not pay it within the prescribed time. Taxation authorities did not take action to recover the dues. Further, taxation authorities did not levy interest of ₹ 10.81 crore and penalty of ₹ 50.06 crore on delay in payment of passenger tax by these fleet owners. This resulted in non-realisation of passenger tax of ₹ 260.62 crore.

(Paragraph 4.11)

The operators of 1,093 omnibuses and 779 vehicles for transport of goods had neither paid motor vehicles tax nor filed non-use declarations. Departmental officials failed to issue demand notices and initiate recovery proceedings, resulting in non-realisation of tax of ₹ 8.28 crore.

(Paragraph 4.12)

V Stamp Duty and Registration Fees

The Deputy Collector (VoP), Gandhinagar and 11 Sub-Registrar offices classified 20 documents on the basis of their titles instead of the recitals of these documents. This resulted in short levy of stamp duty and registration fees of ₹ 5.30 crore.

(Paragraph 5.11)

In 75 cases seen in audit, the recitals indicated the execution of another document, registration of which was compulsory. The executants of 66 documents did not register their documents with the registering authority. In nine cases, the recitals of the documents did not indicate that stamp duty and registration fees were levied on previous occasion. This resulted in non-realisation of stamp duty and registration fees of ₹ 1.25 crore.

(Paragraph 5.13)

VII Non-tax receipts

Review on “**Interest receipts**” disclosed that:

- At the end of 2008-09, recovery of principal of ₹ 840.65 crore of loans advanced by the Government and interest of ₹ 84.03 crore were overdue from municipalities, *panchayati raj* institutions, other local bodies and public sector undertakings. Of these, principal of ₹ 586.80 crore and interest of ₹ 58.68 crore were outstanding for over five years.

(Paragraph 7.2.7)

- State Government has not evolved any effective mechanism to watch debits/credits as reported by the Banks. State Bank of India debited ₹ 483.68 crore in Government account against actual payment of ₹ 111.19 crore which was corrected after a delay of 43 days. The State Bank of India and Bank of Baroda had retained Government money beyond the authorised time limit due to weak internal controls.

(Paragraph 7.2.9)

- The Gujarat State Disaster Management Authority had belatedly transferred the interest of ₹ 28.03 crore earned on Government funds to the Government account. Further, in violation of the Financial Rules and Government instructions, the Authority had not credited interest aggregating to ₹ 2.98 crore into the Government account. Resultantly, the State Government lost an opportunity to earn interest of ₹ 3.70 crore.

(Paragraph 7.2.10)

- The Internal control system for watching the recovery of loans and interest was found weak. In seven administrative Departments, we found that no internal control mechanism (except in Energy and Petrochemicals Department) was evolved by them to keep an effective watch over the recovery of loans/ interest. No loan register was maintained by them. The Finance Department also did not ensure compliance of the instructions issued by the Government from time to time by the administrative Departments. The lack of internal controls resulted in non-recovery of overdue interest of ₹ 512.45 crore from nine loanees.

(Paragraph 7.2.11)

- The terms and conditions of loans aggregating to ₹ 315.90 crore granted to four loanees were not finalised by three administrative Departments, *i.e.* Narmada, Water Resources, Water Supply and Kalpsar Department, Ports and Transport Department, the Industries and Mines Departments. This resulted in non-recovery of interest from the loanees.

(Paragraph 7.2.13)

- Three Co-operatives did not open escrow account in violation of the terms and conditions of the loan. Besides, the Government also failed to follow up with the co-operatives after release of the liquidity support loan for achieving its projected goals. This resulted in non-realisation of interest of ₹ 30.17 crore on NCDC and liquidity support loans.

(Paragraph 7.2.15.1)

In 41 cases, the Departmental officials either did not levy or levied less royalty on removal of minerals from leased area though the procedure prescribed by the Department requires the lessee to pay royalty in advance. This resulted in non/short levy of royalty and interest of ₹ 1.66 crore.

(Paragraph 7.5.1)

In 1069 cases, the lease holders did not pay royalty/dead rent and surface rent etc., in respect of lease of major and minor minerals granted to them. The Departmental officials failed to initiate action to enforce the recovery by way of cancellation of lease, confiscation of minerals, machineries etc., as provided in the Act/Rules or by issue of recovery certificate as arrears of land revenue under the BLR Code, resulting in non-realisation of Government dues of ₹ 13.16 crore.

(Paragraph 7.5.2)

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

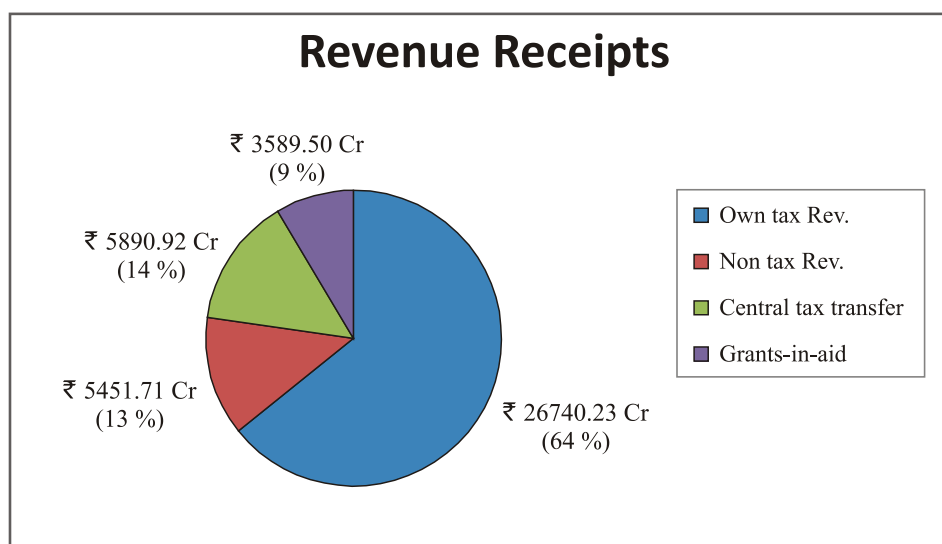
1.1.1 The tax and non-tax revenue raised by the Government of Gujarat during the year, the State's share of net proceeds of divisible Union Taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below :

(₹ in crore)

Sl. no.	Particular	2005-06	2006-07	2007-08	2008-09	2009-10
1.	Revenue raised by the State Government					
	• Tax revenue	15,698.11	18,464.63	21,885.57	23,557.03	26,740.23
	• Non-tax revenue	3,353.37	4,948.78	4,609.31	5,099.32	5,451.71
	Total	19,051.48	23,413.41	26,494.88	28,656.35	32,191.94
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	3,372.43	4,425.95	5,426.09	5,725.86	5,890.92
	• Grants-in-aid	2,642.96	3,162.86	3,768.88	4,293.50	3,589.50
	Total	6,015.39	7,588.81	9,194.97	10,019.36	9,480.42
3.	Total revenue receipts of the State Government (1 and 2)	25,066.87	31,002.22	35,689.85	38,675.71	41,672.36¹
4.	Percentage of 1 to 3	76	76	74	74	77

The above table indicates that during the year 2009-10, the revenue raised by the State Government (₹ 32,192 crore) was 77 per cent of the total revenue receipts against 74 per cent in the preceding year. The balance 23 per cent of the receipts during 2009-10 was from the Government of India.

¹ For details, please see statement No. 11, Detailed Accounts of revenue by minor heads in the Finance Accounts of the Government of Gujarat for the year 2009-10. Figures under the Heads "0020 - Corporation tax, 0021 - Taxes on Income other than corporation tax, 0028 - Other taxes on income and expenditure, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties, 0044 - Service tax, 0045 - Other taxes and duties on commodities and services", - share of net proceeds assigned to states booked in the Finance Accounts under A - 'Tax Revenue', have been excluded from revenue raised by the State and included in State's share of divisible union taxes in this statement.



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

(₹ in crore)

Sl. no.	Heads of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+) or decrease (-) in 2009-10 over 2008-09
1.	Sales tax/VAT	8,646.13	10,886.21	13,199.04	15,143.86	15,651.20	(+) 3.35
	Central sales tax	1,915.21	1,931.25	1,905.50	1,666.79	2,548.59	(+) 52.90
2.	Taxes and duties on electricity	1,899.68	2,087.77	2,046.52	2,369.91	2,643.65	(+) 11.55
3.	Stamp duty and registration fees	1,153.16	1,425.03	2,018.43	1,728.50	2,556.72	(+) 47.92
4.	Land revenue	380.23	498.71	683.09	543.50	1,161.20	(+) 113.65
5.	Taxes on vehicles	1,153.97	1,191.15	1,310.09	1,381.66	1,542.64	(+) 11.65
6.	Taxes on goods and passengers	156.30	5.96	151.62	169.35	6.91	(-) 95.92
7.	State excise	48.06	41.94	47.20	48.71	65.94	(+) 35.37
8.	Other taxes on income and expenditure	119.32	131.07	149.67	185.84	196.87	(+) 5.94
9.	Other taxes	226.05	265.54	374.41	318.91	366.51	(+) 14.93
	Total	15,698.11	18,464.63	21,885.57	23,557.03	26,740.23	(+) 13.51

The reasons for variations wherever substantial though called for in May 2010 were not reported (December 2010) by the concerned Departments except in case of electricity in which the Department stated that the rate of electricity duty is on *ad valorem* basis. Hence, increase in electricity charges of licensee coupled with increase in sale of electricity resulted in increase in electricity duty collection.

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

(₹ in crore)

Sl. no.	Heads of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+) or decrease (-) in 2009-10 over 2008-09
1.	Non-ferrous mining and metallurgical industries	1,880.18	2,173.76	2,082.14	1,559.82	2,138.98	(+) 37.13
2.	Interest receipts	130.91	283.07	329.88	567.81	419.44	(-) 26.13
3.	Major and medium irrigation	248.62	330.61	452.82	455.77	504.61	(+) 10.72
4.	Miscellaneous general services	217.57	968.96	588.53	643.29	847.14	(+) 31.69
5.	Other administrative services	35.11	36.57	47.93	189.44	110.80	(-) 41.51
6.	Police	71.28	90.66	86.24	77.44	101.45	(+) 31.00
7.	Medical and public health	53.83	66.68	66.25	126.50	62.40	(-)50.67
8.	Public works	26.99	30.64	27.19	31.69	51.06	(+) 61.12
9.	Forestry and wild life	42.76	36.91	35.08	40.51	39.76	(-) 1.85
10.	Other non-tax receipts	646.12	930.92	893.25	1,407.05	1,176.07	(-) 16.42
Total		3,353.37	4,948.78	4,609.31	5,099.32	5,451.71	(+) 6.91

The concerned Departments did not inform (December 2010) the reasons for variations, despite being requested (May 2010).

1.1.4 The following irregularities were noticed wherein Government money was retained either in excess of requirement or unauthorisedly which affects the cash balances in Government account with avoidable loss of interest.

1.1.4.1 Lack of monitoring over delay in credit of Government revenue by the banks

Paragraph 5.11 of the Memorandum of instructions issued by the RBI in 2006 authorised State Government to charge interest from the defaulting banks for delay in credit of Government revenue by the collecting banks with effect from 1 January 2006. Accordingly, the Director of Accounts and Treasury issued instructions (April 2006) to all the District Treasury Officers (DTOs) to keep a watch over the cases of delay and charge interest as per the RBI's guidelines by raising a demand against the defaulting banks every month. The DTOs were required to maintain a register in respect of cases of delay, interest recoverable and recovered. Also a statement of interest recoverable and recovered was to be furnished to the DAT every month by every DTO.

During scrutiny of the records of the DTO, Ahmedabad, Vadodara, Gandhinagar and Surat, we noticed that in all these treasury offices, the banks collecting Government revenue had delayed crediting of Government revenue in Government account in a large number of cases. This indicated that there was weak monitoring by DAT and DTOs over timely remittances by the banks. These DTOs did not charge interest on such delays despite specific instructions of RBI and DAT.

Though TAS had provision to work out the interest leviable due to delay in credit to Government, it was not levied by DTOs since the available reports were not utilised. Our scrutiny revealed non/short levy of interest of ₹ 4.91 crore for delay in credit of Government revenue by the banks as mentioned in the following table :

District treasury	Period for which cases were checked in audit	Defaulting banks	Delay ranged between	Number of cases	Interest not charged/ short charged (₹ in crore)
Ahmedabad	01.01.2006 to 31.03.2009	BOB, SBI, Corporation Bank, Dena Bank, HDFC Bank, ICICI Bank, IOB	One day to 2,034 days	496	4.66
Vadodara	01.04.2008 to 31.03.2009	-do-	One day to 1,093 days	495	0.11
Surat	01.02.2008 to 31.03.2009	-do-	One day to 32 days	354	0.06
Gandhinagar	01.04.2007 to 31.03.2009	-do-	One day to 58 days	242	0.08
Total				1,587	4.91

The non-levy of interest was worked out by us in respect of only those cases where either *challans* were furnished by DTOs or delay statement could be generated in Treasury Accounting System (TAS). The actual delay may be more in other cases.

The Government stated (November 2010) that there is a well established system for reviewing the delay in crediting the Government receipts by banks and charging the penal interest. Under Integrated Financial Management System a report for delay credit has been designed to strengthen the process. District treasury office, Ahmadabad has recovered the eligible interest. The reply received is not convincing as can be seen from the table above that in all four treasury offices, the delays were huge and insufficient monitoring was evident. They had therefore not levied the interest as per the instructions.

The Government may consider taking up this matter with the defaulting banks for avoiding further delay and ensure that in all such cases of delay, interest is invariably recovered/charged to the defaulting banks.

1.1.4.2 Funds released in excess of requirements

Under the Rule 193(2) of the Gujarat Treasury Rules, 2000, no money shall be drawn from the treasury unless it is required for immediate disbursement. It is not permissible to draw money from the treasury in anticipation of demands.

For implementation of various projects/schemes, Urban Development and Urban Housing Department had allotted grants to GMFB for disbursement of funds to the Municipalities/Municipal Corporations. On scrutiny of records, we noticed that the Board drew funds from the Government account in excess of requirements during 2004-05 to 2007-08 in respect of four schemes viz., National Slum Development Programme (NSDP), *Vajpayee Nagar Vikas Yojana* (VNVY) – Centrally Sponsored schemes, Municipal Finance Development Fund (MFDF), Entertainment Tax Grant (ET) and Urban Development Fund (UDF) – State schemes. The retention of Government fund without requirement ranged from ₹ 161.57 crore to ₹ 202.47 crore as shown in the table below:

Funds retained by GMFB in excess of requirements

(₹ in crore)

Year	Funds retained in excess of requirements in respect of					Total fund retained in excess of requirement
	NSDP	VNVY	MFDF	ET	UDF	
2004-05	53.45	20.77	24.68	103.57	---	202.47
2005-06	58.16	60.04	10.10	33.27	---	161.57
2006-07	74.83	53.89	17.59	31.09	9.60	187.00
2007-08	74.93	71.95	Nil	34.23	2.89	184.00

In respect of three schemes (NSDP, VNVY and MFDF Scheme), utilisation by the Board was even less than funds kept in balance at the beginning of the year.

Also, out of above funds, NSDP fund of ₹ 53.45 crore to ₹ 74.93 crore during the year 2004-05 to 2007-08, VNVY fund of ₹ 20.77 crore to ₹ 71.39 crore for 2004-05 and 2007-08 and ET fund of ₹ 103.57 crore for 2004-05 were kept idle with the Board. These funds were neither utilised nor invested in banks or financial institutions. Further, these funds were not returned to the State Government for use elsewhere.

Release of funds to GMFB by the Urban Development and Urban Housing Department without immediate requirements and retention of accumulated fund also resulted in loss of interest to the State Government. Reply of the Department has not been received (December 2010).

We recommend that the State Government may consider issuing instructions to all the Departments to release the funds to the Boards/ Corporations etc., under their control only after proper assessment of their requirements.

1.1.4.3 Lack of monitoring over remittance of Government money by Government Board/Authority

Gujarat Municipal Finance Board (GMFB – under Urban Development and Urban Housing Department) received funds from the State Government for various projects/schemes. These funds were disbursed to various municipalities/municipal corporations/project implementing authorities (PIAs-municipalities, PSUs etc.) as loan (70 per cent) and grant (30 per cent) for implementation of projects/schemes. GMFB recovered these loans along with interest from the beneficiaries for their remittances into Government account.

During test check of records of GMFB, we noticed that after collection of loan principal and interest, they did not credit these amounts in Government account immediately. The GMFB retained these funds for a period ranging from 291 days to 668 days in five cases. Unauthorised retention of Government money deprived the State to earn interest thereon. Notional loss of interest to Government worked out to ₹ 4.98 crore at bank rate of 5.55 per cent which could have been realised through investment in Cash Balance Investment Account.

We reported the matter to the Department and the Government in May 2010; their reply has not been received (January 2011).

1.2 Response of the Departments/Government towards audit

In the following paragraphs from 1.2.1 to 1.2.6, response of the Departments/Government towards various aspects related to audit process has been discussed.

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

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

Inspection reports issued upto December 2009 disclosed that 12,998 paragraphs involving ₹ 7,290.79 crore relating to 4,374 IRs remained outstanding at the end of June 2010 as mentioned in the following table along with the corresponding figures for the preceding two years.

Particulars	As at the end of		
	June 2008	June 2009	June 2010
Number of outstanding inspection reports	3,794	4,035	4,374
Number of outstanding audit observations	10,607	11,426	12,998
Amount of revenue involved (₹ in crore)	4,120.45	4,987.77	7,290.79

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

Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1	Finance	Taxes/VAT on sales, trade etc.,	1,403	5,167	2,488.37
		Professional Tax	16	27	0.04
2	Home	State excise	13	21	0.28
3	Revenue	Land revenue	398	822	314.68
4	Ports and Transport	Taxes on motor vehicles	373	1,555	658.04
5	Revenue	Stamp duty and registration fees	1,230	3,294	1,036.75
6	Industries and Mines	Receipts from non-ferrous mining and metallurgical industries	249	855	2,472.25
7	Energy and Petrochemicals	Electricity duty	61	92	138.81
8	Forest and environment	Forestry and wild life	94	144	7.20
9	Information and Broadcasting	Entertainments tax, luxury tax, etc.	537	1,021	174.37
Total			4,374	12,998	7,290.79

Even the first replies required to be received from the heads of office within one month from the date of issue of the IRs were not received for 207 IRs issued up to December 2009. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

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

1.2.2 Departmental audit committee meetings

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

(₹ in crore)

Sl. no.	Name of the Department/ Head of revenue	No. of meetings held	No. of IRs/ paragraphs settled		Amount
			IRs	Paragraphs	
1.	Finance (Sales tax/VAT)	1	-	18	8.55
2.	Ports and Transport (Motor vehicles tax)	1	-	73	146.20
3.	Information and Broadcasting (Luxury tax)	1	12	31	3.31

It would be seen from the above paragraph that though the amount of the outstanding observations had increased from ₹ 4987.77 crore to ₹ 7290.79 crore i.e increase of 46 per cent, only three meetings were held during the year.

Considering the large pendency of IRs and audit paragraphs, the Departments need to hold more audit committee meetings to clear the outstanding paragraphs.

1.2.3 Non-production of records to Audit for scrutiny

The programme of local audit of all the Departments is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2009-10, 8497 tax assessment records relating to 87 Commercial tax offices were not made available to audit. The tax effect was not available with the assessing authority. Of these cases, 15 assessments pertained to three special circles where assessments of major dealers are dealt with. 3,772 documents relating to Stamp Duty and Registration Fees in one office and copies of powers of attorney authorised to execute the sale deeds in three offices were not made available to us. Annual returns of lease holders were not made available to audit by seven² District Geologists whereby the correct tax liability of the lease holders could not be ascertained. Details of the cases are mentioned below :

² Ahmedabad, Amreli, Anand, Bhavnagar, Junagadh, Patan and Surendranagar.

Sl. No.	Name of Office	No of units	Year in which it was to be audited	Number of assessment cases/documents not produced
1.	Commercial Tax Offices	87	2006-07 to 2009-10	8497
2.	Sub-Registrar Office (Navagam)	one	2008	3772
3.	Sub-Registrar Offices (Rajkot, Morbi, Gondal)	three	2008	No power of attorney was produced (Number of documents not ascertainable)
4.	Sub-Registrar Office (Savli)	one	2008	Daily cash book and receipts not produced
5.	District Geologists	seven	2005-06 to 2008-09	Annual returns of lease holders not produced (Number of returns not ascertainable)

1.2.4 Response of the Departments to the draft audit paragraphs

According to the hand book of instructions for speedy settlement of draft paragraphs issued by the Finance Department on 12 March 1992, results of verification of facts contained in the draft paragraphs are required to be communicated to the Accountant General (AG) within six weeks from the date of their receipt. In exceptional cases where it is not possible to furnish the final reply to the draft paragraph within the above time limit, an interim reply should be given to the AG.

Sixty six draft paragraphs (clubbed into 43 paragraphs) proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 (Revenue Receipts) were forwarded to the Secretaries of the respective Departments between March and August 2010 through demi-official letters. The Secretaries of the respective Departments did not reply to 31 draft paragraphs. The paragraphs of the reviews have been included in this report after incorporating the response of the Secretaries of the concerned Departments, wherever received.

1.2.5 Follow up on Audit Reports - summarised position

As per instructions issued by the Finance Department on 12 March 1992, administrative Departments are required to submit explanatory notes on paragraphs and reviews included in the Audit Reports (AR) within three months of presentation of the ARs to the Legislature, without waiting for any notice or call from the Public Accounts Committee, duly indicating the action taken or proposed to be taken.

The AR for the years 2008-09 was presented to the State Legislature on 30 March 2010. Explanatory notes in respect of paragraphs included in AR 2008-09 were not yet furnished by the Departments as mentioned in the following table (December 2010).

Name of the Department	2008-09 (Paragraphs)	2008-09 (Sub paragraphs- Reviews)	Total
Finance (Sales tax/VAT)	08	11	19
Revenue (Stamp duty)	12	--	12
(Land revenue)	5	--	5
Ports and Transport (Motor vehicles tax)	2	12	14
Information and Broadcasting (Entertainments tax)	4	--	4
(Luxury tax)	1	--	1
Industries and Mines (Mining receipts)	--	11	11
Energy and Petrochemicals (Mining receipts)	--	11	11
(Electricity Duty)	2	--	2
Total	34	45	79

1.2.6 Compliance with the earlier Audit Reports

During the years between 2004-05 and 2008-09, the Departments/Government accepted audit observations involving ₹ 716.20 crore of which an amount of ₹ 60.13 crore had been recovered till 31 March 2010 as mentioned below:

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2004-05	247.14	131.34	14.96
2005-06	441.53	427.76	36.54
2006-07	94.53	23.84	2.56
2007-08	304.96	86.28	2.55
2008-09	5,743.47	46.98	3.52
Total	6831.63	716.20	60.13

The recovery in respect of the accepted cases was very low (eight *per cent* of the accepted money value).

We recommend the Government to advise the concerned Departments to take necessary steps for speedy recovery at least in those cases/ paragraphs which have been accepted by the concerned Departments in the interest of revenue.

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 five years in respect of Commercial Tax Department (CTD) is evaluated and included in this Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the Commercial Tax Department to deal with the cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2005-06 to 2009-10.

1.3.1 Position of Inspection Reports

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

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs ³	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2005-06	1073	1298	33.45	98	230	155.77	337	513	7.43	834	1015	181.79
2006-07	834	1015	181.79	117	334	66.02	165	163	1.10	786	1186	246.71
2007-08	786	1186	246.71	145	228	158.94	165	110	1.26	766	1304	404.39
2008-09	766	1304	404.39	125	271	68.04	275	423	4.39	616	1152	468.04
2009-10	616	1152	468.04	110	272	14.98	110	103	0.75	616	1321	482.27

There was continuous increase in the number (except in 2008-09) and money value of the objections as at the end of the year from 2005-06 to 2009-10. This indicates failure of the Department to take timely action on the audit objections. During five years period from 2005-06 to 2009-10, Commercial Tax Department conducted 20 ACMs and settled 1,176 paragraphs and 99 IRs involving money value of ₹ 13.92 crore.

1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports

1.3.2.1 Recovery of accepted cases

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

³ Includes only those observations which were not included in Audit Reports.

Year of AR	Number of paragraphs included	Money value of the paragraphs (₹ in crore)	Money value of accepted paragraphs (₹ in crore)	Cumulative position of recovery of accepted cases (₹ in crore)
2004-05	17	105.38	41.43	2.16
2005-06	14	311.89	25.71	1.60
2006-07	12	27.86	10.98	1.49
2007-08	12	134.90	21.81	1.43
2008-09	17	5,013.96	24.62	0.64
Total	72	5,593.99	124.55	7.32

Out of observations of ₹ 124.55 crore accepted, the Department recovered an amount of ₹ 7.32 crore during the period of five years which was very low (5.88 per cent of accepted amount of observations).

We recommend the Department to consider taking effective steps to recover the amount of accepted money value utilising the powers of Commercial Tax authorities for recovery of tax as arrears of Land Revenue and speed up the recovery.

1.3.2.2 Action taken on the recommendations accepted by the Department/Government

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

The following paragraphs discuss the issues highlighted in the reviews on the Commercial Tax Department featured in the last five years' ARs including the recommendations and action taken by the Department on the recommendations accepted by it as well as the Government :

Year of AR	Name of the review	Number of recommendations	Details of the recommendations accepted	Status
2004-05	Working of Enforcement Branch in Sales Tax Department	Four	Government had accepted all the recommendations.	Government stated that suitable proceedings had been made through internal audit.
2005-06	Assessment and collection of tax	Three	--	Government did not accept any of the recommendations.
2007-08	Administration and recovery of deferred sales tax	Four	Government response on these recommendations is awaited.	-
2008-09	Transition from Sales tax to Value Added Tax	14	Government response on these recommendations is awaited.	-

The Department/Government had accepted the recommendation of the review on “Working of enforcement Branch in Sales Tax Department”, which appeared in the report of the Comptroller and Auditor General of India for the year 2004-05, for suitable provisions to make the system of transit pass in respect of goods passing through the State more effective and to prevent loss of revenue due to diversion of goods. Accordingly, Government inserted provision to levy penalty for the failure to carry transit pass in respect of the goods passing through the State. However, in view of extent of vehicular traffic and in the absence of any system for checking goods vehicles on road by the Department, detection of diversion of goods in the State meant for other states will be a remote chance till the exit check post takes action.

Review on “Assessment and collection of tax” which appeared in the Audit Report 2005-06, highlighted a number of cases where assessments were treated as simple assessments though the dealers did not fulfil conditions prescribed in public circular to merit finalisation as simple assessments. Government did not propose any corrective measures to avoid recurrence of such cases.

1.4 Audit planning

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

During the year 2009-10, the audit universe comprised of 961 auditable units, of which 599 units were planned and audited during the year, which is 62 *per cent* of the total auditable units.

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

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

Test check of the records of sales tax/VAT, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2009-10 revealed under assessment/short levy/loss of revenue amounting to ₹ 2,470.95 crore in 1,783 cases. During the year, the Departments accepted under assessment of ₹ 103.87 crore in 185 cases and recovered ₹ 3.28 crore in 99 cases pointed out in 2009-10 and earlier years.

1.5.2 This Report

This report contains 43 paragraphs including two performance reviews on “Receipts from conversion of land” and “Interest receipts” relating to short/non levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 352.04 crore. The Departments/Government have accepted audit observations involving ₹ 63.08 crore out of which ₹ 7.81 crore has been recovered. The replies in the remaining cases have not been received (December 2010). These are discussed in succeeding Chapters II to VII.

CHAPTER II SALES TAX/VALUE ADDED TAX

2.1 Tax administration

The tax administration of the Commercial Tax Department of the State is governed by the Gujarat Value Added Tax (GVAT) Act, 2003 and the Central Sales Tax (CST) Act, 1956. The GVAT Act was made effective in the State from 1st April 2006 and on its implementation, the Gujarat Sales Tax Act, 1969, the Bombay Sales of Motor Spirit Taxation Act, 1958 and the Purchase Tax on Sugarcane Act, 1989 were repealed. However assessments, appeals, recovery etc; pertaining to the period prior to the implementation of GVAT would continue to be governed under the provisions of these repealed Acts. The Commercial Tax Department (Department) is headed by the Commissioner of Commercial Tax (Commissioner), who is assisted by a Special Commissioner and an Additional Commissioner. The Department is geographically organised into seven administrative divisions, each headed by an Additional/Joint Commissioner (Addl./JC). A division has ‘circles’, each headed by a Deputy Commissioner (DC); there are 24 circles in the State. A circle has assessment units each headed by Assistant Commissioner/Commercial Tax Officer (AC/CTO); there are 104 units in the State. In addition, there are 11 permanent, two seasonal/temporary check posts headed by AC/CTO. Besides, there are staff positions in the Department’s head office for administration, audit, legal, appeal, enforcement, e-governance, internal inspection *etc.*, headed by Addl./JC or DC.

2.2 Analysis of budget preparation

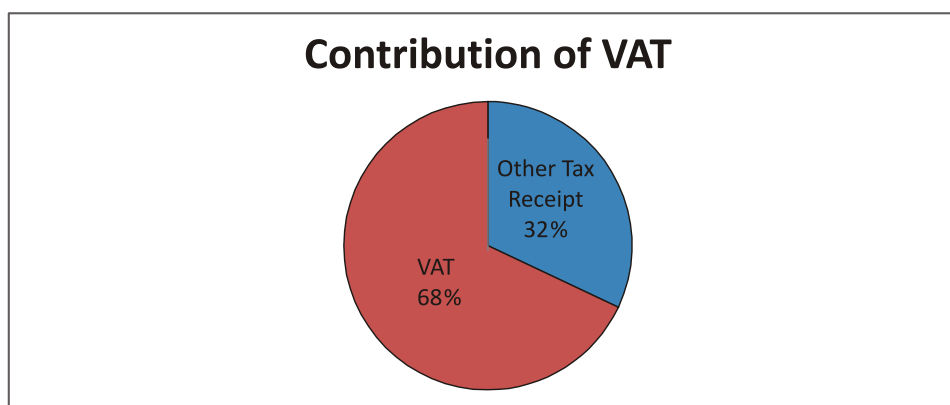
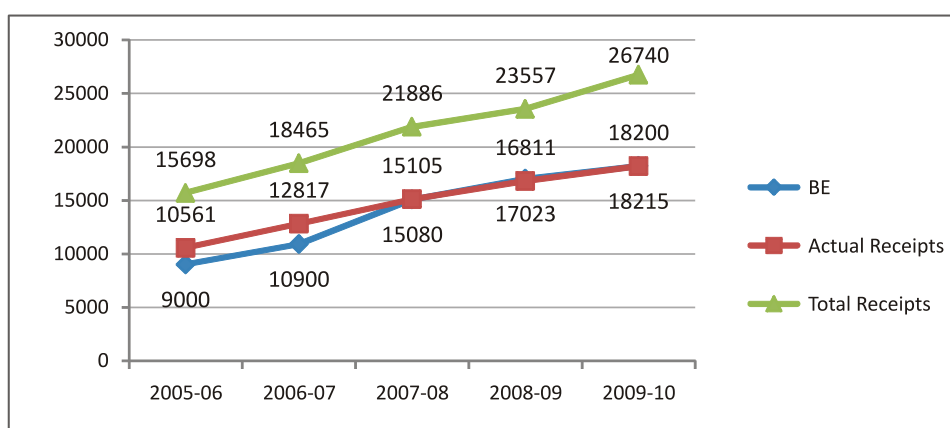
The Budget Estimates are furnished by the Commissioner in the prescribed format to the Finance Department. While preparing the budget estimates, the Commercial Tax Department considered normal growth of the State economy, rise in price of goods (particularly petroleum products) and increase in demand and production of consumer goods. The variation between the budget estimates and the actual receipt is nominal. Further, there is no variation between Budget Estimates and Revised Estimates.

2.3 Trend of receipts

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

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual Sales Tax/ VAT receipts vis-a-vis total tax receipts
2005-06	9,000.00	10,561.34	(+) 1,561.34	(+) 17.35	15,698.11	67.28
2006-07	10,900.00	12,817.46	(+) 1,917.46	(+) 17.59	18,464.63	69.42
2007-08	15,080.00	15,104.54	(+) 24.54	(+) 0.16	21,885.57	69.02
2008-09	17,023.00	16,810.65	(-) 212.35	(-) 1.25	23,557.03	71.36
2009-10	18,215.00	18,199.79	(-) 15.21	(-) 0.08	26,740.23	68.06



The contribution of VAT in total tax receipts declined significantly from 71.36 per cent in 2008-09 to 68.06 per cent in 2009-10.

The above pie chart indicates the dominance of contribution of Value Added Tax (VAT) over the other tax receipts in Gujarat.

2.4 Analysis of arrears of revenue

Year	Opening balance of arrears	Demand raised	Amount collected during the year	Closing balance of arrears
2007-08	8,352.53	2,326.70	2,739.73	7,939.50
2008-09	7,939.50	2,019.07	1,104.67	8,853.90
2009-10	8,853.90	6,428.33	4,084.70	11,197.53

The arrears of revenue as on 31 March 2010 amounted to ₹ 11,197.53 crore, of which ₹ 4,178.02 crore were outstanding for more than five years. Of the total outstanding amount, recovery certificates for ₹ 1,493.25 crore have been issued. Recovery of ₹ 3,648.48 crore has been stayed by the High Court of Gujarat and other judicial authorities. Recoveries of ₹ 218.42 crore and ₹ 173.29 crore are held up due to the dealers being insolvent; and non-finalisation of rectification and review applications of the dealers respectively. ₹ 198.53 crore is unlikely to be recovered and hence proposed to be written off and ₹ 5,465.56 crore is under various stages of recovery.

We recommend that the Government to make a determined effort to recover the huge Sales Tax/VAT arrears.

2.5 Assessee profile

The number of dealers required to file returns was 3,86,397 at the end of March 2010. During the year 2009-10, 23,323 new dealers were registered. The Department issued 77,297 notices in the cases of 1,02,350 return defaulters, who did not file the return within the prescribed period. The Department had not furnished the information in respect of total number of dealers who did not file the returns and the number of defaulters to whom notices were not issued.

2.6 Arrears in assessment

The number of cases pending for assessment at the beginning of the year 2008-09, due for assessment during the year, disposed of during the year and pending at the end of the year 2008-09 alongwith the figures for the preceding four years as furnished by the Commercial Tax Department⁴ are given in the following table.

⁴ In respect of sales tax/VAT, profession tax, purchase tax on sugarcane, lease tax, luxury tax and tax on works contracts.

(No. of cases)

Year	Opening balance as on 1 April	Additions during the year	Total (2+3)	Clearance during the year	Closing balance at the end of the year (4-5)	Percentage of column 6 to 4
1	2	3	4	5	6	7
2005-06	9,31,343	4,58,817	13,90,160	7,07,451	6,82,709	49
2006-07	6,82,709	4,24,113	11,06,822	3,78,420	7,28,402	66
2007-08	7,28,402	3,84,961	11,13,363	4,00,588	7,12,775	64
2008-09	3,46,922 ⁵	1,08,174	4,55,096	1,27,315	3,27,781	72
2009-10	3,27,781	1,22,180	4,49,961	1,80,159	2,69,802	60

Thus, the percentage of closing balance at the end of each year during 2005-06 to 2009-10 to total cases becoming due for assessment ranged between 49 and 72 per cent. The decrease in cases due for assessment was due to the introduction of the Gujarat Value Added Tax Act, 2003 with effect from 1 April 2006 in place of the Gujarat Sales Tax Act, 1969.

Status of assessment under GVAT Act, as reported by the Department is mentioned in the following table :

Year	Opening balance as on 1 April	Additions during the year	Total (2+3)	Clearance during the year	Closing balance at the end of the year (4-5)	Percentage of column 6 to 4
1	2	3	4	5	6	7
2008-09	0	69135	69135	14187	54948	79.48
2009-10	54948	99289	154237	38707	115530	74.90

Note - The reasons for nil opening balance were not intimated by the Department.

The Section 34 of GVAT act authorises the Commissioner to audit the self assessment made under Section 33. The above figures represent only the cases selected by the Department for audit assessment under Section 34 of GVAT Act. The remaining returns are considered self-assessed. The details regarding extent of scrutiny of these self-assessed returns were not made available to audit.

The Government needs to take steps for speedy disposal of audit assessment. Also, the outstanding assessment cases under erstwhile sales tax may be finalised on priority basis to avoid revenue loss due to time barring provisions.

2.7 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to 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 preceding years is shown in the following table.

⁵ Differs from the closing balance of 7,12,775 reported by the Department for 2007-08.

(₹ in crore)

Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of cost of collection of the preceding years
Sales Tax/ VAT	2007-08	15,104.54	98.43	0.65	0.82
	2008-09	16,810.65	99.51	0.59	0.83
	2009-10	18,199.79	129.07	0.71	0.88

The cost of collection in respect of sales tax/VAT/central sales tax was lower than the all India average. The increase in aggregate expenditure on collection of revenue during 2009-10 over previous year was mainly due to implementation of recommendations of Sixth Pay Commission.

2.8 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of sales tax and motor spirit tax for the year 2009-10 and the corresponding figures for the preceding two years as furnished by the Department is mentioned below :

(₹ in crore)

Heads of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount refunded	Net collection	Percentage of column 4 to 3
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax/ VAT	2007-08	14,918.87	447.05	712.85	14,659.07	3.00
	2008-09	15,793.59	186.40	1,338.19	14,641.80	1.18
	2009-10	18,529.72	278.11	1,384.13	17,423.70	1.50
Cess on Motor Spirit	2007-08	450.91	0.56	-	451.47	0.12
	2008-09	523.68	2.67	-	526.35	0.51
	2009-10	496.40	0.05	-	496.45	0.01

Note: - The figures as furnished by the Department are at variance with the Finance Accounts figures and need reconciliation.

Thus, the percentage of collection of revenue after assessment (additional demand) with respect to pre-assessment stage ranged between 1.18 and 3 per cent under sales tax/VAT during the years 2007-08 to 2009-10. As per information furnished by the Department, major portion of refund arises due to exports or branch transfer of goods outside the State for sale.

2.9 Impact of Audit Reports

2.9.1 Revenue impact

During the last five years (including the current year's report), we through our audit reports had pointed out non/short levy, non/short realisation, underassessment/ loss of revenue, incorrect exemption, concealment/ suppression of turnover,

application of incorrect rate of tax, incorrect computation etc, with revenue implication of ₹ 5,522.99 crore in 70 paragraphs. Of these, the Department/Government had accepted audit observations in 59 paragraphs involving ₹ 109.95 crore and had since recovered ₹ 5.65 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	14	311.89	13	25.71	7	1.60
2006-07	12	27.86	11	10.98	4	1.49
2007-08	12	134.90	10	21.81	8	1.43
2008-09	17	5,013.96	12	24.62	8	0.64
2009-10	15	34.38	13	26.83	7	0.49
Total	70	5,522.99	59	109.95	34	5.65

The above table indicates that recovery of accepted cases was very low (5 per cent of the accepted money value).

The Government may take suitable steps for speedy recovery.

2.9.2 Amendments in the Acts/Rules/Notification/Order issued by the Government at the instance of audit

The audit raised (AR 2006-07; Paragraph 2.2.1) issue of *Saral* Assessment without ensuring collection of declaration forms in support of inter-state trade/transfer from the dealers resulting in probable loss of revenue on account of such concessions. The Commissioner issued a circular (April 2007) by which submission of declaration form in support of inter-state trade/transfer by the dealer was made compulsory for *Saral* assessment scheme from the year 2006-07.

2.10 Working of internal audit wing

Internal Audit Wing of Commercial Tax Department, headed by Joint Commissioner (JC), Audit conducts audit of all offices dealing with the assessment and collection of sales tax/value added tax. JC (Audit) is assisted by a Dy. Commissioner (Audit). There are seven Dy. Commissioners, one each in every Division and has a monthly target of 150 cases. The concerned Dy. Commissioner (Audit) submits monthly statement to JC (Audit) giving particulars such as offices audited, number of dealers covered and objection raised. The JC (Audit) offers his comments on such statements. During the year 2009-10, seven Dy. Commissioners (Audit) audited 2,614 cases as against yearly target of 12,600 cases. Out of 2,614 cases audited, revision orders involving an amount of ₹ 18.40 crore were passed in 131 cases.

The internal audit wing needs to put in more concerted efforts to achieve the target fixed so that better tax compliance is ensured.

2.11 Results of audit

We test checked the records of 82 units relating to Commercial Tax Offices and noticed under assessment of tax and other irregularities involving ₹ 225.08 crore in 686 cases which falls under the following categories:

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1	Incorrect rate of tax and mistake in computation	56	21.96
2	Irregular grant of set-off	91	17.67
3	Irregular concessions/exemptions	12	15.97
4	Non/short levy of tax, interest and penalty	436	137.24
5	Other irregularities	91	32.24
	Total	686	225.08

During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 10.47 crore in 35 cases, of which eight cases involving ₹ 19.12 lakh were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 44.38 lakh was realized in 22 cases during the year 2009-10.

A few illustrative cases involving ₹ 34.38 crore are mentioned in the following paragraphs.

2.12 Audit observations

Our scrutiny of the records of the various Commercial Tax offices revealed several cases of non-compliance with the provisions of the Gujarat Sales Tax Act, 1969, the Bombay Sales of Motor Spirit Taxation Act, 1958, the Gujarat Sales Tax Rules, 1970, the Central Sales Tax Act, 1956 etc., and Government notifications and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out by us. Such omissions on the part of the Departmental officers are pointed out by us each year; however, not only do the irregularities persist, but they also remain undetected till our audit is conducted in the next year. There is need for the Government to improve the internal control system and internal audit.

2.13 Recommendations

Based on the observation pointed out in the succeeding paragraphs, we suggest the following recommendations for improvement in the assessments made by the Department :

- Assessing officer(AO) should ensure that all the required declaration forms in support of inter-state trade/export are provided by the dealers as per the provisions of Act/Rules.
- While allowing set-off/ITC, the assessing officer should apply the provisions of Act/Rules strictly.
- While finalising taxable turnover, the assessing officer should also take into account the figures available in other records of the assessee and
- While finalisation of the assessment, the assessing officer should levy the prescribed interest and penalty, wherever applicable.

2.14 Non/short levy of tax due to incorrect classification/rates of goods

The Supreme Court of India held⁶ that PP/HDPE fabrics will be classified as plastic instead of textile material for the purpose of levy of Central Excise duty. Assessment manual of Sales Tax Department clarifies that if any entry in Schedule to the Act is linked with Central Excise Act, any amendment made in Central Excise Act shall have effect in entry under the Sales Tax Act as well. However, we found that the earlier determination order passed (March 1987 and April 1994) by the Commissioner treating the HDPE fabrics as textile material (exempted goods) was not withdrawn/ revised in view of the Supreme Court judgement. Therefore, the practice continued treating the HDPE fabrics as textile material (exempted goods) though tax was leviable at the rate of eight *per cent* treating it as 'plastic'. Further, Section 8 of the Central Sales Tax Act (CST Act) as it stood before, provided for levy of tax on interstate sale of goods not supported by form C, at the rate of 10 *per cent* or at the rate applicable on such goods inside the State, whichever is higher.

2.14.1 During test check of records of 14 offices⁷ between November 2008 and September 2009, we noticed in the assessment of 31 dealers for the period between 2002-03 and 2005-06, finalised between April 2006 and December 2008 under the GST Act and three dealers under the CST Act that the AOs did not levy tax on sale of HDPE fabrics though tax was leviable at eight *per cent* or ten *per cent* under the GST Act and the CST Act respectively, in view of the Supreme Court judgement. Incorrect classification resulted

in under assessment of ₹ 7.34 crore under the GST Act and ₹ 59.05 lakh under the CST Act, aggregating to ₹ 7.93 crore.

After we pointed out the above cases between March 2009 and December 2009, the Department did not accept the audit observation and stated that the guidelines given in the assessment manual is based on judgment in case of Mysore Electrical Industries Ltd., (57-STC-559) the facts of which are different. The Department relied upon the determination orders issued under Section 62 of the Act and judgment of Sales Tax Tribunals. The reply is not acceptable in view of Supreme Court judgment and the Manual of the Sales Tax Department, both of which are binding on the assessing officers.

We reported the matter to the Government (April 2010); the Government confirmed the view of the Department (December 2010).

⁶ Union of India Vs. Pramact Plastic Pvt. Ltd. 2000(119)ELT-A173(SC).

⁷ DCCT: 7 Gandhinagar, 8 Mehsana, 23 Rajkot and Valsad.
ACCT: 5, 11 and 21 Ahmedabad, 1 Anand, Kalol, 2 Rajkot, 4 Vadodara, 2 Vapi and Vijapur. CTO: Visnagar.

The GST Act provides for levy of tax at the rates as prescribed in the schedules to the Act, depending upon the classification of the goods. However, where the goods are not covered under any specific entry of the schedule, general rate of tax given for residuary item is applicable. Further, Section 8 of the Central Sales Tax Act (CST) as it stood before, provided for levy of tax on interstate sale of goods not supported by Form C, at 10 *per cent* or at the rate applicable on such goods inside the State, whichever is higher.

2.14.2 During test check of records of eight offices⁸ between October 2008 and October 2009, we noticed that 11 dealers paid tax at lower rates due to incorrect classification of goods during the period between 2002-03 and 2005-06. While finalising assessments between June 2006

and September 2008, the AOs also failed to assess the tax at correct rates. This resulted in short realisation of tax of ₹ 1.78 crore, interest of ₹ 59.12 lakh and penalty of ₹ 87.28 lakh under GST Act, and ₹ 0.56 lakh and interest of ₹ 0.27 lakh under CST Act, aggregating to ₹ 3.25 crore of which, some important cases are mentioned in the table below:

(₹ in lakh)

Sl. No.	No. of dealers	Commodity	Entry no.		Rate of tax		Short levy
			Classified	Classifiable	leviable	levied	
1.	1	Tractor Battery	160	128(3)	8	4	33.32
2.	1	Food Colour	25	100	12	6	17.57
3.	1	Toner and spare parts of Photo-copier Machines	97(D)	195	12	8	9.60
4.	1	Rubber Sheet	102	195	12	8	5.29
5.	2	Pasti (waste news paper)	129	44	4	2	4.29

After we pointed out the above cases between February 2009 and January 2010, the Department accepted (November 2009 and September 2010) the audit observations involving ₹ 70.07 lakh in case of six dealers mentioned above. Particulars of recovery and replies in the remaining cases have not been received (December 2010).

We reported the matter to the Government (June 2010); the Government confirmed the reply of the Department in six cases. The reply in the remaining cases has not been received (December 2010).

⁸ DCCT: 4 Ahmedabad.
ACCT: 10 and 14 Ahmedabad, Gandhinagar, Kalol, 4 Surat, 7 Vadodara and 2 Vapi.

2.14.3 Short levy of tax due to application of incorrect rate

The GST Act provides for levy of tax at the rates as provided in the schedules to the Act. However, where the goods are not covered under any specific entry of the schedule, rate of tax given for residuary entry is applicable to the respective goods.

During test check of records of four offices⁹ between July 2008 and January 2009, we noticed in the assessment of four dealers for the period between 2002-03 and 2005-06, finalised

between July 2006 and March 2008 that the assessing officers taxed sales turnover of ₹ 2.02 crore of various goods at the rates lower than those mentioned in the Act. This resulted in short levy of tax of ₹ 18.35 lakh including interest of ₹ 5.05 lakh and penalty of ₹ 3.75 lakh.

After we pointed out the cases between October 2008 and May 2009, the Department accepted (between May 2009 and January 2010) audit observations involving an amount of ₹ 18.35 lakh in case of all the dealers. Particulars of recovery have not been received (December 2010).

After we reported (May 2010) the matter, the Government confirmed the reply of the Department in three cases; the reply in the remaining case has not been received (December 2010).

2.15 Non/short levy of central sales tax on non-production of the Forms

Rule 12(10) of the Central Sales Tax (Registration and Turnover) Rules, 1957, provides that the dealer has to furnish to the prescribed authority, a certificate in form H, duly filled in with all details viz. agreement number and date relating to such export, particulars of goods along with evidence of export of such goods in support of his claim for export. By virtue of Section 9(2A) of the CST Act, provisions of interest and penalty, as per general sales tax law applicable in the State are applicable.

2.15.1 During test check of the records of eight offices¹⁰ between September 2008 and July 2009, we noticed in the assessment of 21 dealers for the period between 1995-96 and 2005-06, finalised between February 2007 and March 2009 that the AOs allowed export sales valued at ₹ 77.59 crore either without production

of form H/bill of lading or against incomplete certificates in form 'H'. This resulted in under assessment of ₹ 8.66 crore. Besides for non-production of the forms, interest of ₹ 4.45 crore and penalty of ₹ 5.08 crore was also leviable.

⁹ ACCT : Gandhinagar, 2 and 7 Vadodara, 2 Vapi.

¹⁰ ACCT : 14 Ahmedabad, Gandhidham, 2 Nadiad, 6 and 9 Surat, Unja, 3 and 7 Vadodara.

After we pointed the cases out (between February 2009 and November 2009), the Department accepted (between March 2010 and September 2010) the audit observations involving an amount of ₹ 13.08 crore in case of eight dealers. The particulars of recovery and replies in remaining cases have not been received (December 2010).

After we reported (June 2010) the matter, the Government confirmed the reply of the Department in eight cases; the reply in the remaining cases has not been received (December 2010).

The CST Act and Rules made there under provide that where any dealer transfers goods from one State to another not by reason of sale, he shall furnish to the AO, a declaration in form 'F', duly filled and signed by the principal officer of the other place of business, along with the evidence of dispatch of such goods. If the dealer fails to furnish such declaration, the movement of such goods shall be deemed to have been occasioned as a result of sale. A single declaration in Form F shall cover dispatch of goods by a dealer which he claims to be otherwise than by sale effected during a period of one calendar month. By virtue of Section 9(2A) of the CST Act, provisions of interest and penalty, as per general sales tax law applicable in the State are applicable.

2.15.2 During test check of the records of 13 offices¹¹ between January 2009 and October 2009, we noticed in the assessments of 16 dealers for the period between 2002-03 and 2005-06, finalised between November 2006 and November 2008 that in eight cases the AOs allowed claim of transfer of goods to other place of business without any declaration or evidence for dispatch

of such transfer. In eight cases, the AOs allowed deduction on "F" Forms covering transaction of more than one calendar month. This resulted in incorrect deduction of turnover involving tax of ₹ 2.27 crore. Besides interest of ₹ 89.93 lakh and penalty of ₹ 1.05 crore was also leviable.

After we pointed the cases out (between May 2009 and December 2009), the Department accepted (between January and September 2010) the audit observations in case of seven dealers involving an amount of ₹ 1.40 crore and recovered ₹ 35,000 in case of one dealer. Particulars of recovery and replies have not been received in remaining cases (December 2010).

After we reported (June 2010) the matter, the Government confirmed the reply of the Department in seven cases; the reply in the remaining cases has not been received (December 2010).

¹¹ ACCT: 11 Ahmedabad, Ankleshwar, Bhavnagar, Bhuj, Kalol, Palanpur, 1 Rajkot, 11 Surat and 3, 4 and 7 Vadodara

DCCT: 22 Rajkot and 15 Surat.

Section 8(1) of the Central Sales Tax (CST) Act, provides for levy of tax at the rate of four *per cent* on inter-state sale of goods made against declaration in form 'C'. Where the sale is not supported by declaration in form 'C', tax is leviable at the rate of 10 *per cent* or at the rate applicable on such goods inside the State, whichever is higher. In respect of declared goods where the sale is not supported by form 'C', tax is leviable at twice the rate applicable. Dealers availing tax exemption benefit under entry 69 or 255 of notification issued under Section 49(2) of the GST Act, concessional rate of four *per cent* without production of 'C' form would be available only on production of form 29 or 43 otherwise tax shall have to be computed at the higher rates as applicable. By virtue of Section 9(2A) of the CST Act, provisions of interest and penalty, as per general sales tax law applicable in the State are applicable.

2.15.3 During test check of the records of 25 offices¹² between January 2007 and October 2009, we noticed in the assessment of 50 dealers for the period between 2000-01 and 2005-06, finalised between March 2005 and March 2009 that sales of various goods were not supported by form 'C'. However, AOs incorrectly levied concessional rates of tax instead of appropriate rates. This resulted in short levy of tax of ₹ 1.31 crore. Besides, interest of ₹ 52.93 lakh and

penalty of ₹ 58.85 lakh was also leviable.

After the cases were pointed out by us between June 2008 and January 2010, the Department accepted (between April 2009 and December 2010) the audit observations involving ₹ 1.71 crore in case of 25 dealers and started the recovery process. Particulars of recovery and reply in the remaining cases have not been received (December 2010).

After we reported (June 2010) the matter, the Government confirmed the reply of the Department in 25 cases; the reply in the remaining cases has not been received (December 2010).

12 ACCT: 5, 8 and 14 Ahmedabad, Bharuch, 1 Bhavnagar, Bhuj, Mehsana, 2 Nadiad, 2 Surat, Valsad, 3, 4, 6 and 7 Vadodara, 1 and 2 Vapi.

DCCT: Corp. Cell-1 Ahmedabad, 19 Bhavnagar, 8 Mehsana, 13 Nadiad, 22 Rajkot, 15 Surat, 12 Vadodara, 18 Valsad.

CTO : Viramgam.

Section 6(2) of CST Act stipulates that in the course of inter-state sale of goods, if the purchasing dealer effects any subsequent sales during movement of goods, no tax is payable, provided the dealer claiming exemption produces a declaration in Form E-I or E-II obtained from his selling dealer and declaration in Form C from his purchaser. By virtue of Section 9(2A) of CST Act, provisions of interest and penalty, as per general sales tax law applicable in the State are applicable.

2.15.4 During test check of the records of two¹³ offices in January and July 2009, we noticed in the assessment of five dealers for the assessment year 2005-06, finalised between May 2007 and September 2008 that in one case the AO did not levy tax on sales though sales were

not supported by mandatory E-1/E-II and C forms. In four cases, the dealers produced E1 forms against sales to the local dealers. As the goods had not been sold during its inter-state movement, these sales were to be treated as local sales and the claim of the dealers was not allowable. Though such sales were to be treated as inter-state sales against C form and were liable to tax at the rate 4 *per cent*, the AO did not levy the tax on these sales. This resulted in non-levy of tax of ₹16.84 lakh. Besides, interest ₹ 6 lakh and penalty ₹ 9.03 lakh was also leviable.

After we pointed out (between May 2009 and December 2009), the Department accepted (September 2010) the audit observation in case of one dealer involving an amount of ₹ 8.93 lakh. Particulars of recovery and replies in remaining cases have not been received (December 2010).

After we reported (June 2010) the matter, the Government confirmed the reply of the Department in one case; the reply in the remaining cases has not been received (December 2010).

¹³ ACCT : 17 Ahmedabad and 7 Vadodara.

2.16 Non/short levy of purchase tax

Section 15-B of the GST Act provides that where a dealer purchases directly or through commission agent any taxable goods other than declared goods and uses them as raw material, processing material or as consumable stores in the manufacture of taxable goods, purchase tax at prescribed rate is leviable on such goods. Purchase tax so levied is admissible as set off under the Rule 42E of the GST Rules, 1970 provided the goods manufactured are sold by the dealer in the State. High Court of Gujarat held that the dealer is liable to pay purchase tax under Section 15-B of the Act on the purchase of raw materials from sales tax exemption holders under Section 49(2) of the Act and on their use in the manufacture of goods which are generally taxable goods under the Act. Hence, purchases of tax free goods from specified manufacturers are also liable for purchase tax under Section 15-B of the Act.

2.16.1 During test check of records of 15 offices¹⁴ between October 2008 and September 2009, we noticed in the assessment of 18 dealers for periods between 1999-00 and 2005-06, finalized between March 2005 and February 2009 that the AOs, either did not levy or levied lesser amount of purchase tax on purchases made from exemption holders or purchases used in goods consigned outside the State. This resulted in under assessment of

₹ 1.77 crore. Besides, interest of ₹ 57.59 lakh and penalty of ₹ 34.69 lakh was also leviable.

After we pointed out (between February 2009 and December 2009) the cases, the Department accepted (between January and October 2010) the audit observation involving ₹ 89.31 lakh in case of 14 dealers and recovered ₹ 21.99 lakh in case of two dealers. The Department did not accept the audit observation in one case and stated that the assessment for the year 2004-05 was made on the basis of previous assessment calculation i.e. 2003-04 and observation was not raised therein. The reply is not tenable as the Department is responsible for assessing the tax liability after taking into account the provisions of Act, Rules and prevailing instructions. Particulars of recovery of balance dues and replies in remaining cases have not been received (December 2010).

After we reported (April 2010) the matter, the Government confirmed the reply of the Department in 15 cases; the reply in the remaining cases has not been received (December 2010).

14 DCCT- 3, 4 and Corp. Cell-1 Ahmedabad, Bharuch, 7 Gandhinagar, 15 Surat, 10 Vadodara and 18 Valsad.

ACCT- 11 Ahmedabad, Ankleshwar, Bharuch, 1 Jamnagar, Mehsana, 3 Rajkot and 2 Vapi.

Section 13 of the Gujarat Sales Tax Act provides that a registered dealer, on production of certificate in Form 19, can purchase goods (other than prohibited goods) without payment of tax for use by him as raw materials or processing materials or consumable stores in the manufacture of taxable goods for sale within the State. Section 15A of the GST Act provides that purchase tax at the rate prescribed is payable on the purchases made against declaration in Form 19/Form 24 at the time of filing returns. In the event of breach of condition of declarations, the dealer is liable to pay purchase tax at the prescribed rates, with interest and penalty, under Section 16 of the Act.

2.16.2 During test check of records of 10 offices¹⁵ between February 2008 and July 2009, we noticed from assessments of 13 dealers for the period between 2000-01 and 2005-06 finalised between September 2006 and February 2009 that the dealers had purchased materials valued at ₹ 55.98 crore against Form 19 and either used for a purpose

contrary to the conditions of Form 19 or did not discharge relevant liability for tax on purchases against declaration in Form 19/Form 24. In case of four dealers, the AOs failed to levy purchase tax on purchases against Form 19/Form 24 declared by the dealers in their returns. In case of eight dealers, the manufactured goods were branch transferred outside the State for sale. In one case, the dealer had purchased goods against Form 19 which was not used either as raw material or processing material or consumable stores. Though there was a breach of condition of Form 19, the AOs did not levy purchase tax under Section 16 of the Act in these cases. This resulted in non/short levy of purchase tax of ₹ 32.06 lakh. Besides, interest of ₹ 6.66 lakh and penalty of ₹ 10.01 lakh was also leviable.

After we pointed out (between June 2008 and December 2009) the cases, the Department accepted (between May 2009 and September 2010) the audit observations involving an amount of ₹ 26.76 lakh in case of seven dealers and recovered ₹ 85,849 from one dealer. The Department did not accept audit observation in one case and stated that the purchase tax under Section 15(A) of the Act is exempted vide entry No.11 (2) (new) of Section 49(2) of the Act. The reply is not acceptable as new entry 11(2) exempts purchase tax under Section 19-B of the Act. The dealer is liable to pay purchase tax under Section 15A of the Act for purchases through commission agent against Form 24. Details of recovery of balance amount and replies in the remaining cases have not been received (December 2010).

After we reported (May 2010) the matter, the Government confirmed the reply of the Department in eight cases; the reply in the remaining cases has not been received (December 2010).

15 ACCT - Gandhinagar, 1 Jamnagar, Patan, 3 Rajkot, 7 Vadodara.

DCCT – 3 Ahmedabad, 24 Jamnagar, 11 and 12 Vadodara.

CTO – Khambhat.

2.17 Irregular/excess grant of set off

Rule 42 of the GST Rules provides that a dealer who has paid tax on the purchase of goods (other than prohibited goods) to be used as raw or processing materials or consumable stores in the manufacture of taxable goods, is allowed set-off at the rate applicable to the respective goods from the tax payable on the sale of manufactured goods subject to fulfillment of general conditions such as assessee had maintained a true account of goods purchased showing the details of goods in chronological order prescribed in Rule 47 of the Rules. Proviso to Rule 42 stipulates a deduction of four *per cent* of the sale value of the manufactured goods transferred outside the State for sale.

2.17.1 During test check of the records of 18 offices¹⁶ between October 2008 and October 2009, we noticed in the assessment of 27 dealers for the assessment period between 1995-96 and 2005-06, finalised between April 2006 and March 2009 that the AOs allowed excess set-off, either on purchase of prohibited goods or

without ascertaining the fulfillment of prescribed conditions. This resulted in excess grant of set off of tax of ₹ 1.01 crore. Besides, interest of ₹ 33.74 lakh and penalty of ₹ 32.79 lakh was also leviable as detailed below :

(₹ in lakh)

Sl. No.	Nature of observation	No. of dealers	Short levy
1.	The dealer had been allowed set off on purchase of prohibited goods/goods exempted on certificate under Section 49(2) of the GST Act.	11	107.59
2.	The AO did not deduct four <i>per cent</i> of sale price of goods transported to other States for sale.	10	39.33
3.	The dealer had been allowed set off which was incorrectly calculated or allowed without deduction of prescribed two <i>per cent</i> .	2	14.47
4.	The AO allowed set off to a dealer though the search operation revealed that the dealer had not maintained the books of account properly as prescribed under Rule 47 of the GST Rules.	1	3.02
5.	The dealer was allowed set off on goods purchased by payment of tax at incorrect rates.	3	2.89

After we pointed out (between February and December 2009), the Department accepted the audit observations in case of 17 dealers involving an amount of ₹ 57.38 lakh and recovered ₹ 11.42 lakh in case of six dealers. Particulars of recovery and replies in the remaining cases have not been received (December 2010).

¹⁶ ACCT: 8, 11, 17 and 21 Ahmedabad, 11 Gandhinagar, 1 Jamnagar, Kalol, Mehsana, Palanpur, , 6 and 7 Vadodara, 2 Vapi, Vijapur.
DCCT: 4 and 5 Ahmedabad, 22 Rajkot, 17 Surat 12 Vadodara.

After we reported (May 2010) the matter, the Government confirmed the reply of the Department in 17 cases; the reply in the remaining cases has not been received (December 2010).

Rule 44 of the GST Rules provides that the dealer who had paid tax on purchase of goods is eligible for set off from the tax payable on inter state sale of such goods. Rule further provides that no set off shall be granted where the vendor who has sold the goods to the claimant has not credited in Government treasury, the amount of tax on his sales for which set off is claimed. The Department has also issued instructions in June 2004 to verify the fact of proof of payment of tax before grant of set off.

2.17.2 During test check of the records of four offices¹⁷ between October 2008 and May 2009, we noticed in the assessments of four dealers for the period between 2003-04 and 2005-06, finalised between December 2007 and March 2008 that the AOs allowed

excess set off of ₹ 82.09 lakh without obtaining any proof of tax having been paid by selling dealers. This resulted in excess grant of set off of ₹ 82.09 lakh. Besides, interest of ₹ 2.75 lakh and penalty of ₹ 3.21 lakh was also leviable.

After we pointed this out (between February 2009 and December 2009), the Department accepted (January and August 2010) the audit observations involving ₹ 88.05 lakh in all the cases. Particulars of recovery have not been received (December 2010).

After we reported (April 2010) the matter, the Government confirmed the reply of the Department in two cases; the reply in the remaining cases has not been received (December 2010).

2.18 Turnover escaping assessment

According to Section 2(29) of the GST Act, sale price includes the amount of valuable consideration paid or payable to a dealer for any sale. Further, if the Commissioner has reason to believe that any turnover of sales or purchases of any goods chargeable to tax has escaped assessment, he may reassess the amount of tax due from such dealer within the time prescribed and recover the dues on such turnover.

During test check of the records of nine offices¹⁸ between October 2007 and July 2009, we noticed in the assessment of 10 dealers for the periods between 2003-04 and 2005-06, finalised between March 2006 and November 2008,

that the AOs did not include the amount of valuable consideration forming part of sale price. This resulted in short realisation of tax of ₹ 1.64 crore including interest of ₹ 52.81 lakh, of which important cases are mentioned in the table below:

17 ACCT: 21 Ahmedabad, Ankleshwar, Bharuch and Patan.

18 ACCT-5, 14 and 17 Ahmedabad, 2 Surat, 4 Vadodara, 5 Rajkot and 2 Vapi. DCCT- Bharuch and 22 Rajkot.

(₹ in lakh)

Sl. No.	Name of the office	No. of dealers	Turnover escaping assessment	Total tax recoverable including interest	Nature of objection
1.	ACCT 4, Vadodara	One	785.89	99.69	The AO did not reconcile the difference between turnover as per balance sheet and turnover of sales shown in the returns. The Department initiated action for revision under Section 67 of the Act.
2.	ACCT 17, Ahmedabad	One	153.08	15.16	Though no tax was paid on mineral water manufactured through the job-workers, the AO allowed deduction of such sales as RD resales. Taxable portion of turnover was allowed as resale.

After we pointed out the cases between May 2008 and November 2009, the Department accepted (between January and September 2010) audit observations in case of three dealers involving amount of ₹ 1.17 crore. The Department had not accepted the audit observations in case of two dealers. In one case, the Department stated that the total amount of rate difference and discount of ₹ 32,37,833 has been deducted from the total turnover of ₹ 2,99,76,507 shown in the balance sheet. The reply is not acceptable as the sales turnover shown is net of trade discounts, rebates and sales returns as per 'Notes on accounts'. Moreover, the sales in the returns had not been reconciled with balance sheet. Therefore the reply of the Department is not based on the correct facts. In other case, the Department stated that the service charges pertained to man power service which is not includable in taxable services. The reply is not acceptable as the income of man power services was income from catering and required to be added in the catering sales. The provisions of the Act require levy of tax on gross value and no deduction is admissible to the dealer opting for composition tax.

Particulars of the recoveries and replies in the remaining cases have not been received (December 2010).

After we reported (May 2010) the matter, the Government confirmed the reply of the Department in four cases; the reply in the remaining cases has not been received (December 2010).

2.19 Non/short levy of interest

Section 47(4A) of the GST Act provides that if a dealer does not pay the amount of tax within the prescribed period and if the amount of tax assessed or reassessed exceeds the amount of tax already paid by more than 10 *per cent*, simple interest at the rate of 24 *per cent* per annum for the period upto 31 August 2001 and at 18 *per cent* per annum thereafter is leviable on the amount of tax remaining unpaid for the period of default. By virtue of Section 9(2) of the CST Act, the above provisions apply to assessments under the CST Act as well.

During test check of records of 15 offices¹⁹ between October 2008 and October 2009, we noticed in the assessment of 24 dealers for the period between 1996-97 and 2005-06, finalised between January 2007 and February 2009 that the AOs, either did not levy interest or levied it short on the amount

of unpaid tax. This resulted in non/short levy of interest of ₹ 1.71 crore.

After we pointed out (February 2009 and January 2010), the Department accepted (August 2009 and September 2010) the audit observations involving ₹ 1.48 crore in case of 12 dealers and recovered ₹ 3.04 lakh in case of three dealers. Particulars of recovery of balance dues and replies in the remaining cases have not been received (December 2010).

After we reported (April 2010) the matter, the Government confirmed the reply of the Department in 12 cases; the reply in the remaining cases has not been received (December 2010).

2.20 Non/short levy of penalty

Section 45(6) of the GST Act provides that where the amount of tax assessed or reassessed exceeds the amount of tax paid with the returns by a dealer by more than 25 *per cent*, penalty not exceeding one and one half times of difference shall be levied. Further, the Commissioner *vide* public circular dated 3 June 1992 has laid down slab rates for levy of penalty. By virtue of section 9(2) of the CST Act, the above provisions apply to assessments under the CST Act as well.

During test check of the records of 16 offices²⁰ between October 2008 and October 2009, we noticed in the assessment of 28 dealers for the assessment periods between 1996-97 and 2005-06 that the difference between tax

assessed and tax paid with returns exceeded by 25 *per cent* of the amount of tax paid. However, the AOs while finalising the assessments between March 2005 and March 2009, did not levy penalty as per said provisions and Commissioner's circular of June 1992. This resulted in non/short levy of penalty of ₹ 3.55 crore.

¹⁹ DCCT: 4 Ahmedabad, 11, 12 Vadodara and 18 Valsad.

ACCT: 8, 16, 21 Ahmedabad, 3 Jamnagar, Kalol, Navsari, Patan, 2 Surendranagar, 7 Vadodara and 1, 2 Vapi.

²⁰ ACCT : 5 Ahmedabad, Bharuch, Gandhinagar, Kalol, Mehsana, Navsari, 1 Surendranagar, 7 Vadodara, 1 and 2 Vapi.

DCCT: 2, 3, 4 and Corporate Circle-1 Ahmedabad, 12 Vadodara, and Valsad.

After we pointed out between February and December 2009, the Department accepted (between July 2009 and September 2010) audit observations involving an amount of ₹ 3.49 crore in case of 23 dealers and recovered ₹ 2.76 lakh in case of two dealers. Particulars of recovery of balance amount and replies in the remaining cases have not been received (December 2010).

After we reported (April 2010) the matter, the Government confirmed the reply of the Department in 19 cases; the reply in the remaining cases has not been received (December 2010).

2.21 Non/short levy of turnover tax

Section 10A of the GST Act provides for levy of turnover tax at prescribed rate on the turnover of sales of goods other than declared goods after allowing permissible deduction under the Act, where the turnover of sales of a dealer liable to pay tax, first exceeds ₹ 50 lakh. From April 1993, sales made against various declarations and sales exempted from tax under Section 49 were excluded from the permissible deductions making such sales also liable to turnover tax.

During test check of the records of four offices²¹ between October 2008 and April 2009, we noticed in the assessment of four dealers for the periods between 1992-93 and 1996-97, finalised between September 2003 and March 2008 that the AOs, either

did not levy tax on turnover of sales exceeding prescribed limit or levied lesser amount of tax by applying incorrect rate. This resulted in short realisation of turnover tax of ₹ 36.49 lakh. Besides, interest of ₹ 11.86 lakh and penalty of ₹ 12.43 lakh was also leviable.

After we pointed out between February 2008 and December 2009, the Department accepted (May and September 2010) the audit observations in case of two dealers involving ₹ 24.23 lakh. Particulars of recovery and replies in remaining cases have not been received (December 2010).

After we reported (April 2010) the matter, the Government confirmed the reply of the Department in two cases; the reply in the remaining cases has not been received (December 2010).

²¹ ACCT : 11 Ahmedabad and Gandhinagar.
DCCT : 22 Rajkot and 15 Surat.

2.22 Non/short levy of tax on works contract

Section 3 read with Section 2(10) of the GST Act, provides that any person who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract is liable to pay tax under the provision of the Act. The Commissioner of Sales Tax clarified in December 1985²² that if a dealer engaged in the job work utilises own raw material more than 15 *per cent*, the job work shall be treated as works contract. As per judicial decisions²³, the property of materials such as chemicals and dyes used in the process of dyeing and printing are passed on to the fabrics of the customers and such passing of property of material is a deemed sale and tax is leviable on such materials.

During test check of records of five offices²⁴ between January and July 2009 in the assessment of seven dealers for the period 1996-97 and 2005-06, we noticed that the AOs did not levy tax on transfer of property in goods involved in the execution of works contract. Out of these cases, in case of five dealers, the dealers had used, in the process of dyeing and printing

work, chemicals and dyes purchased from outside Gujarat State. However, the AOs did not levy tax on such material though tax was leviable as also held by the judicial decisions. In case of two dealers, the AOs allowed deduction of entire receipt income as job work though the material used in job work was purchased from outside the State and on declarations against Form 19 which was taxable in view of the Commissioner's clarification. This resulted in non/short levy of tax of ₹ 19.02 lakh. Besides, interest of ₹ 6.22 lakh and penalty of ₹ 7.21 lakh was also leviable.

After we pointed out between May and November 2009, the Department accepted the audit observation involving ₹ 9.24 lakh in case of one dealer. In three cases, the Department stated that Commissioner vide circular dated 22 September 1986 had specifically provided relief to such dealers. This circular was not taken into consideration when the issue was discussed. The reply is not acceptable in view of the judicial decisions. Particulars of recovery and replies in remaining cases have not been received (December 2010).

After we reported (May 2010) the matter, the Government confirmed the reply of the Department in two cases; the reply in the remaining cases has not been received (December 2010).

²² Public circular No. Gujka/303/584/3(A)-85-86 dated 03.12.1985.

²³ M/s Mathu Shree Textile Industries Ltd. (132-STC-539).

M/s Teaktex Processing Complex Ltd. (136-STC-435).

M/s Bijoy Processing Industries (92-STC-503).

²⁴ ACCT :17 Ahmedabad, 1 Anand, Ankleshwar, 6 Surat, 7 Vadodara.

2.23 Irregular remission of interest and penalty under *Vechan Vera Samadhan Yojana*

The State Government had introduced (March 2005, March 2006 and April 2007) *Vechan Vera Samadhan Yojana (Yojana)* for speedy recovery of outstanding tax. The *Yojana* allowed remission of interest and penalty on payment of outstanding tax during the currency of the *Yojana*. The benefit under the *Yojana* was not available to the beneficiaries of any other scheme.

During test check of the records of two offices²⁵ in September 2008 and March 2009, we noticed in the assessment of two dealers for the periods between 2001-02 and 2004-05, finalised between April 2007 and

February 2008 that the AOs irregularly allowed remission of interest and penalty. In one case dealer was availing exemption benefit under Section 49(2) of the GST Act. In other case, the AO incorrectly allowed the remission of interest on delayed payment of tax along with returns (paid during 2004-05) under Section 47(4A)(a) of the Act which was not within currency of the *Yojana* (1 April 2007 to 31 May 2007). This resulted in irregular remission of interest of ₹ 46.93 lakh and penalty of ₹ 1.34 crore.

After we pointed out between February 2009 and September 2009, the Department accepted the audit observation involving ₹ 1.67 lakh and recovered the amount in case of one dealer. Particulars of recovery and reply in other case have not been received (December 2010).

After we reported (June 2010) the matter, the Government confirmed the reply of the Department in one case; the reply in the remaining case has not been received (December 2010).

2.24 Non/short levy of tax on specified sale

Section 3A of the GST Act provides that any dealer, whose turnover of 'Specified Sale' exceeds ₹ 50,000 in a year, is liable to pay tax. Section 2 (30c) provides that 'Specified Sale' means the transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration. The Supreme Court held²⁶ that in absence of appropriate legislature to create any legal fiction, the status of sale in case of transaction of transfer of right to use any goods would be the place where the property of goods passes i.e., where the agreement transacting the right to use is executed.

During test check of the records of ACCT 10 Ahmedabad in December 2008, we noticed in the assessment of one dealer for the period of 2002-03 and 2003-04, finalised in March 2008 that the AO allowed deduction of lease income amounting to ₹ 2.65 crore and ₹ 1.15 crore for the period 2002-03 and 2003-04

respectively treating it as outside state transaction. However, audit noticed that some agreements had been executed by the dealers in Ahmedabad for giving the goods on lease to Ahmedabad Municipal Corporation. The lease rent of ₹ 47.97 lakh and ₹ 68.75 lakh was received relating to these goods for the year 2002-03 and 2003-04 respectively as such were liable to tax in the State. Failure to do so, resulted in short levy of tax of ₹ 4.84 lakh. Besides, interest of ₹ 2.62 lakh and penalty of ₹ 2.91 lakh was also leviable.

25 ACCT: Modasa.

DCCT: 15 Surat.

26 20th Century Finance Corporation Ltd. Vs. State of Maharashtra.

The above facts were brought to the notice of the Department/Government in March 2009 /June 2010; their reply has not been received (December 2010).

2.25 Non/short levy of tax due to computation error

Section 41 of the Gujarat Sales Tax Act provides that the assessing officer shall assess the amount of tax payable by a registered dealer for particular period on the basis of evidences produced before him.

During test check of the records of two offices²⁷ in November 2007 and July 2008, we noticed from the assessments of two dealers for the period 2001-02

and 2002-03, finalised in April 2005 and March 2007 that the AOs computed incorrect amount of tax payable. In case of one dealer, the AO levied tax of ₹ 28,814 instead of correct amount of ₹ 2.88 lakh. In case of other dealer, the amount of goods returns of ₹ 31.24 lakh was deducted twice from the total sales turnover. This resulted in short levy of ₹ 9.50 lakh including interest of ₹ 2.78 lakh and penalty of ₹ 1.12 lakh.

After we pointed out between June 2008 and October 2008, the Department accepted the audit observations involving ₹ 9.50 lakh in case of both dealers and recovered ₹ 4.96 lakh in case of one dealer. Particulars of recovery in other case have not been received (December 2010).

After we reported (June 2010) the matter, the Government confirmed the reply of the Department in one case; the reply in the remaining case has not been received (December 2010).

2.26 Incorrect determination of turnover

Section 8A of the CST Act as well as Rule 50 of the Gujarat Sales Tax Rules, 1970 provide for deduction of tax amount from aggregate of sale price in determining the turnover, provided the sale price is inclusive of tax.

During test check of the records of four²⁸ offices between October 2008 and March 2009, we noticed from the assessment of four dealers for the

period 1993-04 and 2004-05, finalised between January 2008 and March 2008 that the AOs incorrectly allowed the deduction of tax amount under Section 8A and Rule 50 even though the sales turnover in their annual accounts was exclusive of tax. This resulted in incorrect deduction of tax involving short levy of tax of ₹ 95.62 lakh. Besides, interest of ₹ 62.84 lakh and penalty of ₹ 77.45 lakh was also leviable.

²⁷ ACCT: Godhra.
DCCT: Corp. cell 1 Ahmedabad.

²⁸ ACCT: Gandhinagar, 6 Surat and 1 Vapi.
DCCT: 22 Rajkot.

After we pointed out between February 2009 and September 2009, the Department accepted the audit observation in case of one dealer involving an amount of ₹ 93,834. The Department had not accepted the audit observations in case of two dealers. In one case, the Department stated that total turnover was inclusive of tax element as verified from books of account. The reply of the Department is not tenable as the turnover was exclusive of sales tax as per profit and loss account and note (5) forming part of the Balance sheet and profit and loss account. In other case, the Department stated that tax element is allowable while determining the taxable turnover as per Tribunal judgement in cases of M/s. Vikas Steel Industries and M/s. Classic Electrical Ltd. The reply of the Department is not relevant as these cases pertained to interstate sales where tax was recovered by the dealer. In the instant case, the dealer had branch transferred/consigned the goods to other state for sale. Moreover, such branch transfer/consignment did not include tax element. Particulars of recovery and reply in remaining one case have not been received (December 2010).

The matter was reported to the Government (June 2010); their reply has not been received (December 2010).

2.27 Incorrect allowance of exempted purchase of branches

Section 41(3) of the GST Act provides that the AO after considering all the evidences which may be produced in support of his return furnished by the dealer shall assess the tax due from the dealer.

During test check of the records of Deputy Commissioner of Commercial Tax-2, Ahmedabad, we noticed from the assessment of a dealer

for the period 2002-03 finalised in March 2007 that the dealer had purchased goods valued at ₹ 38.55 crore from its own two units holding exemption certificate under Section 49 (2) of GST Act. However, the dealer had claimed and AO allowed purchase of exempted goods of ₹ 65.41 crore instead of ₹ 38.55 crore. The sale of exempted goods of ₹ 78.82 crore was allowed in assessment. Thus, by applying the ratio of purchase and sale of exempted goods, the sale value of such excess claim of ₹ 26.86 crore stood at ₹ 32.37 crore, escaping sales tax on this amount. Thus, incorrect allowance of exempted purchase resulted in underassessment of tax of ₹ 3.47 crore. Besides, interest of ₹ 1.87 crore and penalty of ₹ 2.08 crore was also leviable.

The above facts were brought to the notice of the Department in June 2008. Reply has not been received so far (December 2010).

The matter was reported to Government (June 2010); their reply has not been received (December 2010).

2.28 Incorrect grant of benefits under sales tax incentive schemes

Under the sales tax incentive schemes, the units which opt for deferment incentives are allowed to collect and retain the tax and pay it after a specified period into the Government account. The deferred amount of tax is recoverable in six annual installments beginning from the financial year subsequent to the year in which the unit exhausts the limit of incentive granted to it under the scheme or after the expiry of relevant period during which deferment is available, whichever is earlier. In the event of default in payment of tax deferred, interest is leviable at the rate of 24 per cent up to 31 August 2001 and 18 per cent thereafter.

2.28.1 During test check of the records of two offices²⁹ in September 2008 and March 2009, we noticed that three dealers opted for deferment incentive schemes, of these, one dealer did not pay any installment of deferred tax, the other dealer, paid the annual installments of deferred tax of ₹ 6.68 lakh late; after delays

that ranged between 39 days and 60 days. In another case, we noticed that details recorded in the Recovery Register did not show complete details of repayment. We found from the challan file that the dealer had paid fixed installments each of ₹ 16.64 lakh instead of ₹ 23.36 lakh. The AOs did not initiate action to recover the tax and interest in these cases resulting in non-realisation of tax of ₹ 4.98 crore including interest of ₹ 1.61 crore.

Under the sales tax incentive schemes, eligible units are allowed to purchase raw material, processing material, consumable stores and packing material against declaration on payment of tax at the rate of 0.25 per cent. Remaining amount of the tax on such purchases is calculated at the prescribed rates and adjusted against the ceiling limit of exemption. Similarly, tax saved on sale of manufactured goods is also adjusted against the ceiling limit of exemption. In the event of breach of the recitals of the declaration, purchase tax saved is to be recovered under Section 50 with interest under Section 47(4A) and penalty under Section 45(6) of the GST Act. Further, the Act Provides for levy of penalty under Section 46(1) for collection of the tax in contravention to the provisions of the GST Act.

After we pointed this out (between February 2009 and July 2009); the Department accepted (between February and September 2010) the audit observations involving ₹ 4.98 crore in two cases. In one case involving ₹ 67,498 payable from 1.4.2006, the Department stated that the repayment of installments is to be considered within time limit as per Resolution No.GST-1209-561-

TH dated 31.5.2010 which stipulated that payment of the installments within sixty days from the end of the financial year in which installment was due. The reply in this case is not acceptable as the amendment of providing sixty days from the end of financial year was inserted on 31 May 2010 and will be applicable prospectively. The report of recovery has not been received (December 2010).

After we reported (June 2010); the Government confirmed reply of the Department in two cases, while reply in the remaining case has not been received (December 2010).

²⁹ ACCT: Ankleshwar, Modasa.

2.28.2 During test check of the records of 10 offices³⁰ between July 2008 and June 2009, we noticed in the assessment of 17 dealers for the period between 1988-89 and 2004-05 and finalised between February 2007 and April 2008 that the AOs computed the tax either at incorrect rates or on commodity not included in the exemption certificate or did not impose penalty under Section 46(1) of the GST Act, though the dealer had collected the tax in contravention of exemption scheme, and either adjusted against the ceiling limit available or recovered in cash. This resulted in under assessment of tax of ₹ 1.67 crore. Besides, interest of ₹ 40.37 lakh and penalty of ₹ 34.81 lakh was also leviable as mentioned in the table below:

(₹ in lakh)

Sl. No.	No. of dealers	Nature of objection	Short levy of tax including interest and penalty	Remarks
1.	13	The AOs computed the tax at incorrect rate and adjusted against the ceiling limit available.	₹ 181.25	The Department accepted the observations in 6 cases involving ₹ 7.41 lakh.
2.	1	Though the exemption holder was not entitled to collectw the tax, he collected the tax and claimed deduction under Rule 50 of the GST Rules. The AO allowed the claim of deduction and did not impose the penalty under Section 46 of the GST Act.	₹ 25.36	Department accepted the observation and initiated revision process.
3.	1	Though set-off of tax paid on raw materials to be used in manufacture is to be adjusted against the tax payable on sale of manufactured goods, the AO adjusted against the tax payable on trading goods.	₹ 21.86	-
4.	1	Exemption was allowed on the goods not covered by the exemption certificate.	₹ 12.71	Department accepted the observation and raised the demand.
5.	1	Though incentive of exemption available under entry 118 dated 5.2.1981 of notification issued under Section 49(2) of the Act did not allow to adjust the purchase tax under Section 15(B) of the Act, the AO incorrectly adjusted the PT against exemption limit and refunded the tax paid by the dealer in cash through returns.	₹ 1.22	The AO accepted the audit observation.
Total			₹ 242.40	

After we pointed this out (between January 2009 and September 2009) the Department accepted (May 2009 and December 2010) audit observations involving ₹ 46.71 lakh in case of nine dealers and recovered ₹ 1.89 lakh in case of two dealers. In one case the Department stated that the dealer had adjusted the amount of set-off against cash payment liabilities which is not contrary to the condition of deferment scheme. The reply of the Department is not acceptable as the dealer was allowed to adjust set off allowable on manufactured goods against the tax payable on trading goods. Moreover, no justification was available in the assessment order for delay of 19 years in assessment of one case. Particulars of recovery and replies in remaining cases have not been received (December 2010).

After we reported (June 2010) the matter, the Government confirmed the reply of the Department in four cases. The reply in the remaining cases has not been received (December 2010)

³⁰ ACCT : Ankleshwar, 2 Bhavnagar, Gandhidham, 2 Junagadh, Kalol, Mehsana, 5 Rajkot and 2 Vadodara.
DCCT: Corp. Cell-1 Ahmedabad and 25 Gandhidham.

CHAPTER-III LAND REVENUE

3.1 Tax administration

The administration of Land Revenue Department vests with the Principal Secretary (Revenue). For the purpose of administration, the State is divided into 26 districts. Each district is further divided into *talukas* and villages.

The District Collectors are overall in charge and responsible for the administration of their respective districts. The *Mamlatdars* and Executive Magistrates are in charge of the administration of their respective *talukas* and exercise supervision and control on *talatis* who are entrusted with the work of collection of land revenue and other receipts including recovery of dues treated as arrears of land revenue. In addition, the Revenue Department has delegated powers to the *Panchayat* Officers (DDOs and TDOs) for recovery of dues treated as arrears of land revenue to facilitate the revenue administration.

3.2 Analysis of budget preparation

The Budget Estimates is furnished by the Revenue Department in the prescribed format to the Finance Department. While preparing the budget estimates, the Department is required to consider the income of previous year and the expected receipts during the financial years. The targets set by the Department are reported to the Finance Department which is responsible for preparation of the Budget estimates for the entire state.

3.3 Impact of Audit Reports

During the last five years (including the current year's report), we through our Audit Reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of tax, incorrect computation etc, with revenue implication of ₹ 106.36 crore in 21 paragraphs. Of these, the Department/Government had accepted audit observations in 17 paragraphs involving ₹ 6.24 crore and had since recovered ₹ 1.29 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	4	2.31	4	2.01	3	0.64
2006-07	6	22.11	4	0.34	1	0.02
2007-08	4	6.90	4	0.61	3	0.47
2008-09	5	25.86	4	3.25	3	0.14
2009-10	2	49.18	1	0.03	1	0.02
Total	21	106.36	17	6.24	11	1.29

The above table indicates that recovery of accepted cases was very low (20.67 per cent of the accepted money value). **The Government may take suitable initiative for speedy recovery.**

3.4 Results of audit

Test check of records in 143 offices of Collectors, District Development Officers and Mamlatdar (LR) in the State during the year 2009-10 revealed under assessment of tax and other irregularities involving ₹ 271.84 crore in 181 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1.	Receipts from conversion of land (A review)	1	48.81
2.	Non/short recovery of occupancy price/premium price	36	123.73
3.	Non/short recovery of NAA, non/short levy of NAA at revised rate, non-raising NAA demand	18	10.80
4.	Non/short recovery of conversion tax	30	5.59
5.	Other irregularities	96	82.91
	Total	181	271.84

During the course of the year, the Department accepted and recovered underassessment and other deficiencies of ₹ 3.37 lakh in 14 cases pointed out in audit in earlier years.

A review on the “**Receipts from conversion of land**” involving ₹ 48.81 crore and few illustrative cases involving ₹ 37.74 lakh are mentioned in the following paragraphs.

3.5 Receipts from conversion of land

Highlights

- In 121 cases, the restrictions of new and restricted tenure were removed by *Mamlatdar & Agricultural Land Tribunal (ALT) Choryasi*, working under the Collector, Surat, without observing the instructions issued by the Government and without recovering the premium as prescribed by the Government. The Collectors also did not review the orders within the prescribed time limit. The revenue forgone in the form of premium price on this account in these cases worked out to ₹ 136 crore.

(Paragraph 3.5.8)

- There was no system in place to compare the market rate of a particular survey number of the land fixed by District Land Price Committee (DLPC) and new *jantri* approved by the Government. In 16 cases of land conversion, we noticed wide variation (three to nine times) in market rate fixed by the Committee and the *jantri* fixed by the Government for a particular survey number though the Committee had fixed the rate just two months before the new *jantri* was made effective. The concerned Collector(s) did not inform the variation to Government for rectification of the *jantri* and adopted lower rates prescribed in the *jantri*. This loss of revenue in the form of premium price was estimated at ₹ 14.85 crore due to adoption of lower *jantri* rates.

(Paragraph 3.5.9)

- In 10 cases, the land was treated as “old tenure” though the scrutiny of title of land produced before competent authority indicated that the land was of “new and restricted tenure” The concerned Collector/DDO did not ascertain the correctness of the tenure resulting in revenue loss of premium price of ₹ 6.64 crore.

(Paragraph 3.5.10)

- The internal audit and the internal inspection system was inadequate and ineffective in view of action not taken on large number of internal audit observations. The number of outstanding observations increased from 5,328 to 14,202 i.e. by of 167 *per cent* during the last five years.

(Paragraph 3.5.14)

- There was no system for effective monitoring to detect breach of conditions in orders of allotment of Government land. In 16 cases, though the occupants had breached the conditions of allotment of land, the Departmental officers failed to detect the same and initiate action to regularise the cases for recovery of premium price of ₹ 16.81 crore.

(Paragraph 3.5.15)

- There was lack of effective mechanism at district level to watch compliance of conditions of various resolutions, orders and instructions issued by the Government from time to time in respect of the conversion of the land for various use and monitoring the levy and collection of various receipts relating therewith. Absence of such mechanism led to shortfall in Government revenue of ₹ 16.66 crore.

(Paragraph 3.5.16 and 3.5.17)

- The Departmental officers did not follow the decision of the Government to re-grant the land to purchaser under new and restricted tenure and recover premium at 100 *per cent* of market value. This resulted in short levy of premium price of ₹ 5.44 crore.

(Paragraph 3.5.19 and 3.5.20)

3.5.1 Introduction

According to the Directorate of Economics & Statistics, the total area of Gujarat comprises 188 lakh hectares of land. Out of this, 18.65 lakh hectares is covered under forest area, 25.99 lakh hectares is used for non-agricultural purposes, 19.84 lakh hectares is used for agricultural purposes and the remaining 123.52 lakh hectares falls under other classification.

The Bombay Land Revenue (BLR) Code, 1879 as applicable to Gujarat and the Gujarat Land Revenue (GLR) Rules, 1972 empower the Collector and other revenue authorities to deal with the allotment of Government land on occupancy or leasehold rights either as revenue free or at the rates decided by the Government from time to time.

The Bombay Tenancy and Agricultural Lands (BT&AL) Act, 1948, and the Bombay Tenancy and Agricultural Lands Rules, 1956 empower the Collector to finalise the cases of ownership of land, to finalise the cases of holding of land between land owners and the tenants and its allotment. The land allotted under new tenure or restricted tenure or established with new and restricted tenure³¹ can be transferred or partitioned with previous sanction of the Collector on payment of premium price at prescribed rates.

The BLR Code and GLR Rules authorise the competent authority to levy conversion tax (CT) and non-agricultural assessment (NAA) and measurement fees (MF) at prescribed rates on conversion of land from agricultural to non agricultural use or from one non-agricultural use to another. The BLR Code and the Rules made thereunder also authorise the Government to prescribe fine for unauthorised use of the land.

We reviewed the system relating to the **“Receipts from conversion of land”** in Gujarat. It revealed a number of system and compliance deficiencies as discussed in the succeeding paragraphs.

3.5.2 Organisational set up

Conversion of land from agricultural use to any non-agricultural use, new and restricted tenure to old tenure³² and levy of occupancy price (OP), premium price (PP), conversion tax (CT), non-agricultural assessment (NAA), measurement fees (MF) related therewith and fine for breach of conditions in

³¹ New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the previous sanction of the Collector.

³² Old tenure means land deemed to have been purchased by a tenant on tillers' day, 1 April 1957 free of all encumbrances.

respect of such conversion are administered by the Revenue Department. The Principal Secretary heads the Revenue Department at the Government level. He is assisted by 26 District Collectors/District Development Officers at district level alongwith subordinates viz. 55 Dy. Collectors (*Prant Officer*) at *Prant* level, 232 *Mamlatdars*, 224 *Taluka* Development Officers and Circle Officers at *Taluka* level, *kasba/village talati* at *kasba* and village level.

3.5.3 Scope of Audit and Methodology

We test checked records of 22³³ out of 25 offices and one newly formed Tapi office of the Collector and District Development Officer and related records in subordinate offices up to *kasba/village* relating to the period 2004-05 to 2008-09 during August 2009 to March 2010 and made collateral evaluation with pre-designed checklist along with regular transaction audit. The districts were selected on the basis of maximum revenue potential.

The records relating to levy of occupancy price, premium price, conversion tax, non-agricultural assessment, measurement fees, penalty on conversion of land cases finalised to the aforesaid period were scrutinised.

3.5.4 Audit criteria

Audit criteria considered were the Bombay Land Revenue (BLR) Code, 1879 and rules made thereunder, the Bombay Tenancy & Agricultural Land (BT & AL) Act, 1948 and rules made thereunder, repealed Acts, notifications/ resolutions/ circulars/orders issued under the said Acts and judicial pronouncements.

3.5.5 Audit objectives

The review was conducted to ascertain whether:

- The terms and conditions of the Government orders of conversion of land were properly implemented;
- The assessment and collection of OP, PP, CT, NAA, MF and fine were finalised according to the provisions of the Act/Rules/Notifications/orders issued from time to time;
- The orders of the competent authorities were implemented properly and entered in respective records of the subordinate offices; and
- Adequate internal control mechanisms including internal audit were in place to monitor the assessment and collection of land revenue and check its leakage.

3.5.6 Acknowledgement

Indian Audit & Accounts Department acknowledges the co-operation of the Revenue Department (RD) and the offices of the Collectors/District Development Officers including subordinate offices in providing information and records for audit. The entry conference with the Department was held on 28 July 2009 in

³³ Ahmedabad, Amreli, Anand, Bharuch, Bhavnagar, Dahod, Gandhinagar, Junagadh, Kheda, Kutch-Bhuj, Mehsana, Narmada (Rajpipla), Navsari, Panchmahals (Godhra), Palanpur, Patan, Porbander, Rajkot, Sabarkantha (Himatnagar), Surat, Vadodara and Valsad.

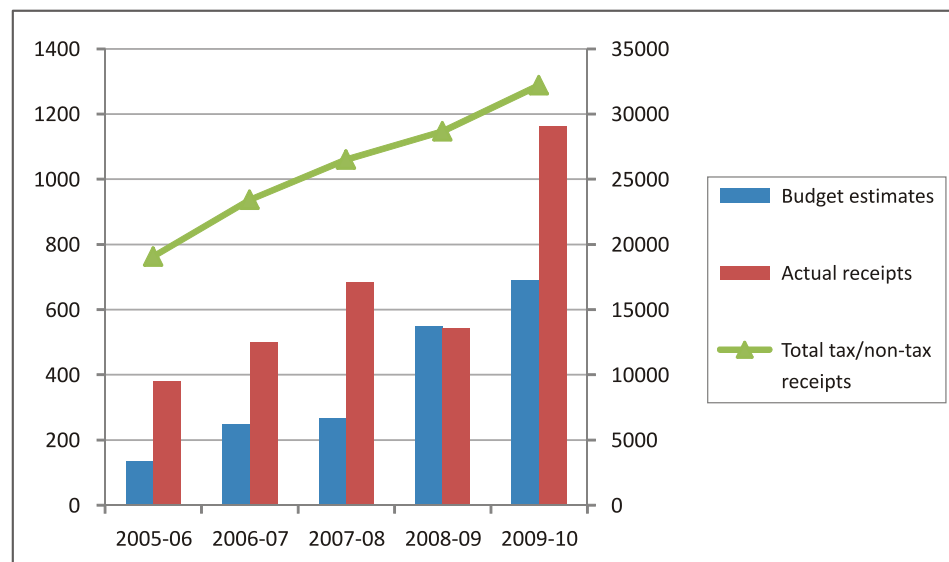
which the scope and methodology of audit was discussed. The review was sent to the Government in August 2010 for their response. The audit findings and recommendations were discussed in an exit conference held on 22 September 2010. Principal Secretary, Revenue Department and other Departmental officials attended the meeting. The replies furnished during the exit conference and at other points of time have been considered and appropriately incorporated in the review.

3.5.7 Trend of receipts

Actual receipts from Land Revenue during the last five years 2005-06 to 2009-10 alongwith the total tax/non-tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax/ non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/ non-tax receipts
2005-06	134.42	380.23	(+) 245.81	(+) 182.87	19,051.48	2.00
2006-07	250.00	498.71	(+) 248.71	(+) 99.48	23,413.41	2.13
2007-08	267.50	683.09	(+) 415.59	(+) 155.36	26,494.88	2.58
2008-09	550.00	543.50	(-)6.50	(-) 1.18	28,656.35	1.90
2009-10	688.50	1,161.20	(+) 472.7	(+) 68.66	32,191.94	3.61



It would be seen from the above that there was substantial increase in actual receipts as compared to budget estimates for the period except in 2008-09. The variation between the actual receipts and the budget estimates ranged between 68.66 per cent and 182.87 per cent. This indicates that the budget estimates were not prepared on realistic basis.

As budget estimates are an important part of the financial planning we **recommend the Government to issue suitable directions to the Department**

for framing the budget estimates on realistic and scientific basis and ensure that the estimates are as close to the actual receipts as possible.

System Deficiencies

3.5.8 Loss of revenue due to absence of system to review of decisions of *Mamlatdar* ALT by the Collector

According to Government of Gujarat decision, premium payable on conversion of land from new tenure to old tenure was 80/50 *per cent* of the market value for non-agricultural or agricultural purpose respectively, with effect from 20 December 2006. Prior to this, it was 80/70 *per cent* of the market value for non-agricultural/ agricultural purpose.

The Government *vide* Circular No. GNT-1095-2963-G dated 18 March 1996 and 18 June 1996 delegated the powers of conversion from new tenure to old tenure to *Mamlatdar* ALT under general powers of *Mamlatdar* ALT under Section 70 (O) of the Act.

Section 76A of the Act empowers the Collector to call for records of cases of the removal of the restrictions finalised by the *Mamlatdar* and ALT, either *suo moto* or on a reference made in this regard by the Government for review within a period of one year from the date of order issued by the *Mamlatdar* and ALT and pass the order thereon. During review of these cases, Collector may under section 76-A ascertain whether the *Mamlatdar* and ALT has exercised the power properly and scrutinise the legality or propriety of the tenancy rights to safeguard the Government revenue. The Government did not prescribe any mechanism for timely review of such cases by the Collector.

During test check of records of the *Mamlatdar* & Agricultural Land Tribunal (ALT) Choryasi, working under the Collector, Surat, we noticed that in 121 cases, the *Mamlatdar* & ALT had issued orders between June 1996 and July 2002 wherein the restrictions of new tenure had been removed, without observing the instructions issued by the Government *ibid*, as regards levy and recovery of premium price the *Mamlatdar* ALT, while removing the restriction did not recover any premium as per the Government orders. The Collector, Surat also did not call for the records of these cases for the purpose of the review within time limit of one year.

However, on reference made by the Government, Collector, Surat had called for and reviewed (between February 2001 and March 2004) the records relating to these cases after the prescribed time limit. As such the Government instructed in October 2005 to dispense with the process of re-verification and revision of these cases.

Thus due to the failure on the part of the Collector to call for the cases *suo moto* for review/revision within the prescribed time limit the Government could not take any corrective action to reinstate the restrictions of new tenure, in view

of time bar under the proviso of Section 76A of the Act. As the restriction of new tenure was removed in the above cases, the land became old tenure (no restriction thereof) without payment of premium price. The Government lost premium price at 80 *per cent* of market value which worked out to ₹ 136 crore as per the *jantri* rates.

The Government stated (October 2010) that the Collector can take the order of the *Mamlatdar* and ALT in revision either *suo moto* or on a reference made in this behalf by the State Government. The powers of revision available to the Collector are not of compulsory nature. The case is pending before the High Court and 121 cases will be decided in light of the outcome of the case.

The reply is not acceptable as the power of removal of restriction of new tenure delegated to *Mamlatdar* and ALT was significant which involved substantial revenue and as such the Government should have ensured that they exercised their duty within the framework of the Rules/Regulation. Considering this, the Government should have also devised suitable mechanism of review of these powers exercised by the *Mamlatdar* and ALT. Thus, non-review of these cases on time by the Collector led to loss of revenue of ₹ 136 crore.

We recommend the Government to consider devising a system to ensure that the *Mamlatdars* discharge their duty as per the Governments' decision/Act/Rules. Government may also provide for periodical review of significant powers exercised by the subordinate officers.

3.5.9 Loss of revenue due to abnormally low *jantri* rates compared to DLPC rates

Government decided in January 1998 to form a committee at the district level (DLPC) with District Collector as chairman and District Development Officer and Chief Town Planner as members for fixation of the rate of the land after consideration of various parameters laid down by Government. Further, Government decided that new *jantri* as approved by the Government shall be applicable in all the cases for fixation of premium price from 1 April 2008. Government further decided in July 2008 to recover the premium price as per new *jantri* effective from 1 April 2008 in all the cases pending at various levels as on 3 July 2008. The *jantri* rate as approved by the Government extends to the entire State including the survey numbers for which DLPC had already fixed rates.

Test check of the cases finalised by the three Collectors³⁴ for the year 2008-09 revealed that in 16 cases³⁵, the premium price was recovered as per the new *jantri*. On comparison of the rates we noticed that the rates fixed by DLPC were significantly higher (three to nine times) than the new *jantri*. There was a wide variation between two sets of the rate though the DLPC

rates had been fixed just two months before the new *jantri* came into effect. While levying the premium, though the rates fixed by DLPC were available, the Collector did not bring the wide variations between the *jantri* and the rate fixed by the Committee to the notice of the Government and adopted lower *jantri* rates for recovery of premium price.

Since the Collector is the authority to recover premium price and also the Chairman of DLPC, in respect of these cases, concerned Collector should have either adopted higher rate or referred to the Government for clarification especially when there was such a wide variation between DLPC rates and *jantri*. However, the Government did not make any arrangement to map the two sets of system (DLPC and *jantri*) for fixation of rates. Applying the lower rates in these cases resulted in foregoing of revenue in the form of premium price of ₹ 14.85 crore.

³⁴ Gandhinagar, Patan and Surat.

³⁵ The following are the cases where there was wide variation between DLPC and *jantri* rates:

District	No. of cases	DLPC rate	Jantri rate	Variation	Loss (in ₹)
Surat	1	1,125	200	925	3,88,07,080
Patan	1	900	260	640	1,24,83,584
Gandhinagar	9	1,000	350	650	9,71,89,880
	1	950	100	850	
	3	3,600	700	2,900	
	1	3,800	700	3,100	
Total	16				14,84,80,544

Say ₹ 14.85 crore.

The Government stated (October 2010) that to avoid the hardship to the land holders and to make it transparent, the State Government had decided in December 2006 to apply *jantri* rate for the valuation of land for premium after implementation of new *jantri*. It was a conscious decision of the Government to fix the premium price as per *jantri* rate after 1 April 2008.

The reply however, is not convincing, since there was wide variation between DLPC rate and *janti*. The Collector should have informed the Government about this wide variation and should have sought rectification of the *jantri* rates. Since both the *jantri* and DLPC rates were fixed by the Government, such a wide difference between the rates in a very short time period defied the logic and reasoning and should have been rectified. Moreover; there was no prescribed time limit to review the *jantri* rates to make them current.

We recommend the Government to consider establishing a system to identify such cases of wide variation between DLPC rates and *jantri* rates and prescribe time limits for revision of *jantri* rates.

3.5.10 Non-levy of premium price due to improper regularisation of tenancy cases

Section 32-G or 32-O of the BT&AL Act, 1948 provide that if a tenant or any person is willing to purchase the land, purchase price shall be fixed under Section 32-H and land shall be allotted to the tenant in Form-9³⁶, prescribed under Section 32-M of the Act as new and restricted tenure.

Test check of NA cases finalised by three DDOs³⁷ for the year 2008-09 revealed that in six cases, either the purchase price was fixed and paid by the tenant to

the landlord or the tenants were made owners without issuing Form-9. The land in these cases was treated as old tenure instead of new and restricted tenure. In other four cases, though the land was allotted under new and restricted tenure, it was treated as old tenure. The concerned DDO did not ensure the evidences indicating the fact that restrictions of new tenure had been properly removed. This resulted in non-levy of premium price of ₹ 6.64 crore.

The Government stated (October 2010) that the cases mentioned would be examined by Revenue Inspection Commissioner (RIC). However Section 32 (O) has been deleted and hence there is no scope for creation of new tenancy.

The reply is not convincing in view of the fact that the cases were prior to deletion of Section 32 (O). Further, the records did not indicate any evidence to prove that restrictions of Section 43 of the BT & AL Act had been removed on payment of premium price for non-agriculture use of the land. However, outcome of the examination of cases by RIC is awaited.

We recommend the Government to consider establishing a system to collect and verify all the evidences in support of the titles of the land and for bringing the irregularity to higher forum for its rectification.

³⁶ Form-9: A certificate of purchase issued to a tenant.

³⁷ Ahmedabad, Gandhinagar, Himmatnagar.

3.5.11 Loss of revenue due to lack of co-ordination between registering authority and concerned revenue offices to detect breach of conditions of orders in case of conversion of land

As per the Government Resolution dated 16 March 1982, premium price at prescribed rates shall be levied on estimated market value adopted for levy of premium price or actual sale consideration, as per sale deed registered on the first occasion whichever is higher. This proviso was cancelled with effect from 4 July 2008. Thus in the cases where the sale consideration is higher and registered between the period 16 March 1982 and 3 July 2008, premium is leviable on higher value.

Our Cross verification of entry of village Form VI in village records and recitals of sale deed registered in the sub-registrar offices prior to 4 July 2008 by audit revealed the following:

- During cross verification of Village Form (VF)-VI maintained by the

respective *kasba talaties* of *Mamlatdar* working under two Collectors³⁸ for the year 2007-08 and 2008-09, we noticed that in four cases, the applicants had produced sale deeds for entry in the land records wherein the land was sold by the applicants at sale consideration higher than the estimated market value of land fixed by the Government for the purpose of levy of premium price. It was observed that the Departmental officials failed to verify the recitals of the sale deed available with them or subsequently registered on first occasion of sale and to recover deficit premium price of ₹ 86.82 lakh.

- Test check of one sale deed registered with Sub-Registrar, Memnagar, Ahmedabad for the year 2008 revealed that the document was registered at higher sale consideration than the estimated market value adopted for the purpose of levy of premium as per the recitals of this documents. However, the registering authorities did not initiate action to send copy of the document to the concerned Collector for recovery of the deficit premium price of ₹ 13.41 lakh.

The Government did not prescribe any system to watch the compliance of the specific conditions in respect of value of the land for levy of premium price laid down in the orders by the revenue officer and registering authority in co-ordination with each other. This resulted in short levy of premium price of one crore in the above cases.

The Government stated (October 2010) that payment of premium and levy of stamp duty are two separate processes governed by two different policies. Premium is levied on the basis of *jantri* as per decision of 4 July 2008 and stamp duty is levied on the basis of *jantri* or sale value whichever is higher.

The reply is not tenable as all these cases were registered prior to 4 July 2008 and Government Resolution dated 16 March 1982 was operative in these cases. As such, sale deeds produced for entry in land records or presented for registration

³⁸ Kheda and Surat.

revealed that sale consideration being higher than estimated market value fixed, premium was leviable on the higher value. However, the revenue officer as well as registering authority failed to bring the higher consideration amount to the notice of the Collector for levy of deficit premium.

We recommend the Government to issue instructions to the registering authorities to pass on the copies of sale deeds to the revenue authorities in the interest of revenue.

3.5.12 Non-detection of unauthorised use of the land and non-levy of prescribed penalty

Under the provisions of the BLR Code, 1879 and instructions issued from time to time by the Government, vigilance is to be kept by the *Talati-cum-Mantri* of the village/*kasba* and other concerned revenue officials in respect of any breach of condition noticed relating to any permission granted by the competent authority during their visit at the site of the land. The official is responsible to bring the fact to the notice of the higher authority.

The Bombay Land Revenue Code, 1879 and the Rules made thereunder provide that if any land is used for any purpose other than the purpose for which it is assessed or held without prior permission of the competent authority, the

occupant shall be liable to pay penalty not exceeding 40 times of non-agriculture assessment of the area of land. The Government has instructed specifically to levy penalty of 40 times of non-agriculture assessment for unauthorised construction without prior permission of the competent authority. The Code also prohibits the transfer of land allotted to tribal person to a non-tribal person and prescribe a penalty not exceeding three times the value of the occupancy price of such land in case of unauthorised transfer.

Test check of the NA cases finalised by six Collectors³⁹ and six DDOs⁴⁰ for the year 2004-05 to 2008-09 revealed that in 44 cases, the applicants had used the land for non-agricultural purposes without prior permission of the Collector for the period ranging between one year and 28 years. However, the concerned revenue officials failed to detect these cases though there was a presence of large administrative machinery. The Departmental officials could not detect the unauthorised use/breach of conditions of the orders till the occupants applied for the regularisation of these cases.

The Government stated (October 2010) that Revenue Inspection Commissioner at the State level carries out inspection of all the districts periodically with a tool of 45 types of check list/format for effective monitoring and to detect breach of conditions. Similarly, the Collector, *Prant* officer and *Mamlatdar* check revenue records during their tours which covers aspects like NA permission, titles of

³⁹ Ahmedabad, Anand, Bharuch, Himatnagar, Surat, Vadodara.

⁴⁰ Ahmedabad, Gandhinagar, Godhra, Himatnagar, Narmada (Rajpipla), Rajkot.

land, and the breach of conditions. The same is periodically cross-checked at the time of promulgation of revenue records.

The fact remains that the penalty provision which are meant to deter cases of unauthorised occupation were not been administered by the revenue officials as prescribed by Government. Besides, non detection of the breach of condition despite the inspection by various authorities shows that inspection system of the Department needs strengthening.

Further it was seen that the rate prescribed by the Government for of levy penalty was either not levied or was levied short as mentioned in the following table :

(₹ in lakh)

Unit	No. of cases	Penalty leviable @ 40 times of NAA	Penalty levied	Non/short levy of penalty
DDO, Gandhinagar	1	2.50	0	2.50
DDO, Narmada (Rajpipla)	1	0.78	0	0.78
DDO, Godhra	1	1.50	0.15	1.35
Collector, Surat	4	3.34	0	3.34
	1	1.27	0.01	1.26
Collector, Anand	2	1.92	0.19	1.73
DDO Ahmedabad, Himatnagar, Rajkot, Collector Ahmedabad, Himatnagar, Bharuch,	34	10.57	4.59	5.98
Total	44	21.88	4.94	16.94

As can be seen from the above, non/short levy of penalty resulted in less realisation of revenue by ₹ 16.94 lakh.

After this was pointed out, the Department accepted audit observation in three cases for ₹ 3.34 lakh and recovered ₹ 1.62 lakh in two cases.

We recommend the Government to consider strengthening the system for timely detection of unauthorised use of land and making inspections more effective.

3.5.13 Internal controls

Revenue Department instructions (August 1975) provided that the concerned Collectors and Dy. Collectors have to carry out the inspection of their subordinate offices as per the questionnaire attached with the instructions. The Collector/DDOs were required to furnish information regarding inspections of subordinate offices during the period 2004-05 to 2008-09. Department did not produce the records to verify that the Collector/Dy. Collectors had carried out necessary inspection of subordinate offices as per specified norms. Loss of revenue as well as non-detection of cases with irregularity as pointed out in preceding paragraphs indicates that the internal control system established is not effective and adequate.

3.5.14 Internal Audit

An independent and effective internal audit under the direct control of the head of the Department is essential for ensuring compliance of the provisions of the Acts/Rules and the Government instructions regarding assessment of revenue, prompt raising of demands, its collection and accounting and for overall functioning of the administration effectively, efficiently and economically.

Internal audit wing of the Revenue Department is headed by RIC equivalent to Secretary to the Government of Gujarat, for the purpose of internal audit and inspection of the district and *taluka* head offices. RIC vide its circular of June 2005 has refixed the periodicity of the inspection of various offices and mandays for their inspection. Following are the observations in this regard:

- There are only three inspection parties in operation. Each party consists of six members namely, one *Mamlatdar*, four Dy. *Mamlatdars* and one *Gujarati* typist. Presently no *Mamlatdar* is posted in all the three parties.
- There are 619 auditable units in the State and periodicity was fixed for once in one to 10 years. The RIC has fixed target of inspection of 148 units during the revenue year (August-July). Detailed scrutiny of target fixed per annum revealed that 11 Collector and 11 District Development Offices specified for inspection twice/once in three years had not been included in the targets fixed. Thus as per periodicity and man-days available, the target was not fixed to cover above 22 important offices.
- Revenue Department's circular (August 1975) also provides that as per norms fixed, the concerned Collectors and Dy. Collectors have to carry out the inspection of their subordinate offices as per the questionnaire attached with the circular. Accordingly, the district head offices are conducting audit/inspection of the subordinate offices under their control. The details called for as regards targets fixed and achievement thereof, revealed that only two offices had given the details of target fixed, achieved and shortfall. The remaining offices replied that the information would be collected and furnished to audit. When the fact was brought to the notice of the Government, the Government called for such information from the Collectors/DDOs, in June 2010.

Further, as per the information furnished by the Department regarding inspections carried out, objections raised, compliance thereof and outstanding paragraphs revealed that huge number of objections were pending for compliance, the percentage of which shows an increasing trend which reached upto 62.84 *per cent* during 2008-09 as shown in the following table.

Year	No. of Inspection Reports issued	No. of objections raised	No. of objections complied till 31.3.2010	No. of objections outstanding till 31.3.2010	Percentage of non-complied objections
2004-05	95	18,675	13,347	5,328	28.53
2005-06	159	21,225	13,891	7,334	34.55
2006-07	136	23,568	13,431	10,137	43.01
2007-08	136	25,385	12,304	13,081	51.53
2008-09	143	22,599	8,357	14,202	62.84

The Government stated (October 2010) that the inspection units were fixed as per the target. Some of the offices could not be inspected as the district office staff were occupied with various programs like Elections, *Kanya Kelvani*, *Garib Kalyan Melas*, *Krishi Mahotsava*, *Gunotsav*, *Swarnim rath yatra etc.* Compliance to the internal audit observations also suffered on this account.

Thus, the entire internal control system needs to be strengthened and made more effective to take action on the findings of the internal audit/inspection by the concerned officials.

Compliance Deficiencies

3.5.15 Non/short levy of premium due to non-detection of a breach of conditions of orders of allotment of land

The Government of Gujarat decided in July 1983 to convert the land under new and restricted tenure into old tenure for sale/transfer for agricultural purpose or non-agricultural purposes subject to payment of premium price at prescribed rates fixed by the Government from time to time. Any breach of condition(s) specified in the order of allotment of land under new and restricted tenure *viz.* sale/transfer or unauthorised NA use *etc.*, without prior permission of the Collector attracts premium price at prescribed rates.

During test check of records relating to finalisation of NA cases of three Collectors⁴¹ for the year 2004-05 to 2008-09 we noticed that in 15 cases, the applicants committed breach of conditions like (i) NA permission not obtained within six months of the date of order, (ii) if the

permission is not obtained within six months, the land was to be restored to the Government and order issued for allotment of the land under new and restricted tenure stood cancelled automatically. However, the Departmental officials failed to follow-up these conditions and initiate action. The premium price at prescribed rates was leviable for such breach of condition. The Collector did not initiate action to recover the premium price of ₹ 15.76 crore.

In another case, we noticed that the entire land under new and restricted tenure was converted into old tenure on payment of “*Nazrana*” for sale and entire land was sold in 1974 for residential use to a co-operative society subject to obtaining of NA permission separately. The society, instead of obtaining permission for

⁴¹ Anand, Kheda and Surat.

residential use, had commenced commercial use on part of the land. We further observed that though the premium price was recoverable on entire land for breach of conditions of the order for the conversion of land from new tenure to old tenure, the Collector levied (December 2008) the premium price only on the commercial portion of the land. This resulted in short levy of premium price of ₹ 1.05 crore.

The Government stated (October 2010) that the cases would be examined for further necessary action. Further report has not been received (December 2010).

3.5.16 Short levy of premium price/occupancy price due to non-application of revised market rates

There is lack of effective mechanism at district level to watch compliance of conditions of various resolutions, orders and instructions issued by the Government from time to time in respect of the conversion of the land for various use and monitoring the levy and collection of various receipts relating therewith. Absence of such mechanism leads to continuous shortfall in Government revenue. Our test check revealed short recovery of revenue in the cases detailed below.

Government of Gujarat instructed in May 2006 that in case of the allotment of the Government land, market rate fixed by the District Land Price Committee (DLPC) shall be increased by adding 12 per cent at flat rate instead of calculating the increase of 12 per cent on monthly basis where orders of the allotment is issued after one year from the date of market rate fixed by the DLPC. The DLPC shall fix market value of the land afresh if the order of allotment is issued after completion of two years.

3.5.16.1 During test check of cases of removal of restrictions finalised by six⁴² Collectors for the year 2007-08 and 2008-09, we noticed in nine cases that though more than one year had expired from the date of fixation of market rate by DLPC, at the

time of final orders issued by the Collector, increase of 12 per cent in market rate was not applied. Moreover, in one case, though two years had expired from date of order of DLPC, market value of the land was not refixed. Government could have received more premium price in case of revised market value of the land. The concerned Departmental officials failed to observe Government instructions for arriving at the market value which resulted in short levy of premium price of ₹ 4.65 crore and short levy of occupancy price of ₹ 60.83 lakh.

⁴² Ahmedabad, Amreli, Junagadh, Rajkot, Surat and Vadorara.

The Government decided in March 2001 that different applications made by a single applicant shall be treated as one and sent to the Government where the market value of the land in case of such applications exceeds ₹ 50 lakh. The SLPC would reevaluate the above land, if necessary, to arrive at the actual market value to avoid loss of revenue. The Government issued such instructions to avoid splitting of the land in such a way that market value comes below ₹ 50 lakh so as to avoid valuation by higher forum.

3.5.16.2 During test check of cases finalised by the Collector, Ahmedabad, we observed that in one case, different applications of one applicant were sent to Government separately in such a way that in first application, the market rate was decided by the DLPC

and in other application, the market rate was decided by the SLPC. Thus, one survey number was divided in two parts having two different market rates i.e. one fixed by the DLPC and the other by the SLPC, within a period of four months. The rate decided by the SLPC was higher than the rate decided by DLPC. The Departmental officials failed to observe the instructions to treat different applications of single occupant. This resulted in short levy of premium price of ₹ 16.78 lakh.

After being pointed out, the Collector stated (October 2008) that the applicant had submitted two applications and in both cases land was granted with the approval of the Government. However, the fact would be brought to the notice of the Government and action would be taken accordingly.

Government of Gujarat issued instructions in October 2003 that entry in the records of rights shall not be certified by the competent revenue authority without production of valid documentary evidence viz. sale deed, mortgage deed, etc. duly registered as per provisions of the Registration Act, 1908.

3.5.16.3 During Cross verification of NA cases finalised by three Collectors⁴³ and DDO, Amreli with relevant village records for the year 2008-09 we found that in four cases, the applicants had not submitted a

valid registered document for the purpose of certification of entry in the revenue records kept at the village. However, the concerned revenue authority certified the entry without demanding the production of valid registered document. The change in ownership of the property/creation of the charge on the property was effected without execution and registration of the documents. This resulted in non-levy of stamp duty and registration fee of ₹ 8.73 lakh.

The Government stated (October 2010) that VF-6 mutation entries are certified only on the basis of the documents or Index-2 sent by Sub-Registrar. Registered documents are not required in such cases.

The reply is not acceptable. In these four cases, applicants of non-agricultural permission became owners of the property by way of release of the share in the

43 Himatnagar, Rajkot and Surat.

property by the co-owners. However, entry for the change in ownership in the land records was certified without production of registered release deeds or any other document sent by Sub-Registrar.

The Government of Gujarat in April 2002 instructed all Collectors and concerned competent authorities to include the condition of payment of stamp duty in the allotment order of the Government land. It was also instructed to hand over the possession of land on payment of appropriate amount of stamp duty.

3.5.16.4 Our test check of allotment of land cases finalised by twelve Collectors⁴⁴ for the year 2008-09 revealed that in 79 cases, though the land was handed over to the allottees, the

Departmental officials either did not recover stamp duty or recovered lesser amount. Out of these cases, in 43 cases, even the condition of payment of stamp duty was not inserted in the allotment orders. Revenue authorities failed to observe the instructions of the Government to recover stamp duty before handing over the possession of the land. This resulted in non-realisation of stamp duty of ₹ 2.56 crore.

The Government stated (October 2010) that stamp duty is exempted on land allotted as revenue free and free of occupancy price. The reply is not correct as the cases of allotment pointed out by us were neither free of occupancy price nor free of revenue but allotted after recovery of occupancy price⁴⁵ and the stamp duty was leviable.

We recommend the Government to consider instructing the implementing Departments to maintain category wise orders/resolutions/instructions for finalisation of various types of cases and to avoid continuous shortfall of revenue.

⁴⁴ Amreli, Anand, Bhavnagar, Gandhinagar, Godhra, Junagadh, Navsari, Palanpur, Patan, Porbandar, Narmada (Rajpipla), Surat.

⁴⁵ Occupancy price means the amount received by the Government in lieu of rights of occupancy of land handed over to the allottees i.e. land value as fixed by the Government.

3.5.17 Non/short levy of conversion tax

Section 67A of the Bombay Land Revenue Code, 1879 provides for the levy of conversion tax on change in the mode of use of the land from agricultural to non-agricultural (NA) purposes or from one non-agricultural purpose to another in respect of land situated in a city, town or village. Different rates of the conversion tax are prescribed for residential/charitable and industrial/other purposes depending upon the population of the city/town/notified area/ village. The conversion tax shall be paid in advance by a *challan* in the Government treasury. Further, as per Sub-Section 2(b) of Section 67 A of the Code, the occupant of such land shall be liable to pay to the State Government, a tax at such rate as is equivalent to the difference between the rate of tax applicable to the other non-agriculture purpose, as the case may be, and the rate of tax applicable to the existing NA purpose. Government decided in December 2006 that NA permission of competent authority was not to be obtained in case of allotment of Government land for non-agriculture purpose but conversion tax and non-agricultural assessment shall be recoverable as per standing instructions.

During test check of the records of 16 Collectors⁴⁶, Dy Collector, Rajkot and 10 DDOs⁴⁷ for the period 2004-05 to 2008-09, we noticed that out of 464 cases, in 357 cases, conversion tax was not levied on Government land allotted for NA purposes where separate NA permission was not required. In other 105 cases, we noticed that conversion tax was either not levied or levied short while granting NA permission. In other two cases, the differential conversion tax was not levied on change in use of land from one NA purpose to another. The concerned officer failed to implement

the provisions of the Act/ Rules and instructions issued by the Government. This resulted in non/short levy of conversion tax of ₹ 8.59 crore.

The Government stated (October 2010) that specific cases would be examined and after due verification, necessary action would be taken. Further report has not been received (December 2010).

⁴⁶ Ahmedabad, Amreli, Anand, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhra, Junagadh, Navsari, Palanpur, Patan, Porbandar, Narmada (Rajpipla), Surendranagar.

⁴⁷ Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhra, Junagadh, Patan, Narmada (Rajpipla), Surat.

3.5.18 Short levy of premium price due to non-observance of the policy decided by the Government to adopt new *jantri*

The Government decided in December 2006 that new *jantri* as approved by the Government shall be applicable from the date of its effect in all the cases for fixation of premium price. Premium price is to be decided as per prevailing system till the effective date of new *jantri*. The Superintendent of Stamp, Gandhinagar circulated in March 2008 new *jantri* for the purpose of valuation of the stamp duty and made it effective from 1 April 2008. Further, Government decided on 4 July 2008 that the premium price shall be fixed as per new *jantri* effective from 1 April 2008 in pending cases where the orders permitting conversion of land from new and restricted tenure to old tenure are to be issued after 1 April 2008.

Our test check of records of the two Collectors⁴⁸ for the year 2007-08 and 2008-09 revealed that in 2 cases, the Collector did not adopt the rates of new *jantri* while fixing market value for the purpose of levy of premium price for conversion of new tenure land to old tenure and in one case, the Collector recovered premium at DLPC rates, though

these cases were finalised after 4 July 2008. This resulted in short levy of premium price of ₹ 20.08 lakh.

After being pointed out by us, the Collector, Narmada (Rajpipla) accepted the audit observation in two cases and Collector, Junagadh in one case replied that the matter would be looked into and necessary action would be taken.

3.5.19 Non-compliance of decision taken by the Government/ Gujarat Revenue Tribunal in re-allotment of land by the Department

3.5.19.1 Government of Gujarat decided in March 2000 and adopted in December 2006 in various cases that sale or transfer of new and restricted tenure land, which took place without prior permission of the Collector, shall be regularised by re-granting the land to the purchaser with new and restricted tenure that can be converted into old tenure for non-agricultural use subject to levy of premium price at the rate of 100 *per cent* of market values.

Test check of cases finalised by the Collector, Ahmedabad and Amreli and Dy. Collector, Dholka under control of the Collector, Ahmedabad for the years 2004-05 to 2008-09 revealed that in nine cases, the land was allotted to the concerned tenant under new and

restricted tenure. However, it was not entered as new and restricted tenure land or the words “new and restricted tenure” were removed by subordinate offices in the village records. The occupants subsequently sold their land or

⁴⁸ Junagadh and Narmada (Rajpipla).

transferred it by way of executing Power of Attorney (PoA). The concerned purchaser/PoA holder also sold the land to new purchaser for non-agricultural use. Premium price was leviable at 100 *per cent* of market value as per decision of the Government. However, the cases were finalised after levy of premium price at 80 *per cent* of market value of the land. The Departmental officers did not follow the decision of the Government to re-grant the land to purchaser under new and restricted tenure and recover premium at 100 *per cent* of market value. This resulted in short levy of premium price of ₹ 2.33 crore.

In case of unauthorised removal of the restrictions imposed under Section 43 of the BT&AL Act, 1948 by the subordinate offices and sale of the land by occupant to a purchaser treating it as old tenure and subsequent establishment of such land as new tenure in review/revision/appeal by the Government/the Collector cancelling the orders issued by subordinate offices, the Gujarat Revenue Tribunal (GRT) decided that in such cases premium price is to be fixed on the date of registration of sale deed and interest at 12 *per cent* is to be recovered for the period from the date of fixation of premium price to the date of issue of orders as the purchasers had purchased the land with bona fide intention. Government of Gujarat did not frame any policy or prescribe any procedure to follow the decision during finalisation of similar cases.

3.5.19.2 During test check of non-agriculture assessment finalised by the Dy. Collector (Prant), Viramgam under control of the Collector, Ahmedabad for the year 2008-09, we noticed in detailed scrutiny of cases that in two cases, the occupants had purchased the new and restricted tenure land as old tenure with bona fide intention. The Collector had subsequently established the land as new tenure land.

However, the decision of the GRT was not followed and these cases were not regularised as sale of new tenure land for agriculture purpose. The Departmental officials did not fix the premium price as per the decision of the GRT and recover it before finalisation of NA permission. The Department also failed to initiate action against the respective Departmental officials for negligence, non-entering the words “New and Restricted Tenure” in village records and incorrect removal of restrictions of new tenure. This resulted in short levy of premium price of ₹ 51.55 lakh.

We recommend the Government to consider framing a policy to follow the decision of the GRT/Government in cases of re-establishment of new tenure occupancy and prescribing a system of periodical review of cases on sale of new tenure land.

3.5.20 Non-levy of premium price due to non-observance of provisions of the Act

Amended proviso of Section 32P of the BT&AL Act, 1948 provides that land shall be allotted as new and restricted tenure, if the land was given back to the owner for *gharkhed* (to be cultivated personally by the land owner) after 29 December 1965 in the cases where the tenant was not interested in purchasing the said land or the tenant was not allowed to purchase the land, or purchase was cancelled etc. Amended proviso to Section 84A of the BT&AL Act provides that the land shall be allotted as new and restricted tenure if the transaction of sale/purchase between the land owner and the tenant had taken place between 28 December 1948 and 31 July 1956 and regularised by the *Mamlatdar* and ALT by recovery of a penalty of Re. one after 31 March 1966. While regularising such cases for sale/ transfer or NA use, premium price is leviable on conversion of land from new and restricted tenure to old tenure at prescribed rates.

During test check of NA cases finalised by the Collector, Anand and Collector, Himmatnagar and three DDOs⁴⁹ for the year 2008- 09, we noticed in five cases that the land was given back to the land owner for *gharkhed* after 29 December 1965. However, the re-allotment of the land was made under old tenure instead of new and restricted tenure. In two other cases, the penalty of Re. one was paid after 31 March 1966 and the respective *Mamlatdar*

and ALT issued orders in January 1977 and July 2000 to regularise the sale in favour of the tenant as old tenure land instead of granting it under new and restricted tenure. *Mamlatdar* and ALT failed to implement the provisions of the Act. As the land had been allotted without the restriction of the tenure, premium price could not be levied for subsequent permissions of sale/transfer or NA purposes. This resulted in non-levy of premium price of ₹ 2.59 crore.

The Government stated (October 2010) that in case of re-grant of land to the land owner for *gharkhed* after 29 December 1965, the same should be re-granted as new and impartible tenure and therefore the five cases will be examined. The other two cases are also required to be examined. Further report has not been received (December 2010).

⁴⁹ Anand, Gandhinagar and Mehsana.

3.5.21 Non/short levy of measurement fee

Settlement Commissioner and Director of Land Records, Gandhinagar vide orders dated 4 May 2000 revised the rates of measurement fees effective from 1 February 2003. Accordingly, the measurement fee is leviable at the rate of ₹ 1,200 for development plan upto four plots and ₹ 300 for each additional plot.

Test check of the record of the eight Collectors⁵⁰, eight DDOs⁵¹ and seven TDOs⁵² for the year 2008-09 revealed that in 415 cases, NA permission was granted as per the plan approved for various

NA purposes. The measurement fee was required to be recovered as per plan and plots approved at prescribed rates. However, the measurement fee was either not recovered or was recovered at incorrect rates on plots approved. This resulted in non/short levy of measurement fee of ₹ 55.54 lakh.

The Government stated (October 2010) that as per the procedure followed for this purpose, an applicant has to submit the sketch of the land, showing the boundaries of the plot along with application of NA and copy of the *challan* of the measurement fees paid. NA permission also specifies the condition of measurement through DILR⁵³. The reply is not acceptable as the payment of measurement fees is a pre-requisite for the consideration of NA application and the evidence of payment of measurement fee was required to be kept on record which had not been done.

3.5.22 Non/short levy of non-agricultural assessment

Bombay Land Revenue Code, 1879 and the Rules made thereunder provide for levy of non-agricultural assessment (NAA) on land used for non-agricultural purposes at the rates prescribed by the Government from time to time. Different rates depending on the use of the land are prescribed for each class of city/town/village. The Government vide notification of August 2003 revised the rates of NAA and classified the areas in three categories i.e. A, B and C for levy of NAA. The Code provides for issue of a demand notice and distraint and sale of defaulter's movable/immovable property for recovery of arrears of the land revenue. Further, as per section 48 of the Code, NAA is leviable with effect from the commencement of the revenue year in which the land is used for NA purposes with or without the permission of the competent authority.

Test check of records of the Collector, Ahmedabad and Collector, Valsad and TDO, Nadiad for the year 2004-05 to 2008-09, revealed that in 48 cases, though the NA permissions were granted or deemed to have been granted, the NAA of ₹ 22 lakh was not levied for the period of NA use.

- During test check of the cases finalised by the Collectors Ahmedabad and Kheda, Dy. Collectors

⁵⁰ Ahmedabad, Bhuj, Gandhinagar, Mehsana, Palanpur, Patan, Surat, Vadodara.

⁵¹ Ahmedabad, Amreli, Bharuch, Gandhinagar, Himatnagar, Palanpur, Patan, Surat.

⁵² Himatnagar, Idar, Kadi, Kalol, Mehsana, Prantij, Sihor.

⁵³ District Inspector of Land Records.

Rajkot and Vadodara and DDO, Vadodara during the year 2007-08 and 2008-09, we observed that in 20 cases, the NAA was not levied for the period of unauthorised use of land. In four cases finalised by the DDO, Gandhinagar for the year 2008-09, NAA was levied at incorrect rates. This resulted in non/short levy of NAA of ₹ 4.33 lakh in 24 cases. These resulted in total non/short levy of NAA of ₹ 26.33 lakh.

3.5.23 Other points of interest

3.5.23.1 The Government decided in July 1983 to levy premium price at the prescribed rates to convert new and restricted tenure land into old tenure for sale, transfer for agricultural or non-agricultural purposes. Different rates were prescribed in 2003 for different class of areas viz. the area falling under an Urban Development Authority, Municipal Corporation, *Nagarpalika*, any specified area, and previous ULC area and other than that area, based on period of holding of the land by the occupant.

- During test check of records of the Dy Collector, Choryasi, Surat for the year 2004-05 to 2008-09, we noticed that the entire area of one village was notified as falling under Municipal Corporation in February, 2006. In one case, we noticed that the Dy. Collector

had recovered the premium at the rate of 60 times of NAA, instead of rate applicable to the Municipal area at 50 *per cent* of the market value of the new tenure land for conversion in old tenure though that case was finalised after February, 2006.

- During test check of the records of the Collector, Gandhinagar we noticed that in two cases, the Collector had adopted the *jantri* rates applicable to village area for the survey numbers falling under GUDA/AUDA. The Government did not prescribe the rates for area falling under the concerned Urban Development Authority in the new *jantri* effective from 1 April 2008.

Audit further noticed that the Department did not have any database to decide the cases as regards change of class of a particular survey number/village etc. and the survey numbers falling in UDA area where *jantri* rates were not provided. The concerned Departmental officers failed to refer the matter to the Government for fixation of rates of that area in new *jantri*. This resulted in short levy of premium price of ₹ 74.30 lakh in the above test checked cases.

The Government stated (October 2010) that *jantri* is only one and the same is applied for all over the State and there is no separate *jantri* for Urban Development Authority areas.

The reply is not acceptable since the rate of premium levied was incorrect. Instead of premium at 60 times of NAA applicable to village area, it was recoverable at applicable rate of 50 *per cent* of the market value applicable to municipal area. In other two cases, rate for particular survey numbers falling under town planning scheme was not fixed.

We recommend the Government to consider collecting database of the area with change of classification and providing the *jantri* rates for that area.

3.5.23.2 The Government of Gujarat decided in July 1983 to convert the land under new and restricted tenure into old tenure for sale/transfer for agricultural purpose or non-agricultural purpose subject to payment of premium price at the rates fixed by the Government from time to time.

- During test check of cases finalised by the Collector, Patan and Collector, Rajkot for the year 2008-09, we noticed that in three cases, market rate as applicable to the particular survey

number as per *jantri* was not considered and the rate on lower side was adopted for levy of premium price. Of these in one case of Patan, it was a mistake on the part of the Government who instructed the Collector to levy premium price at the rate lower than what was proposed by the Collector, without any justification. This resulted in non-levy of premium price of ₹ 29.16 lakh.

After this was pointed out, the Collector, Rajkot recovered the differential premium price of ₹ 6.50 lakh (January 2010).

- The Government decided in May 1980 that the premium price at the rate of one third of annual rent is leviable for the period of lease where new tenure land is given on lease for non-agricultural purposes to any person or *mandal* except educational or charitable institutes.

Test check of NA cases finalised by the TDO, Borsad working under the DDO, Anand for the year 2008-09 revealed that in five cases, the occupants had leased new tenure land for temporary non-agricultural (brick manufacturing) purposes on payment of annual rent or lump-sum amount. However, the concerned officer failed to observe the instructions of the Government and did not initiate action to levy premium price of ₹ 4.10 lakh.

This resulted in non-levy of premium price of ₹ 33.26 lakh in the above cases.

3.5.24 Conclusion

The review revealed a number of system and compliance deficiencies. There was leakage of revenue due to non-observance of the Government instructions by the *Mamlatdars* in removing restrictions. The *Mamlatdars* had removed the restrictions in tenure in violation of the Government instructions resulting in loss or revenue in the shape of premium. Besides, the higher authorities had not reviewed the cases within the prescribed time limit to detect the cases of incorrect removal of restrictions by the *Mamlatdars*. The Government had also not put in place any mechanism for periodical review and revision of the incorrect orders issued by subordinate offices to safeguard the Government revenue. The internal controls of the Government were weak as evidenced by

absence of a system or procedure for ensuring the compliance of the terms and conditions of various orders or to detect breach of conditions. There was lack of co-ordination amongst the Revenue and Registering Authorities of the same Department. Loss of revenue receipts due to inaction of the various officials and non-detection of breach of condition prescribed by the Government indicated poor internal control and monitoring at the apex level.

3.5.25 Summary of recommendations

We recommend the Government to consider implementing the following recommendations to rectify the deficiencies and improve the system :

- *issue suitable directions to the Department for framing the budget estimates on realistic and scientific basis and ensure that the estimates are as close to the actual receipts as possible;*
- *consider devising a system to ensure that the Mamlatdar discharge their duty as per the Governments' decision/Act/Rules. The Government may also provide for periodical review of significant powers exercised by the subordinate officers;*
- *consider establishing a system to identify such cases of wide variation between DLPC rates and jantri rates and prescribe time limits for revision of jantri rates;*
- *issue instructions to the registering authorities to pass on the copies of sale deeds to the revenue authorities in the interest of revenue;*
- *consider strengthening the system for timely detection of unauthorised use of land and making inspections more effective;*
- *consider instructing the implementing Departments to maintain category wise orders/resolutions/instructions for finalisation of various types of cases and to avoid continuous shortfall of revenue;*
- *consider framing a policy to follow the decision of the GRT/Government in cases of re-establishment of new tenure occupancy and prescribing a system of periodical review of cases on sale of new tenure land; and*
- *consider collecting database of the area with change of classification and providing the jantri rates for that area.*

3.6 Non-levy of service charges

3.6.1 Section 46(2) of the Bombay Stamp Act, as applicable to Gujarat provides that all duties, penalties, interest and other dues required to be paid under the Act may be recovered by the Collector as arrears of land revenue. Further, Rule 117C of the Gujarat Land Revenue Rules, 1972 provides for the levy of service charges at the rate of five *per cent* on the recovery made as arrears of land revenue. Superintendent of Stamps clarified vide circular dated 7 September 2007 that in cases of payment of dues under amnesty scheme, service charge is recoverable on amount of deficit stamp duty determined as per the order of the Dy. Collector where action for recovery as arrears of land revenue had been initiated under the Bombay land Revenue code.

During test check of records of eight Dy. Collectors (VoP)⁵⁴ between August 2008 and July 2009, we noticed in 7,689 cases that *Mamlatdar*⁵⁵ (Recovery) had realised ₹ 5.76 crore from the defaulters during the period 2005-06 to 2008-09 as arrears of land revenue. However, the concerned officers either did not levy the service charges or allowed benefit

of amnesty scheme for determining the service charge and recovered lesser amount. This resulted in non/short levy of service charge of ₹ 28.71 lakh.

This was brought to the notice of the Department between July and December 2009 and the Government in March 2010; their replies have not been received (December 2010).

3.6.2 Section 12 of the BMVT Act provides that the tax due and not paid as provided in the Act is to be recovered as arrears of land revenue. Further, Rule 117C of Gujarat Land Revenue Rules, 1972 provides to recover five *per cent* of service charges from the defaulters as cost of collections.

During test check of the records of nine taxation authorities⁵⁶ between June 2008 and July 2009 for the period 2007-08, we noticed that in 625 cases, the Departmental officials had recovered

₹ 1.87 crore as arrears of land revenue but failed to levy service charges on such amount recovered as arrears of land revenue. This resulted in non-levy of service charges of ₹ 9.03 lakh.

This was brought to the notice of the Department in December 2008 and January 2010 and the Government (June 2010); their replies have not been received (December 2010).

⁵⁴ Amreli, Anand I, Bhavnagar, Bhuj, Junagadh, Surat II, Vadodara I and II.

⁵⁵ The Officer appointed by State Government, entrusted with the local revenue administration of a taluka.

⁵⁶ Amreli, Bharuch, Bhuj, Godhra, Jamnagar, Nadiad, Palanpur, Surendranagar and Vadodara

CHAPTER-IV TAXES ON VEHICLES

4.1 Tax administration

The State Commissioner of Transport (CoT) heads Gujarat Motor Vehicle Department (GMVD) under the administrative control of the Secretary to the Government of Gujarat in the Ports and Transport Department. He is assisted by a Joint Commissioner and 82 officials at GMVD head office. There are 26 Regional Transport Offices (RTO). There are 10 permanent check posts⁵⁷ and three internal check-posts⁵⁸ working under 10 RTOs.

4.2 Analysis of budget preparation

The budget estimates are prepared after taking into consideration guidelines given by Finance Department. The elements considered for the preparation of budget were (i) actual receipt of last eight months of previous year and (ii) actual receipt of first four months of the current year.

4.3 Trend of receipts

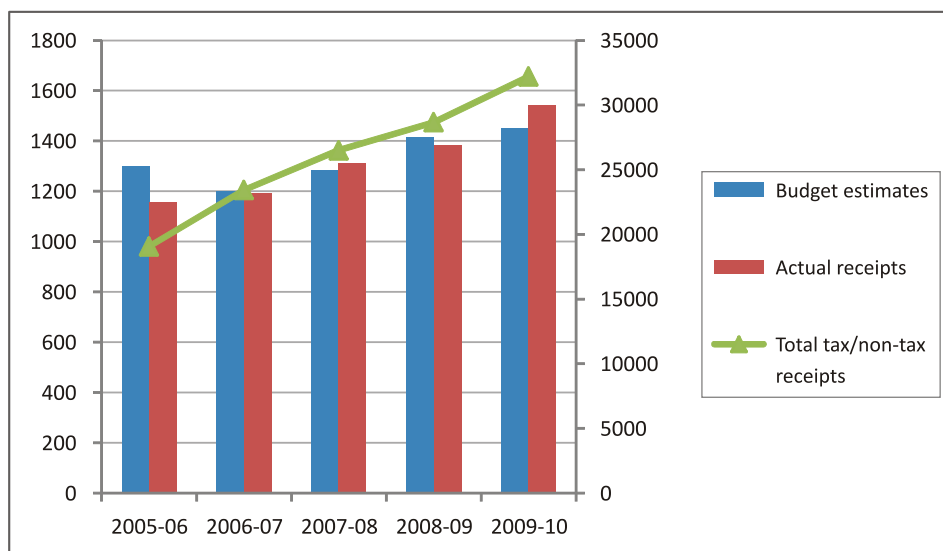
Actual receipts from Motor Vehicle Tax during the last five years from 2005-06 to 2009-10 along with the total tax/non-tax receipts during the same period is exhibited in the following table and graph :

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax/ non-tax receipts of the State	Percentage of actual receipts vis-a vis total tax/ non-tax receipts
2005-06	1,300.00	1,153.97	(-) 146.03	(-) 11.23	19,051.48	6.06
2006-07	1,200.00	1,191.15	(-) 8.85	(-) 0.74	23,413.41	5.09
2007-08	1,284.00	1,310.09	(+) 26.09	(+) 2.03	26,494.88	4.94
2008-09	1,412.40	1,381.66	(-) 30.74	(-) 2.18	28,656.35	4.82
2009-10	1,450.00	1,542.64	(+) 92.64	(+) 6.39	32,191.94	4.79

⁵⁷ Ambaji, Amirgarh, Bhilad, Dahod, Deesa, Shamlaji, Songarh, Tharad, Waghai and Zalod.

⁵⁸ Budhel (Bhavnagar), Khavdi (Jamnagar) and Samkhiyali (Bhuj).



The Department attributed the reasons for variation between budget estimates and actual receipts during 2009-10 to the increase in registration of vehicles and upward trend of prices of the vehicles. Though there was increase in actual receipts for the period 2005-06 to 2009-10, the actual receipts *vis-a-vis* total tax/non-tax receipts declined from 6.06 per cent to 4.79 per cent.

4.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 96.06 crore of which ₹ 46.02 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10.

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears
2005-06	48.54	22.72	58.11
2006-07	58.11	22.15	89.54
2007-08	89.54	59.73	75.73
2008-09	75.73	24.66	80.07
2009-10	80.07	26.36	96.06

The above table indicates that arrears of revenue increased from ₹ 48.54 crore to ₹ 96.06 crore during the period of five years. **The Department needs to take strict action against the defaulters for reduction of arrears.**

4.5 Cost of collection

The gross collection in respect of receipts of taxes on vehicles and taxes on goods and passengers, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the preceding years are mentioned in the following table.

(₹ in crore)

Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of cost of collection for the preceding year
Taxes on vehicles and taxes on goods and passengers	2007-08	1,461.71	38.57	2.64	2.47
	2008-09	1,551.01	43.43	2.80	2.58
	2009-10	1,549.54	54.79	3.54	2.93

Thus the cost of collection during all the three years remained above the all India average percentage. The Government needs to take appropriate measures to bring down the cost of collection. It was highest in 2009-10, the Department stated that the increase in expenditure on collection of revenue during the year 2009-10 was mainly due to implementation of recommendations of Sixth Pay Commission.

4.6 Impact of Audit Reports - Revenue impact

During the last five years (including the current year's report), audit through its audit reports had pointed out non/short levy, non/short realisation, under assessment/loss of revenue, application of incorrect rate of tax, incorrect computation etc, with revenue implication of ₹ 337.63 crore in 20 paragraphs. Of these, the Department/Government had accepted audit observations in 19 paragraphs involving ₹ 49.74 crore and had since recovered ₹ 5.64 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	5	17.80	5	10.98	5	2.53
2006-07	2	9.10	2	8.95	2	0.09
2007-08	1	83.08	1	4.23	1	0.23
2008-09	4	6.29	4	6.29	4	1.28
2009-10	8	221.36	7	19.29	4	1.51
Total	20	337.63	19	49.74	16	5.64

The above table indicates that recovery in accepted cases was very low (11.34 per cent of the accepted money value).

The Government may take suitable initiative for speedy recovery.

4.7 Working of internal audit wing

The department has internal audit wing which has sanctioned strength of three parties consisting of one senior auditor and one sub-auditor. Due to vacant post, two parties were operated and the functioning of the wing for period under report was not regular. During the year 2009-10, details of units planned for the year including units in arrears was not made available by the Department. However, as per information furnished by the Department, internal audit had

carried out inspection of seven field offices and all the 13 check posts. Those 20 audit reports contained 13 paragraphs, out of which action was pending on all the paragraphs. This indicates that the internal audit arrangements were not commensurate with the size of its operations.

4.8 Results of audit

We test checked the records of 24 offices of Commissioner of Transport, Regional Transport and Assistant Regional Transport Offices in the State during the year 2009-10 and noticed under assessment of tax and other irregularities involving ₹ 263.34 crore in 174 cases, which fall under the following categories:

(₹ in crore)

Sr. No.	Category	No. of cases	Amount
1.	Non/short levy of passenger tax/motor vehicle tax relating to GSRTC/AMTS	13	245.81
2.	Non/short levy/recovery of motor vehicles tax	58	12.52
3.	Other irregularities	103	5.01
	Total	174	263.34

During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 78.16 crore in 89 cases, of which 28 cases involving ₹ 65.71 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 97.59 lakh was realised in 26 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 221.36 crore are mentioned in the succeeding paragraphs.

4.9 Audit observations

During the scrutiny of the records of various regional transport offices, we observed several cases of non-compliance of the provisions of the Bombay Motor Vehicles Tax Act, 1958, (BMVT Act), the Motor Vehicles Act, 1988 (MV Act), the Central Motor Vehicles Rules, 1989, (CMV Rules) etc., and the Government notifications and other rules as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year; however, not only do the irregularities persist, these also remain undetected till an audit is conducted in the next year. Persistence of irregularities despite being repeatedly pointed out by audit is indicative of systemic flaws in the internal control procedures of the department leading to continued short fall in state revenues. There is need for the Government to improve the internal control procedures and systems.

4.10 Recommendations

- The department should take up the issue of non-payment of taxes by GSRTC and AMTS at the highest possible level.
- The department should increase the vigilance on the road to detect the vehicles without payment of taxes and without renewal of permits.
- The department should review the mechanism of obtaining residence proof at the time of registration of transport vehicles to ensure the correctness of the addresses.

4.11 Non-realisation of passenger tax, interest and penalty from fleet owners

Section 3 of the BMV (Taxation of Passengers) Act, 1958 and rules made thereunder provide for levy of tax on all passengers carried by a stage carriage at prescribed rate from the fleet owners. The Act also provides for levy of interest and penalty at prescribed rate on delayed payments.

During test check of records of Commissioner of Transport, Gandhinagar in April 2009 for the period 2007-08, we noticed in case of two fleet

owners (GSRTC⁵⁹ and AMTS⁶⁰) that these fleet owners had collected passenger tax of ₹ 199.75 crore but did not pay it within the prescribed time. Taxation authority did not take any further action for recovery of dues except issue of demand notice (September 2008). Besides, interest of ₹ 10.81 crore and penalty of ₹ 49.94 crore was also leviable for which demand was not raised. Further, AMTS has delayed payment of passenger tax for CNG buses (private operators), the delay ranged between eight to 36 days. Taxation authority had not demanded interest and penalty for the late payment. This resulted in non-realisation of passenger tax of ₹ 199.75 crore and non-levy of interest of ₹ 10.81 crore and penalty of ₹ 50.06 crore. Total non-realisation worked out to ₹ 260.62 crore including interest and penalty.

After we pointed this out to the Department in September 2009, the Department stated that the matter was brought to the notice of GSRTC and AMTS authorities. Further report has not been received (December 2010).

The matter was brought to notice of the Government (June 2010); their reply has not been received (December 2010).

⁵⁹ Gujarat State Road Transport Corporation.

⁶⁰ Ahmedabad Municipal Transport Service.

4.12 Non/short realisation of motor vehicles tax on transport vehicles

The BMVT Act prescribes that contract carriage and goods carriage vehicles shall pay assessed tax on monthly and half yearly basis respectively except for the period where the vehicles are not in use. In case of delay in payment, interest at the rate of two *per cent* per month and if the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable. The Act authorises the department to recover unpaid tax dues as arrears of land revenue. The Act also empowers the taxation authority to detain and keep in custody the vehicles of the owners who defaulted in payment of Government dues.

During test check of records of 22 taxation authorities⁶¹ between July 2008 and July 2009, we noticed that operators of 1,093 omnibuses, who kept their vehicles for use exclusively as contract carriage and 779 vehicles used for transport of goods, had neither paid tax nor filed non-use declarations for various periods between 2007-08 and 2008-09. The

Departmental officials failed to issue demand notices and take recovery action prescribed in the Act. This resulted in non-realisation of motor vehicles tax of ₹ 8.28 crore including interest of ₹ 69.99 lakh and penalty of ₹ 87.89 lakh.

After we pointed this out between June 2009 and January 2010, the Department accepted audit observations involving amount of ₹ 8.28 crore in 1,872 cases and recovered ₹ 1.01 crore in 454 cases. Particulars of recovery in the remaining cases have not been received (December 2010).

The matter was reported to the Government (May 2010); their reply has not been received (December 2010).

⁶¹ Ahmedabad, Amreli, Anand, Bardoli, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhra, Himatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Navsari, Palanpur, Porbander, Rajkot, Surat, Surendranagar, Vadodara and Valsad.

4.13 Flawed revenue recovery process

Submission of proof of address is a pre-requisite to register a motor vehicle. This helps the Department to initiate follow up action on annual tax and fee payments. The Act requires RTOs to issue Revenue Recovery Certificate (RRC) against defaulters after one month of non-payment of MVT. At periodic intervals (differs from RTO to RTO), RTO prepares list of cases in which RRC is to be issued. Out of these cases, the RTO issues RRC on selective basis. There is no system of watching as to how many RRCs were due and how many were issued.

During test check of the records of Commissioner of Transport, Gandhinagar and nine taxation authorities⁶² between December 2008 and May 2009 for the period 2007-08, we noticed that in 176 cases, there was delay in recovery process, the details of which are mentioned in the table below:

(₹ in lakh)

Sl. No.	No. of cases	Short levy	Reasons recorded for non-recovery
1.	123	338.66	Postal department returned the demand notices due to incorrect address of the defaulters.
2.	31	1.41	Taxation authorities accepted invalid demand drafts of ₹ 1.41 lakh which require to be revalidated.
3.	19	29.67	Taxation authorities issued delayed demand notices. The authority also failed to seize/detain the vehicles relating to which tax was not paid by the owners.
4.	3	8.86	Vehicles were seized by the authorities. However, action was not initiated to auction the vehicles to realise the amount of tax.

Recovery action thus failed in these cases involving Government revenue of ₹ 3.79 crore.

After this was pointed out to the Department between June 2009 and January 2010, the Department accepted audit observation in 145 cases amounting to ₹ 3.77 crore and recovered ₹ 2.01 lakh in 9 cases. Particulars of recovery and replies in the remaining cases have not been received (December 2010).

The matter was reported to the Government (May 2010); their reply has not been received (December 2010).

⁶² Ahmedabad, Amreli, Bardoli, Dahod, Godhra, Jamnagar, Nadiad, Surat and Vadodara.

4.14 Non-renewal of national permit

According to the MV Act, a public transport vehicle plying in more than three states is required to obtain national permit and pay an annual fee in the range of ₹ 1,500 to ₹ 5,000 per State. Gujarat Motor Vehicles Department charges an additional fee of ₹ 500 for authorisation of national permit every year, when it renews the national permit. This authorisation is a continuous process unless the period expires or permit is surrendered. The MV Act also provides for levy of penalty for the first offence which may extend to ₹ 100.

During the test check of records of 11 taxation authorities⁶³ between June 2008 and May 2009 for the year 2003-04 to 2008-09, we noticed that owners of 491 transport vehicles did not renew their national permits. The taxation authorities did not issue any notices to them. There was no

structured mechanism to record and follow up the same. This resulted in non-realisation of authorisation fees of ₹ 6.38 lakh due to the State Government. Besides this, composite fees of ₹ 1.78 crore, relating to other states was also recoverable in the form of demand draft.

After this was pointed out between December 2008 and January 2010 the taxation authorities accepted audit observations of ₹ 95.42 lakh in 226 cases. In a few cases, the Department stated that the operators had stopped moving in other States and deploy their vehicle in local transportation contract. Suitable instructions are being issued to keep records of national permit vehicles and to devise a system for timely renewal of national permit/authorisation. Further report has not been received (December 2010).

The matter was reported to the Government (May 2010); their reply has not been received (December 2010).

⁶³ Ahmedabad, Bardoli, Bharuch, Bhuj, Dahod, Godhra, Jamnagar, Nadiad, Surat, Vadodara and Valsad.

4.15 Short demand of motor vehicles tax and non-levy of interest and penalty from fleet owners

Section 12 of the BMVT Act and rules made thereunder provides that any tax due and not paid shall be recoverable in the same manner as arrears of land revenue. The Act also provides for levy of interest and penalty at prescribed rate on delayed payments of the tax. The Rules also provide to make declarations by the fleet owners in prescribed form HT and IT (preliminary and final) for assessment and collection of tax.

4.15.1 During test check of records of Commissioner of Transport, Gandhinagar for the period 2007-08, we noticed in case of two fleet owners (GSRTC and AMTS) that these fleet owners had not paid motor vehicle tax

of ₹ 4.06 crore. Taxation authority had issued a demand of ₹ 4.06 crore but did not demand interest of ₹ 73.04 lakh and penalty of ₹ 1.01 crore. Taxation authority failed to initiate any other action for recovery of the dues except issue of demand notice. This resulted in non-levy of interest and penalty of ₹ 1.74 crore. Besides, MVT of ₹ 4.06 crore also remained unrealised.

After this was pointed out in April 2009, the Department stated that demand notices have been issued to the fleet owners and matter is under process. Further report has not been received (December 2010).

The matter was reported to the Government (June 2010); their replies have not been received (December 2010).

4.15.2 During test check of records of Commissioner of Transport, Gandhinagar in April 2009 for the period 2007-08, we noticed that the taxation authority intimated provisional assessment (HT Form) amount of ₹ 3.84 crore instead of final assessment (IT Form) amount of ₹ 3.99 crore to GSRTC. This has resulted in short demand of ₹ 14.52 lakh. Interest of ₹ 2.61 lakh was also recoverable on delay in payment of tax.

After this was pointed out to the Department in September 2009, the Department accepted the audit observation. Further report of recovery has not been received (December 2010).

The matter was reported to the Government (June 2010); their reply has not been received (December 2010).

4.16 Non-renewal of fitness certificate and non-recovery of inspection fees

Rule 62 and 81 of the CMV Rules provide that every public transport vehicle has to obtain certificate of fitness annually by payment of fees after completion of two years of registration. Section 56 of the MV Act prohibits plying of vehicles on roads without the fitness certificate. Further, as per Section 192 of the MV Act, vehicles plying without valid registration are punishable with fine which may extend to ₹ 5,000 but shall not be less than ₹ 2,000.

During test check of the records of 18 taxation authorities⁶⁴ between July 2008 and July 2009 for the year 2006-07 to 2008-09, we noticed that 66,515 vehicle owners did not present their vehicles for inspection for renewal of fitness certificates.

Taxation authorities also did not ensure timely realisation of inspection fees. The Department did not have any mechanism to detect the vehicles whose fitness/registration certificates had expired and which had not been renewed. The Department failed to take any action to enforce the mandatory provisions of the Act. The Government, therefore, could not recover ₹ 2.51 crore leviable for renewal of fitness certificates. This also exposed the general public to the dangers due to vehicles plying on roads without valid fitness certificates. Besides, minimum fine of ₹ 13.30 crore was also leviable in these cases at the minimum of ₹ 2,000 in each case.

After this was pointed out between June 2009 and January 2010, the Department accepted audit observation in case of 29,908 vehicles for ₹ 1.09 crore and recovered ₹ 44.83 lakh including fine in case of 73 vehicles. Particulars of recovery and replies in the remaining cases have not been received (December 2010).

The matter was reported to the Government (May 2010); their replies have not been received (December 2010).

4.17 Evasion of entry tax

The Gujarat Government (Sales Tax Department) decided (September 2001) to levy entry tax at the rate of 12 *per cent* on motor vehicles brought from other states in Gujarat within 15 months from the date of its registration. The Departmental instructions (October 2003) provided that RTOs should verify payment of entry tax by demanding prescribed documents from the vehicles owners.

During test check of the records of 11 taxation authorities⁶⁵ between December 2008 and July 2009, we noticed that with respect to 59 vehicles brought from other states in 2007-08 and 2008-09 into their jurisdiction, the

⁶⁴ Ahmedabad, Amreli, Anand, Bardoli, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhra, Jamnagar, Mehsana, Nadiad, Navsari, Rajkot, Surat, Surendranagar, Vadodara and Valsad

⁶⁵ Ahmedabad, Bardoli, Dahod, Godhra, Jamnagar, Junagadh, Mehsana, Nadiad, Navsari, Surat and Vadodara.

Departmental officials did not keep on record any proof of payment of entry tax as prescribed in circular before re-registration. This resulted in evasion of entry tax of ₹ 69.67 lakh.

After this was pointed out between June 2009 and January 2010, the Department stated that it was not directly concerned with collection of entry tax but the Departmental officials have been instructed to verify the payment of entry tax before registering the vehicles in the State. Further the Department has recovered entry tax of ₹ 3.31 lakh in two cases and initiated action for recovery in the remaining cases. Particulars of recovery have not been received (December 2010).

The matter was reported to the Government (May 2010); their reply has not been received (December 2010).

4.18 Short levy of tax on imported vehicles

As per the Notification dated April 2007 issued under the BMVT Act, six *per cent* of sales value is payable as tax on registration of indigenous four wheeled vehicles by individuals, local authorities, universities, educational and social institutions' and for others the rate is double. In case of imported cars, tax is payable at twice the above rates. Further, instructions were issued to treat certain vehicles (vide circular dated 27.7.2004) as imported vehicles and tax them accordingly.

During the test check of records of the taxation authority, Surat in February 2009 for the year 2007-08, we noticed in 10 cases of imported vehicles that tax was not levied at applicable rate. This resulted in short levy of MVT of ₹ 29.05 lakh.

After this was pointed out in August 2009, the Department accepted the audit observation; however, a report on recovery has not been received (December 2010).

The matter was reported to the Government (June 2010); their reply has not been received (December 2010).

CHAPTER-V STAMP DUTY AND REGISTRATION FEES

5.1 Tax administration

The overall control on the levy and collection of stamp duty and registration fees rests with the Revenue Department. The Inspector General of Registration (IGR) and Superintendent of Stamps, Gandhinagar is the head of the Department. The IGR is assisted by the Sub-Registrar (at the district and *taluka* level) whereas the Superintendent of Stamps is assisted by the Deputy Collector (Valuation of Property) [DC (VoP)] at district level.

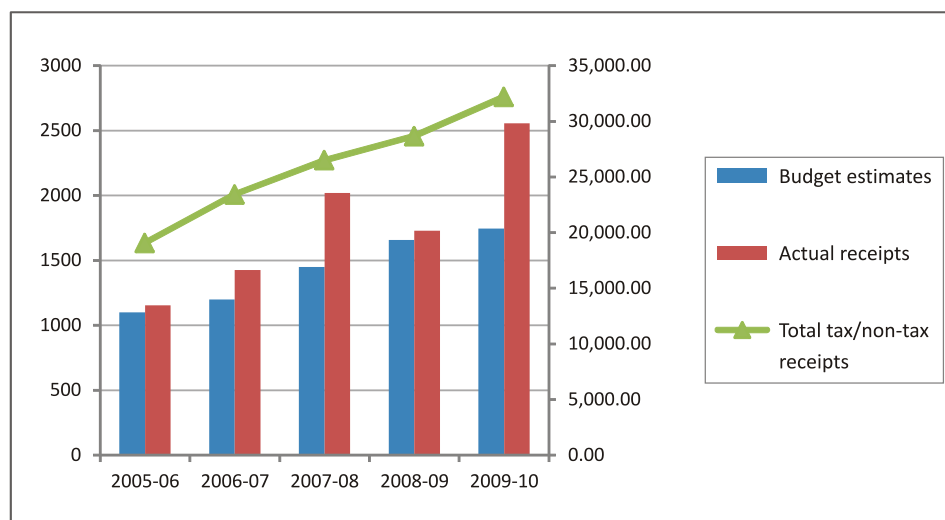
5.2 Analysis of budget preparation

The Budget Estimates are furnished by the IGR and Superintendent of Stamps, Gandhinagar in the prescribed format to the Finance Department. While preparing the budget estimates, the Department considered normal growth of the State economy, revenue of the previous year, inflation/recession factor and number of documents likely to be registered.

5.3 Trend of receipts

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

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts <i>vis-a-vis</i> total tax/non-tax receipts
2005-06	1100.00	1153.16	(+) 53.16	(+) 4.83	19,051.48	6.05
2006-07	1200.00	1425.03	(+) 225.03	(+) 18.75	23,413.41	6.09
2007-08	1450.00	2018.44	(+) 568.44	(+) 39.20	26,494.88	7.62
2008-09	1658.00	1728.50	(+) 70.50	(+) 4.25	28,656.35	6.03
2009-10	1745.75	2556.72	(+) 890.97	(+) 46.45	32,191.94	7.94



There was wide variation of ₹ 890.97 crore between Budget Estimates of ₹ 1,745.75 crore and actual receipts of ₹ 2,556.72 crore. The variation between the budget estimates and the actual receipt is attributed to inflation and speedy rise in property value. The Department did not anticipate the heavy rush of registration of documents which ultimately resulted in increase of ₹ 890.97 crore.

5.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 308.48 crore. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10 :

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears
2005-06	447.57	59.54	442.37
2006-07	442.37	54.24	405.66
2007-08	405.66	58.43	316.46
2008-09	316.46	37.35	313.49
2009-10	313.49	37.62	308.48

The above table indicates that recovery of arrears ranged between 12 to 14 per cent of pending arrears during the period of five years. Arrears of ₹ 18.33 crore and ₹ 48.36 crore remitted under the amnesty scheme during the year 2006-07 and 2007-08 respectively have been reduced from the closing balance of arrears in the respective year.

The Department needs to take strict action for reduction of arrears.

5.5 Cost of collection

The gross collection in respect of receipt of Stamp duty and registration fees, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collection of the preceding years are mentioned below:

(₹ in crore)

Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of cost of collection for the preceding year
Stamp duty and registration fees	2007-08	2,018.44	36.23	1.79	2.33
	2008-09	1,728.50	42.16	2.44	2.09
	2009-10	2,556.72	53.38	2.09	2.77

The cost of collection in respect of stamp duty and registration fees was lower than all India average except in the year 2008-09. The increase in aggregate

expenditure on collection of revenue during the year 2009-10 over previous year was mainly due to implementation of recommendations of Sixth Pay Commission and increase in expenses on sale of stamps.

5.6 Impact of Audit Reports - Revenue impact

During the last five years (including the current year's report), audit through its audit reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of stamp duty, incorrect computation etc., with revenue implication of ₹ 295.02 crore in 47 cases. Of these, the Department/Government had accepted audit observations in 13 cases involving ₹ 11.55 crore and had since recovered ₹ 0.13 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	6	52.04	1	0.01	1	0.01
2006-07	6	8.66	1	1.83	--	--
2007-08	15	148.91	7	9.63	3	0.06
2008-09	12	78.77	2	0.03	2	0.02
2009-10	8	6.64	2	0.05	1	0.04
Total	47	295.02	13	11.55	6	0.13

The above table has been prepared after taking into account replies of the Department in which they accepted the audit observations. No replies were received in respect of remaining paragraphs. The above table indicates that recovery in accepted cases also was very low (1.13 per cent of the accepted money value). The administrative department had not furnished detailed explanations to any of the above paragraphs though they were required to be furnished within three months of presentation of the ARs to the Legislature (except 2009-10) as per the instructions issued by the Finance Department on 12 March 1992.

We recommend that the Government may consider issuing suitable instructions to the Department for taking effective/speedy steps in recovering the amounts, at least in those cases, which have been accepted by the Department.

5.7 Working of internal audit wing

As per information furnished, the office of the IGR and Superintendent of Stamps, Gandhinagar has separate internal audit wings for valuation of property for stamp duty and registration of documents.

The inspection wing of valuation of property for stamp duty, having a sanctioned strength of a chief inspector, one office superintendent and two inspectors, carry out inspection of offices of DC (VoP). The inspection of DC (VoP) offices is done as per the approved annual programme. The inspection party inspects

the records of the unit as per the details collected in prescribed format. The inspection report highlighting the deficiencies is prepared in two copies, one of which is handed over to the unit for compliance and another is submitted to Additional Superintendent of Stamps. During 2009-10, 12 units were inspected. The details of paragraphs issued and their follow-up was not furnished.

The Revenue Department vide circular dated 22 November 2001 has prescribed the norms for inspection of Sub-Registrar offices on monthly basis.

- The IGR has to inspect four offices.
- The Deputy IGR has to inspect 12 offices of which two shall be surprise inspections.
- The Assistant IGR has to inspect 10 offices of which one shall be surprise inspection.
- The Inspector of Registration has to inspect three offices of which one shall be surprise inspection.

As per information furnished by IGR, there are 151 Sub-Registrar offices in the State. There was a proposed inspection programme of 36, 60 and 56 offices by IGR, Dy. IGR and Asst. IGR for the period April 2009 to December 2009, out of which 1, 17 and 8 offices were inspected respectively by them. Details of inspection programme of Inspector of Registration were not furnished, who had conducted only one inspection for the above period. Also, the follow up reports and details of recovery in respect of above inspections were not furnished.

5.8 Results of audit

Test check of records of 114 offices of the Collectors of Stamp Duty (Valuation of Property) and Sub-Registrar Offices in the State during the year 2009-10 revealed short realisation of stamp duty and registration fees and other irregularities involving ₹ 61.85 crore in 414 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Misclassification of documents	74	13.47
2	Undervaluation of property	36	2.75
3	Incorrect grant of exemption	7	0.54
4	Underassessment of stamp duty on instruments of mortgage deeds	23	20.52
5	Irregular acceptance of time barred cases resulting in postponement of realization of Government dues	3	0.50
6	Other irregularities	271	24.07
	Total	414	61.85

The Department did not furnish even the first reply in 362 cases out of the above cases. In remaining cases, during the course of the year, the Department accepted underassessment and other deficiencies of ₹ 6.07 lakh in four cases, of which two cases involving ₹ 51,701 were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 2,000 was realised in one case during the year 2009-10.

A few illustrative cases involving ₹ 6.64 crore are mentioned in the following paragraphs.

5.9 Audit observations

During the scrutiny of the records of various registration offices and offices of the Collector of Stamp Duty (Valuation of Property (VoP) we observed several cases of non-compliance of the provisions of the Registration Act, 1908, the Bombay Stamp Act, 1958, the Bombay Stamp (Determination of Market Value of Property) Rules, 1984 etc., and the Government notifications and other 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. Such omissions on the part of the departmental officers are pointed out by us in each year; but, not only do the irregularities persist, these remain undetected till an audit is conducted in the next year. There is need for Government to improve the internal control system and internal audit so that such omissions can be detected and prevented in future.

5.10 Recommendations

- Registering authority should carefully take into consideration the recitals of the documents to classify the documents correctly and charge proper stamp duty.
- Registering authority should invariably verify the stamping and registration of the reference documents mentioned in the deeds/instruments executed by the parties particularly in those cases where records have been computerised.
- Department should co-ordinate with Land Revenue authorities to ensure that all Powers of Attorney coming before them have been registered with the stamp duty department.

5.11 Short levy of stamp duty and registration fees due to misclassification of deeds

Under Section 3 of the Bombay Stamp Act, 1958 as applicable to Gujarat, every instrument mentioned in Schedule-I shall be chargeable with duty at prescribed rates. For the purpose of levy of stamp duty, an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title. Registration fees on such documents are also to be charged *ad valorem* on the amount of the purchase money/loans.

During test check of the records of Deputy Collector (VoP), Gandhinagar and 11 Sub-Registrar offices⁶⁶, we noticed that registering authorities classified 20 documents registered between 2000 and 2008 on the basis of their titles and levied stamp duty and

registration fees accordingly. Scrutiny of recitals of these documents revealed that these documents were misclassified. This resulted in short levy of stamp duty and registration fees of ₹ 5.30 crore as mentioned in the table below:

(₹ in crore)

Sl. No	Location	No. of Documents	Consideration/amount of loan	Short levy	Nature of objection
1.	Ahmedabad II and Vadodara IV.	3	90.37	4.37	Though agreements contain recitals of Mortgage with possession, it was treated as Mortgage without possession.
2.	DC (VoP) Gandhinagar, Ahmedabad IV, Bhiloda, Chanasma, Kalol, Padra and Santrampur	14	11.08	0.64	The executors had transferred property or handed over the possession of the property by execution of documents styled as agreement to sell, partition deed or power of attorney. The Sub-Registrar failed to treat these documents as conveyance deed though the possession of the property was handed over or title to the property had been transferred.
3.	Ahmedabad III, Bhavnagar II and Surat III	3	5.82	0.29	Though the recitals of these documents indicated that these documents were executed for settlement of family property, Sub-Registrar treated it as partition deed based on the title of the documents.
	Total	20	107.27	5.30	

This was brought to the notice of the Department between July and December 2009, the Department accepted the audit observations involving ₹ 65,857 in four cases. A report on the recovery and replies in the remaining cases had not been received (December 2010).

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

⁶⁶ Ahmedabad II, III, & IV, Bhavnagar II, Bhiloda, Chanasma, Kalol, Padra, Santrampur, Surat III and Vadodara IV.

5.12 Leakage of revenue in the form of stamp duty and registration fees on Sale Deeds

As per Article 20 of the Bombay stamp Act, as applicable to Gujarat, stamp duty on conveyance is leviable on the market value of the property or consideration stated in the document, whichever is higher. Further as per the explanation to the above Article, stamp duty on an agreement to sell of an immovable property shall be the same as a conveyance, if possession of the property has been transferred at the time of execution or after the execution of the agreement.

We noticed from the recitals of a document (Document No. 2747 dated 25th May 2007 executed at Alkapuri in Vadodara registered by Sub-Registrar, Vadodara I) that owner of a property had received full consideration for sale of the properties from

the Developers on the same date on which an 'Agreement for Sale' (Document No. 5403 dated 21 December 2005 stamp for 50) had been executed between them. However there was no reference in the document No. 2747 whether the Sale Deed had been executed between the parties on completion of the sale. Based on the recitals, the concerned registering authority, before registering the Sale Deed between the Purchaser and the Developers, should have enquired about the registration of Sale Deed between the Owner and the Developer. Though we enquired about the registration of the same from the Registering Officer, the same was not clarified. As such we could not ascertain whether the Sale Deeds had been registered. In absence of a reference in the document of sale between the purchaser and the Developer, the possibility of non-registration of the Sale Deed (No. 2747) between the Owner and Developer and resultant loss of revenue in the form of stamp duty and registration cannot be ruled out. We found such deficiencies in other 57 documents valued at ₹ 38.72 crore in the offices of 17 Sub-Registrar⁶⁷. Thus, there is a possible leakage of revenue of ₹ 2.83 crore (based on the consideration mentioned in the document/market value of the property), in the form of stamp duty and registration fee, as the properties have changed hands possibly without execution of sale deeds.

We pointed this out to Department July and December 2009 and reported it to the Government in May 2010; their reply has not been received (January 2011).

We recommend the Government to issue instructions to the Department for invariably verifying the stamping and registration of the reference documents mentioned in the deeds/instruments executed by the parties particularly in those cases where records have been computerised.

⁶⁷ Ahmedabad II, III, IV, V, Anand, Bhavnagar III, Kalol, Nadiad, Padra, Pardi, Surat I, II, III, Vadodara II, III, IV, Wagra

5.13 Non-realisation of stamp duty and registration fees due to non-registration of documents

Section 17 of the Registration Act, 1908 provides that registration of every document of sale, mortgage, lease or exchange of property of the value of ₹ 100 or more is compulsory. Further, the Bombay Stamp Act empowers every person in charge of a public office to impound any instrument, produced before him in performance of his functions, if it appears that such instrument is not duly stamped.

During test check of the records of 16 Sub-Registrar offices⁶⁸ between January and July 2009 we noticed that in 75 cases, recitals of the documents indicated the execution of another document, registration of which

was compulsory. The executants of those documents did not register their documents with the registering authority. Of these, in 22 cases, development agreement was not registered, in 42 cases the power of attorney was not registered, in nine cases the recitals of the documents did not indicate that stamp duty and registration fees were levied on previous occasion, in one case the agreement to sale was not registered and in one case, the recitals of document indicated that partition of property was effected without execution of the documents. The Sub-Registrars did not detect the cases where execution of another document was mentioned and failed to initiate action to get the earlier document for scrutiny of proper stamp duty payment thereon. This resulted in non-realisation of stamp duty and registration fees of ₹ 1.25 crore.

We brought this to the notice of the Department between July and December 2009 and the Government in March and May 2010; their replies have not been received (December 2010).

⁶⁸ Ahmedabad II, III, IV & V, Bharuch, Bhavnagar I, Dhoraji, Gadhada, Jambusar, Kalol, Muli, Sanand, Sihor, Surat I & II and Vadodara II.

5.14 Short levy of stamp duty and registration fees on lease deed due to incorrect computation

Under Article 30(a)(iv) of Schedule-I of the Bombay Stamp Act, in case of lease including an under lease or sub-lease and any agreement to let or sub-let, the stamp duty is leviable as on a conveyance under Article 20 based on period of lease for the amount or value of the average annual rent reserved. Further, in case where the lease is granted for a fine or premium or for money advanced or to be advanced in addition to rent reserved, the stamp duty is leviable as on a conveyance for the amount or value of such fine or premium or advance as set forth in the lease in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered. Further, under explanation II thereon, when a lessee undertakes to pay any recurring charge such as Government revenue, landlord's share of cess, or the owner's share of municipal taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee, shall be deemed to be part of the rent.

During test check of the records of five Sub-Registrar offices⁶⁹ between February and May 2009 we noticed in 11 documents of lease deeds that either the recurring charges payable by the lease holders had not been included or premium amount did not include the value of superstructure on lease hold land for levy of stamp duty. Of these, in 10 cases, recurring charges such as property/service tax paid by the lessee were not included in average annual rent and in one case, value of super structure was

not considered while calculating the premium for the levy of stamp duty. This resulted in short levy of stamp duty and registration fees of ₹ 46.34 lakh.

This was brought to the notice of the Department between August and November 2009 and the Government in May 2010; their replies have not been received (December 2010).

5.15 Short levy of stamp duty due to undervaluation of properties

Section 32 A of the Bombay Stamp Act, 1958 provides that if the officer registering the instrument has reasons to believe that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall, before registering the document, refer the same to the Collector (VoP) for determining the market value of the property. The market value of the property is to be determined in accordance with the Bombay Stamp (Determination of Market Value of the Property) Rules, 1984.

During test check of the records of two Dy. Collector (Valuation of Property)⁷⁰, and 12 Sub-Registrars⁷¹ between October 2008 and July 2009, we noticed that the market value of the property was determined incorrectly in 57 documents registered between 2004 and

⁶⁹ Ahmedabad II and IV, Surat II, Vadodara IV and Wagra.

⁷⁰ Gandhinagar and Rajkot I

⁷¹ Ahmedabad I, III and V, Anand, Ankleshwar, Bardoli, Karjan, Mehsana, Surat II, Vadodara I, III and IV

2008, which resulted in short levy of stamp duty and registration fees of ₹ 82.18 lakh of which important cases are mentioned in the table below:

(₹ in lakh)

Sl. No.	Location	No. of documents	Short levy	Nature of irregularity
1.	DC (VoP) Gandhinagar, Ahmedabad III, V, Ankleshwar, Bardoli, Karjan, Mehsana, Vadodara I, III, IV	34	48.37	Government has prescribed <i>jantri</i> ⁷² for determining market value of the land and properties respectively. Consideration set forth in these documents did not approximate the market value of the property as per <i>jantri</i> .
2.	Ahmedabad V	3	9.96	<i>Jantri</i> rates of agricultural land of certain survey numbers were not available. Hence, the Sub-Registrar referred the cases to DC (VoP), who ascertained the rates and forwarded the same to the Sub-Registrar and IGR. However, the Sub-Registrar did not take into consideration these rates. Non-consideration of the rates proposed by DC (VoP) has resulted in undervaluation.
3.	DC (VoP) I Rajkot	1	3.62	DC (VoP) determined the market value of the property gifted at ₹ 37,300 in February 2007 though Sub-Registrar had proposed the market value of the property at ₹ 28.07 lakh on the basis of prevailing <i>jantri</i> rates. Further, the receiver of gift had sold the property through four documents for consideration of ₹ 49 lakh in May 2007.
4.	Vadodara IV	4	3.33	While calculating market value of land, SR considered value of the property excluding value of common plot and internal roads.
5.	Ahmedabad III	6	11.78	Government of Gujarat has revised <i>jantri</i> rates from April 2007. While calculating the market value, the Sub-Registrar applied the market rate of the land at pre-revised <i>jantri</i> .

This was brought to the notice of the Department between July and December 2009 and the Government in March 2010; their replies have not been received (December 2010).

⁷² Statement issued by the Government showing the rates for the purpose of determination of value of land and levy of stamp duty

5.16 Short levy of stamp duty due to application of incorrect rates

The Bombay Stamp Act provides that on determination of true market value of the property, the party is liable to pay the duty at the rate specified in Schedules of the Act, calculated on the value so determined at the rate applicable on the date of registration of the document.

During test check of the records of three Dy. Collector (Valuation of Property)⁷³ and three Sub-Registrar offices⁷⁴, it was noticed between August 2006 and April 2009 in nine

documents that the Departmental officials had applied rates incorrectly. Out of this in one case concessional rate of stamp duty applicable to public trust was incorrectly applied, in two cases rate of future and option trading and commodity was not applied correctly and in six cases, lower rate of stamp duty was applied. This resulted in short levy of stamp duty of ₹ 5.55 lakh.

This was brought to the notice of the Department between October 2006 and December 2009, the Department accepted the audit observations involving ₹ 3.79 lakh in four cases and recovered ₹ 3.70 lakh in three cases. A report on the recovery of the balance amount and replies in the remaining cases had not been received (December 2010).

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

⁷³ Gandhinagar, Surat and Vadodara I.

⁷⁴ Nandod (Narmada), Palsana (Surat) and Valsad.

5.17 Non-initiation of recovery proceeding for collection of arrears of revenue

Section 46 of the Bombay Stamp Act, provides for levy of interest at prescribed rate for the period of delay in payment of the amount of tax, penalty or other dues. Further, such amount can be recovered by the Collector by distress and sale of movable or immovable properties of the person from whom such amount is due, as arrears of land revenue. Further, any person who is aggrieved by the valuation fixed by the Dy. Collector can appeal⁷⁵ to Chief Controlling Revenue Authority (CCRA).

During test check of the records of four Deputy Collectors (VoP)⁷⁶ in October 2008 for the period 2007-08, we noticed in 155 cases that CCRA had returned all the cases for recovery as the applications were received late. On receipt of such cases, the Dy. Collector was

required to initiate recovery proceeding under Bombay Land Revenue Code (BLRC). It was observed that no recovery proceedings had been initiated. This resulted in delay in realisation of Government dues of ₹ 36.53 lakh. In other two cases, on receipt of time barred appeals, CCRA entertained the time barred appeals in contravention of the provisions of the Act and remanded the cases. The Dy. Collector reduced the amount of deficit duty and recovered that reduced amount. This resulted in loss of revenue of ₹ 2.31 lakh.

This was brought to the notice of the Department between July 2008 and December 2009; the Department accepted the audit observations involving ₹ 18.64 lakh in 24 cases and recovered ₹ 9.86 lakh in seven cases. A report on the recovery of the balance amount and replies in the remaining cases had not been received (December 2010).

The matter was reported to the Government in March and May 2010; their replies have not been received (December 2010).

⁷⁵ Appeal can be made to CCRA after payment of 25 per cent of the amount due within 60/90 days from the date of order.

⁷⁶ Anand, Bhuj, Junagadh and Rajkot I.

5.18 Non-observance of Government instructions on PoAs

The Government instructed in September 2005 to invariably send copies of irrevocable powers of attorney (PoA), presented as evidence in support of ownership of land for obtaining NA permission and authorising the attorney to act for sale of land, receiving consideration, signing the sale deed, etc., to the concerned Dy. Collector (Valuation) for valuation and recovery of stamp duty in view of Article 45(f) and (g) of Schedule-I of the Bombay Stamp Act, 1958.

Test check of the records of the seven Collectors⁷⁷ and 10 DDOs⁷⁸ for the year 2008-09 revealed that in 70 cases, the revenue authorities had not forwarded the copies of PoAs presented as evidence in support of ownership of land for obtaining permission

of conversion of land and authorising the power of attorney holders to act in respect of sale of such land, to the concerned Dy. Collector for valuation and levy of proper stamp duty. These PoAs were required to be registered and stamp duty and registration fees were leviable as per conveyance deed. However, the same were not registered with the concerned registering authorities. Stamp duty and registration fees involved in these cases worked out to the extent of ₹ 1.38 crore.

The Government stated (October 2010) that the Collectors and DDOs were directed to examine the cases and send the report. Further report has not been received (December 2010).

⁷⁷ Ahmedabad, Anand, Godhra, Navsari, Patan, Surat, Vadodara.

⁷⁸ Ahmedabad, Anand, Bharuch, Bhavnagar, Gandhinagar, Junagadh, Mehsana, Navsari, Rajkot, Vadodara.

CHAPTER-VI OTHER TAX RECEIPTS

6.1 Results of audit

We test checked the records of 209 offices of various departmental offices relating to Entertainments tax, Luxury tax and Electricity duty in the State during the year 2009-10 and noticed short realisation of tax and other irregularities involving ₹ 10.42 crore in 172 cases, which fall under the following categories:

Sr. No.	Category	No. of cases	Amount (₹ in crore)
1	Entertainments tax	124	8.34
2	Luxury tax	34	0.47
3	Electricity duty	14	1.61
	Total	172	10.42

During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 37.33 lakh in 18 cases, of which two cases involving ₹ 6.76 lakh were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 12.12 lakh was realised in 16 cases during the year 2009-10.

A few illustrative cases involving ₹ 34.21 lakh are mentioned in the following paragraphs.

6.2 Audit observations

During the scrutiny of the records of various offices of the Collector, Mamlatdar, Assistant Electrical Inspector, we observed several cases of non-compliance of the provisions of the Gujarat Entertainments Tax Act, 1977, the Bombay Electricity Duty Act, 1958 (as adopted in the State of Gujarat) etc., and Government notifications 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 in audit. Such omissions on the part of the departmental officers are pointed out in audit each year; however, not only do the irregularities persist, but these also remain undetected till another audit is conducted in the next year by us. There is need for the Government to improve the internal control system and internal audit so that such omissions can be detected, prevented and avoided in future.

ENTERTAINMENTS TAX

6.3 Non/short levy of entertainments tax and interest from cable operators

Section 6-B of the Gujarat Entertainments Tax Act, 1977, provides that tax is leviable for exhibition of programmes with the aid of antenna or cable television. The Gujarat Entertainments Tax (Exhibition by means of cable television and antenna) Rules, 1993 provides that each operator has to register with the Department and file quarterly return in advance accompanied by copies of *challan* for payment of tax. The Department is required to assess the return before commencement of the succeeding quarter and raise the demands for non/short payment of tax. For non-payment of tax within the prescribed time, the Act provides for levy of interest at the rate of 24 per cent per annum.

During test check of the records of Collectors, Ahmedabad and Bhuj in July and October 2008 for the period 2007-08, we noticed that five cable operators had not paid tax alongwith returns, five cable operators paid tax short by showing reduced number of connections⁷⁹ and seven cable operators had paid tax belatedly. This resulted in non/short levy of tax of

₹ 23.88 lakh includes interest of ₹ 3.23 lakh.

After the above facts were pointed out by us in February 2009 the Department accepted the audit observations involving ₹ 23.88 lakh in 17 cases and recovered ₹ 18.58 lakh in 10 cases. A report on the recovery of the balance amount had not been received (December 2010).

The matter was reported to the Government (June 2010); their reply has not been received (December 2010).

⁷⁹ The omission was detected on checking of register of cable connections maintained by the auditee office with the returns of cable operators.

ELECTRICITY DUTY

6.4 Non-realisation of inspection fee

According to the provisions of the Indian Electricity Rules, 1956 and Government notifications issued thereunder, Inspectors are required to inspect all high tension, extra high tension and medium voltage installations and low voltage electrical installations in factory premises and in public places of amusements including cinemas/theatres *etc.* once in a year. Inspection fee at prescribed rates is required to be paid prior to or at the time of inspection or can be paid within 10 days of inspection in respect of such inspections carried out by the Departmental officials.

During test check of records of three Assistant Electrical Inspectors⁸⁰ in May 2009 we noticed that in 211 cases, though the inspections had been carried out by the inspectors, inspection fee for the period 2006-07 to 2008-09 had not been recovered within stipulated period. This resulted in non-realisation of

inspection fee of ₹ 10.33 lakh.

After the above facts were pointed out by us in November 2009 and in February 2010, the Department accepted the audit observations involving ₹ 7.47 lakh in 170 cases and recovered ₹ 6.17 lakh in 129 cases. A report on the recovery of the balance amount and replies in the remaining cases has not been received (December 2010).

The matter was reported to the Government (June 2010); their reply has not been received (December 2010).

⁸⁰ Ahmedabad, Gandhinagar and Surat.

CHAPTER VII NON-TAX RECEIPTS

7.1 Results of audit

Test check of records of 27 offices of the District Geologists and Director of Petroleum in the State during the year 2009-10 revealed short realisation of tax and other irregularities involving ₹ 1,638.42 crore in 156 cases, which fall under the following categories :

Sr. No.	Category	No. of cases	Amount (₹ in crore)
1.	Interest Receipts (A review)	1	20.99
2.	Receipts from Oil and Natural gas	3	1536.16
3.	Mining receipts	152	81.27
	Total	156	1,638.42

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 14.78 crore in 25 cases, of which three cases involving ₹ 6.70 lakh were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 1.71 crore was realised in 20 cases during the year 2009-10.

A review on the “**Interest Receipts**” involving ₹ 20.99 crore and few illustrative cases involving ₹ 19.15 crore are mentioned in the following paragraphs.

INTEREST RECEIPTS

7.2 Interest receipts

Highlights

- At the end of 2008-09, recovery of principal of ₹ 840.65 crore of loans advanced by the Government and interest of ₹ 84.03 crore were over due from municipalities, *panchayati raj* institutions, other local bodies and public sector undertakings. Of these, principal of ₹ 586.80 crore and interest of ₹ 58.68 crore were outstanding for over five years.

(Paragraph 7.2.7)

- State Government has not evolved any effective mechanism to watch debits/credits as reported by the Banks. State Bank of India debited ₹ 483.68 crore in Government account against actual payment of ₹ 111.19 crore which was corrected after a delay of 43 days. The state Bank of India and Bank of Baroda had retained Government money beyond the authorised time limit due to weak internal controls.

(Paragraph 7.2.9)

- The Gujarat State Disaster Management Authority had belatedly transferred the interest of ₹ 28.03 crore earned on Government funds to the Government account. Further, in violation of the Financial Rules and Government instructions, the Authority had not credited interest aggregating to ₹ 2.98 crore into the Government account. Resultantly, the State Government lost an opportunity to earn interest of ₹ 3.70 crore.

(Paragraph 7.2.10)

- The Internal control system for watching the recovery of loans and interest was found weak. In seven administrative Departments, we found that no internal control mechanism (except in Energy and Petrochemicals Department) was evolved by them to keep an effective watch over the recovery of loans/interest. No loan register was maintained by them. The Finance Department also did not ensure compliance of the instructions issued by the Government from time to time by the administrative Departments. The lack of internal controls resulted in non-recovery of overdue interest of ₹ 512.45 crore from nine loanees.

(Paragraph 7.2.11)

- The terms and conditions of loans aggregating to ₹ 315.90 crore granted to four loanees were not finalised by three administrative Departments, *i.e.* Narmada, Water Resources, Water Supply and Kalpsar Department, Ports and Transport Department, Industries and Mines Departments. This resulted in non-recovery of interest from the loanees.

(Paragraph 7.2.13)

- Three cooperatives did not open escrow account in violation of the terms and conditions of the loan. Besides, the Government also failed to follow up with the cooperatives after release of the liquidity support loan for achieving its projected goals. This resulted in non-realisation of interest of ₹ 30.17 crore on NCDC and liquidity support loans.

(Paragraph 7.2.15.1)

7.2.1 Introduction

Interest receipts is an important component of non-tax revenue of the State Government. Important resources of interest receipts are as under:

- (i) interest earned on Cash Balance Investment Account (CBIA⁸¹) maintained with the Reserve Bank of India (RBI).
- (ii) interest on loans paid to Departmental commercial undertakings, public sector undertakings (PSUs), local bodies, co-operative societies *etc.*, and
- (iii) interest on House Building Advance (HBA), Motor Car/Cycle Advance (MCA) *etc.*, given to Government employees.

Interest on CBIA depends on the net surplus cash balance of the State Government available for discounting/purchase of treasury bills of Government of India by RBI. The rate of interest on such investment is fixed by RBI as applicable to Government securities. The State Government provides loans to the Departmental commercial undertakings, public sector undertakings (PSUs), local bodies, co-operative societies, cultivators and advances to Government employees as part of their policies to achieve various objectives. The rate of interest on such loans and advances is fixed by the State Government from time to time.

7.2.2 Organisational set up

The Finance Department (FD), as the manager of the State revenues, is responsible for overall supervision and control of all interest receipts.

RBI maintains a cash account of the State Government. Its agency banks (which are authorised in this regard by the State Government) collect revenue on behalf of State Government and honour their payment cheques. These banks send a daily report to RBI indicating day to day position of gross receipts and payments of the State Government for the day. RBI after adjusting other debits/credits in respect of transactions of State Government with Central Government and other states invests the surplus balance in Government securities and pays interest on such balance. CBIA is watched by FD and RBI on day to day basis.

Requests for loans and advances from the Departmental commercial undertakings, PSUs, local bodies, co-operative societies and Government servants are processed by the concerned heads of the Departments, which are then referred to the administrative Department. After obtaining consent

⁸¹ CBIA is the net cash balance in the accounts of the State maintained by the RBI on day-to-day basis.

of the FD, administrative Departments sanction the loans and advances. The administrative Departments are responsible for maintaining loans and advances accounts and keeping a watch over recovery of the same with interest thereon.

7.2.3 Audit objectives

The review was conducted with a view to ascertain:

- whether adequate system was in place and was observed for proper collection of interest;
- whether the provisions of Gujarat Financial Rules and Departmental instructions issued thereon were properly observed;
- whether adequate internal control measures were in place to monitor collection of interest receipts; and
- whether internal audit system had been set up and functioned effectively.

7.2.4 Scope and methodology of Audit

Audit test checked records related to interest receipts for the period 2004-09, maintained by FD and eight administrative Departments *viz.*, (i) Energy and Petrochemicals, (ii) Industries and Mines, (iii) Urban Development and Urban Housing, (iv) Narmada, Water Resources, Water Supply and Kalpsar, (v) *Panchayat* and Rural Housing, (vi) Ports and Transport (vii) Agriculture and Co-operation and (viii) Revenue during July 2009 to March 2010.

The Departments were selected based on amount of loan sanctioned to the PSUs/Autonomous bodies during the five year period up to 2008-09, outstanding loan and interest at the end of March 2009 as depicted in their accounts, in absence of Department-wise data.

7.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of all the nine Departments for providing information and records to audit. An entry conference to discuss the objectives and scope of audit was held in October 2009 with FD, which was attended by the Principal Secretary (Economic Affairs). The findings of review were communicated to the FD and the administrative Departments covered in review in August 2010 for their response. An exit conference meeting was held in October 2010 which was attended by Additional Chief Secretary (Finance) and representatives of the other administrative Departments. The audit findings and recommendations were discussed in the meeting and their response in the meeting and replies furnished have been appropriately incorporated in the respective paragraphs of the review.

7.2.6 Financial performance

The total revenue raised by the State Government comprises of tax revenue and non-tax revenue. The comparison of interest receipts *vis-a-vis* total revenue raised by the State and non-tax revenue for the ten year period 2000-2010 are given in the following table.

Interest receipts *vis-a-vis* State's own receipts and non-tax revenue

(₹ in crore)

Period	Total revenue raised by the State	Non-tax revenue	Interest receipts	Percentage of interest receipts to total revenue raised by the State	Percentage of interest receipts to non-tax receipts
2000-01	12,395.97	3,349.14	1,929.82	15.57	57.62
2001-02	13,895.12	3,760.94	1,594.30	11.47	42.39
2002-03	13,516.24	3,995.58	1,684.88	12.47	42.17
2003-04	14,445.39	3,271.96	897.12	6.21	27.42
2004-05	16,048.20	3,090.50	469.72	2.93	15.20
2005-06	19,051.48	3,353.37	130.91	0.69	3.90
2006-07	23,413.41	4,948.78	283.07	1.21	5.72
2007-08	26,494.88	4,609.31	329.88	1.24	7.16
2008-09	28,656.35	5,099.32	567.81	1.98	11.13
2009-10	32,191.94	5,451.71	419.44	1.30	7.69

Source: Finance Accounts, Government of Gujarat

It could be noticed from the above that the component of interest receipts ranged between 3.90 per cent to 57.62 per cent of non-tax revenue and 0.69 per cent to 15.57 per cent of total revenue raised by the State. The decline of interest receipts in 2005-06 and onwards was due to moratorium on repayment allowed to Gujarat Urja Vikas Nigam Limited (GUVNL) on the loans given to erstwhile Gujarat Electricity Board (GEB).

7.2.7 Arrears of interest receipts

At the end of 2008-09, recovery of principal of ₹ 840.65 crore on loans advanced by Government and interest of 84.03 crore were over due from municipalities, *panchayati raj* institutions, other local bodies and public sector undertakings. Of these, principal of ₹ 586.80 crore and interest of ₹ 58.68 crore were outstanding for over five years. The year-wise break up of amount over due is tabulated below:

Arrears of loan principal and interest

(₹ in crore)

Year in which due	Amount over due as on 31 March 2009	
	Principal	Interest
Upto 2004-05	586.80	58.68
2005-06	74.21	7.40
2006-07	51.87	5.18
2007-08	67.80	6.78
2008-09	59.97	5.99
Total	840.65	84.03

Source: Finance Accounts, Government of Gujarat (Statement No.5 of FA for the year 2008-09)

The above status reveals that the Government had not initiated effective corrective action due to which the overdue amount has accumulated further.

Audit findings

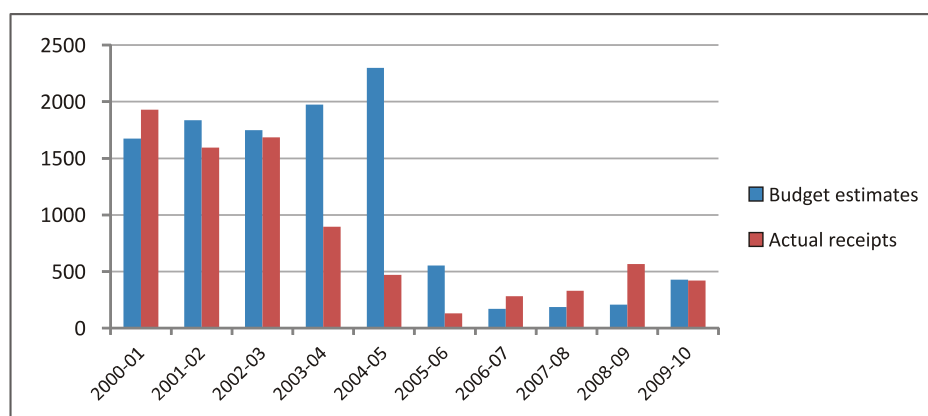
7.2.8 Trend of revenue

For proper fiscal planning, it is essential that budget estimates are made on realistic basis. Table below shows budget estimates and actual receipts in respect of interest receipts over the last ten years time series up to 2009-10.

(₹ in crore)

Period	Budget estimates	Actual receipts	Variation (+) excess / (-) shortfall	Percentage variation (+) excess / (-) shortfall
2000-01	1,674.49	1,929.82	(+) 255.33	(+) 15.25
2001-02	1,837.45	1,594.30	(-) 243.15	(-) 13.23
2002-03	1,750.00	1,684.88	(-) 65.12	(-) 3.72
2003-04	1,973.84	897.12	(-) 1076.72	(-) 54.55
2004-05	2,299.90	469.72	(-) 1,830.18	(-) 79.58
2005-06	552.50	130.91	(-) 421.59	(-) 76.30
2006-07	169.95	283.07	(+) 113.12	(+) 66.56
2007-08	186.95	329.88	(+) 142.93	(+) 76.45
2008-09	207.00	567.81	(+) 360.81	(+) 174.30
2009-10	429.55	419.44	(-) 10.11	(-) 2.35

Source: Budget estimates and Finance Accounts



The above table and chart shows that there was a wide variation between budget estimates and actual realisation in respect of interest receipts every year except in the years 2002-03 and 2009-10. The respective administrative Departments did not determine budget estimates with regard to past trends and future potential. There was not much evidence of constructive interventions from the FD to ensure that the budgeting of interest receipts was done in a scientific manner.

We recommend that the Government to get the budget estimates on interest receipts prepared in a more realistic method.

System Deficiencies

7.2.9 Absence of an effective mechanism for watching the credits/debits given by Banks to State Government Account

As per the existing mechanism, the banks which are authorised to carry out Government transactions directly are reporting total Government receipts and payments figures at the end of the day to the Treasury Officers and RBI. On the basis of these figures, the Central Accounts Section (CAS) of RBI, Nagpur intimates daily position to the State Government for the previous day.

During scrutiny of records of Director of Accounts and Treasury (DAT), Gandhinagar we noticed that the Government had not developed a mechanism for verification of correctness of daily receipts and payment

figures reported by banks with the daily statement of CAS, Nagpur as mentioned in the following paragraph.

We noticed that on 4 April 2008, SBI cleared Government payments of ₹ 111.19 crore. The daily scroll for that day and Verified Date wise Monthly Statement for April 2008 sent by SBI to Treasury Officer, Gandhinagar also showed Government payments of ₹ 111.19 crore only. However, SBI debited Government account by ₹ 483.68 crore against the actual payments of ₹ 111.19 crore. The rectification credit entry of ₹ 372.49 crore was carried out by SBI after a period of 43 days *i.e.* on 17 May 2008. It was only after RBI noticed these facts and reported to State Government on 21 May 2008, that the State Government could charge and recover interest of ₹ 3.43 crore from SBI for unauthorised retention of the money.

In response to query by DAT, RBI furnished (July 2008) details of 207 such other cases pertaining to the period July 2007 to June 2008, where incorrect payment figures were reported by the banks. We noticed that this involved unauthorised retention of Government revenue of ₹ 145.71 crore during different periods by the two banks – SBI and Bank of Baroda. Interest of ₹ 3.63 crore accrued thereon as shown in the Table below was recoverable from the defaulting banks in 206 cases.

(₹ in crore)

Name of the defaulting bank	Number of Districts	Number of cases	Government receipts held by incorrect reporting and subsequently adjusted	No of days for which the amount was held by the banks	Interest chargeable
State Bank of India	17	147	100.95	12 to 618 days	1.55
Bank of Baroda	9	59	44.76	10 to 1808 days	2.08
Total		206	145.71		3.63

The Government stated (November 2010) that on receipt of information from RBI, they recovered ₹ 90.90 lakh from Bank of Baroda and SBI. Out of the balance amount of ₹ 2.75 crore, penal interest of ₹ 1.19 crore was not recoverable from Bank of Baroda as per RBI letter dated 31 August 2010. Report of recovery of ₹ 1.56 crore has not been received (December 2010).

The Government also stated that considering the gravity and magnitude of the issue; it was proposed to constitute a special team comprising officials from GASAB, RBI, State Government and Accountant General to study and review the existing accounting system/procedure and to look into the nature of the consequence of transaction so as to devise a proper mechanism. Further report is awaited (December 2010).

We recommend the Government to consider development of a system for day to day cross checking of daily receipts and payment figures as collected from the treasury offices with the daily cash position as reported by the CAS, Nagpur.

7.2.10 Lack of monitoring over remittance of Government money by Government Board/Authority

As per Rule 4 of the Gujarat Financial Rules (GFR) 1971, all moneys received by or on behalf of Government, either as dues of Government or for deposits, remittance or otherwise shall be brought into Government Account without delay.

For implementation of projects and schemes, State Government provides grants to various Boards/Authorities. The State Government specifically issued instructions (December 2004) to Gujarat State Disaster Management Authority (GSDMA) to credit interest earned from such investments to Government account.

During scrutiny of records of GSDMA under Revenue Department, we noticed that during 2004-09, they received funds from the State Government as well as from Asian Development Bank (ADB) through the State Government. These funds were kept in banks/financial institutions and GSDMA earned

interest of ₹ 31.01 crore thereon during 2005-08. However, they did not credit the above interest immediately into Government account. Instead, GSDMA credited interest of ₹ 28.03 crore in lump sum on 31 March 2009 into Government account *i.e.* after a period of delay ranging between one and four years. Further, in violation of GFR and Government instructions, GSDMA had not credited balance interest amount of ₹ 2.98 crore. The notional loss of interest⁸² due to delay/non-crediting of the said sum into Government account worked out to ₹ 3.70 crore up to March 2010, which otherwise could have been earned from CBIA by the State Government.

82 Notional loss of interest worked out at the rate of 5.5 per cent.

After this was pointed out, the Director (Finance), GSDMA stated (April 2010) that the loan instalments and interest are credited to Government account after its reconciliation with Project Implementing Agencies, which took some time. It was further stated that as per Section 33 (4) (c) of the Gujarat State Disaster Management Act 2003, interest income can be transferred to Disaster Management Fund. Hence remaining amount was retained by GSDMA.

Reply of the Director is not acceptable, as GSDMA took one to four years to transfer the funds into Government account. Further, Section 33(4) (c) authorises transfer of interest income earned on all moneys belonging to the Authority to Disaster Management Fund, whereas, in the instant case, the interest was earned by GSDMA from Government funds.

Reply from the Government has not been received (December 2010).

We recommend the Government to consider issuing instructions to all the administrative Departments to undertake a periodical review of the accounts of the Authority/Boards under them in order to ensure that Government money is not retained by them without justification.

7.2.11 Internal control

The loans and advances for different purposes are given by State Government to the various organisations, Boards, PSUs, individuals *etc.* As per the standard terms and conditions of loan sanction orders, the head of the concerned Departments are responsible for watching recovery of principal and interest from the borrowers. The State Government directed (October 2001) all the administrative Departments to ensure timely recovery of loan instalments and interest before sanctioning a new loan. A certificate to that effect was required to be sent by the administrative Departments to FD. Administrative Departments were also instructed to maintain a loan register.

7.2.11.1 During test check of records of the seven Departments⁸³ for 2004-09, we noticed that:

- In respect of loans given by these administrative Departments, control mechanism (except in Energy and Petrochemicals Department) was not evolved to

keep an effective watch over the recovery of loans/interest. A loan register showing details of loans given was not maintained by any of the Departments except Energy and Petrochemicals Department. The Departments did not have even the minimum details regarding outstanding amount of loan and interest.

- Periodical returns were not prescribed in respect of outstanding loan and interest, recovery made and closing balance at the end of the period/year by the administrative Departments from the loanees.
- A certificate for recovery of loan installments and interest, required to be sent to the FD was not sent by any administrative Department.

⁸³ Agriculture and Co-operation Department, Industries and Mines Department, Narmada Water Resources, Water supply and Kalpasar Department, Ports and Transport Department, Energy and Petro chemical Department, Urban Development and Urban Housing Department and Panchayat and Rural Housing Department.

- Finance Department did not exercise any control mechanism over the administrative Departments. While according the approval to the loans sanctioned after October 2001, FD did not ensure compliance of these instructions.
- Audit raised (July 2010) specific query regarding extent of internal audit in respect of disbursement of recovery of loan prevailing in the FD as a controlling Department and other administrative Departments. Reply from FD has not been received (December 2010).

7.2.11.2 For the purpose of the implementation of various social schemes, State Government has provided loans to various Boards, Corporations etc. on the terms and conditions as mentioned in the sanction order.

During test check of records related to loans of the concerned administrative Departments, Boards, Corporations etc. for the period 2004-09, we noticed that these Departments have not monitored the recovery of loans and interest. The position of overdue interest in respect of the Departments is shown in the table below :

(₹ in crore)

Name of the loanee	Administrative Department	Amount of loan sanctioned	Sanctioned during	Amount of interest overdue as on 31 March 2009
Gujarat Water Supply and Sewerage Board	Narmada, Water Resources, Water Supply and Kalpsar	143.19	1985-86 to 2005-06	121.22
Ahmedabad Urban Development Authority	Urban Development and Urban Housing Development	1.47* (IDSMT Loan)	1980 to 1990	2.50
Gujarat Rural Industrial Marketing Company	Industries and Mines	3.64	1979 to 2001	6.05
Gujarat State Khadi Gramodhyog Board	Industries and Mines	2.29*	1990 to 2009	0.65
Gujarat State Land Development Corporation	Agriculture and Co-operation	17.16*	1980 to 2002	33.44
Agriculture Produce Market Committee (APMC) of 13 districts	Agriculture and Co-operation	3.30	1973 to 2009	0.84
Gujarat State Handloom and Handicraft Corporation	Industries and Mines	15.88*	1976 to 2006	14.12
Gujarat State Financial Corporation	Industries and Mines	592.81	2003-04 to 2008-09	326.70
Gujarat Agro Industries Corporation Ltd.	Agriculture and Co-operation	7.00	1999-2000	6.93 ⁸⁴
Total				512.45

* This amount represents outstanding balance of Government loans.

In respect of GAICL, the Agriculture and Co-operation Department stated (May 2010) that Government decided (April 2003) to transfer the Juhapura property

⁸⁴ Worked out at prime lending rate of 11 per cent vide GR dated 30 January 2002.

of GAICL valued ₹ 7.40 crore to Home Department and to adjust the same against outstanding loans of ₹ 7 crore. Further, Government vide Agriculture and Co-operation Department Resolution dated 12 March 2004 proposed to convert the loan into equity and to waive the outstanding interest accumulated thereon. Consequently, the Government vide Finance Department Resolution dated 13 August 2010 decided to waive loan of ₹ 7 crore alongwith interest.

IMD stated (May 2010) that Gujarat State Handloom and Handicraft Corporation was incurring loss since inception. Gujarat State Financial Corporation could neither pay principal nor interest owing to other liabilities.

Narmada, Water Resources, Water Supply and Kalpsar Department stated (October 2010) that matter of conversion of outstanding loan of GWSSB into grant would be taken up.

Reply in respect of remaining loanees has not been received from concerned administrative Departments (December 2010).

The FD stated (June 2010) that administrative Departments are keeping the records of loans and interest. As such, there is no special mechanism in Finance Department for watching recovery. FD further stated that it was decided to create the electronic mechanism with reference to interest on loans and investments. Further report has not been received (December 2010).

We recommend the Government to develop a control mechanism for prompt recovery of loans and interest. Government may also review the performances of the loanees with reference to the achievement of goals set out for the Boards, Corporations.

Compliance Deficiencies

7.2.12 Short payment of interest on loans by the GUVNL

The erstwhile Gujarat Electricity Board was unbundled into seven companies on functional basis with effect from 1 April 2005. The State Government sanctioned (January 2006) a Financial Restructure Plan (FRP) to the *Gujarat Urja Vikas Nigam Limited* (GUVNL), holding company of unbundled successor companies, with the prime objective of operationalising these companies. Under the FRP, the Government gave a moratorium for interest payment liabilities on outstanding loans of ₹ 842 crore for a period of six years from 2005-06 to 2010-11. Also, under FRP, the Government converted outstanding loan balance as on 31 March 2005 into equity *vide* their order of November 2008. Thus, interest was payable on these loans from the deemed date of release till 31 March 2005.

During test check of records of GUVNL for 2004-09, we noticed (December 2009) that State Government released ADB Loan No. 1803 and 1804 of ₹ 381.61 crore. The interest liability of these loans accrued from the deemed date of release *i.e.* 1 October of the block year in which loan was paid. Under FRP, the moratorium period of these loans started from 1 April 2005. Hence, GUVNL was required to pay interest from the deemed date

of release up to 31 March 2005. However, we noticed that GUVNL had not paid interest on these loans from 1 October 2004 to 31 March 2005. Non-levy of interest worked out to ₹ 20.99 crore.

The administrative Department as well as FD failed to detect the omission and recover the short payment.

The Government stated (September 2010) that in view of the payment modality and Government Resolution dated 7 November 2008, the company has not paid interest for the period from October 2004 to March 2005 as the interest on loan outstanding as on 31 March 2005 was not to be paid for the period of six years. The company will be required to pay interest for the period from 1 October 2010 to 31 March 2011 after availing the interest free period of six years commencing from 1 October 2004 to 30 September 2010.

The reply is not convincing as a interest liability of these loans accrued from the deemed date of release *i.e.* 1 October of the block year in which loan was paid and the moratorium period did not cover the period from October 2004 to March 2005. This defers interest liability for six months which was not covered by FRP scheme. Besides, the loans were converted into equity in November 2008 *i.e.* after a delay of two years and 11 months. The Department should have recovered the interest from the loanee.

7.2.13 Non-finalisation of terms and conditions of loans

As per the provisions laid down under Rule 71(i) of the GFR, an authority competent to sanction grant of a loan shall while sanctioning a loan, specify the terms and conditions of loan including the terms and conditions of repayment, rate of interest *etc.* in the loan sanctioning order.

7.2.13.1 A mention was made in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 (Revenue Receipts) Government of

Gujarat, regarding non-finalisation of terms and conditions of loans granted to Gujarat Water Supply and Sewerage Board (GWSSB) for creation of revolving fund for repayment of LIC loans and interest.

During scrutiny of the records of the GWSSB, we noticed that the terms and conditions of these loans have not yet been finalised by the administrative Department, *i.e.* Narmada, Water Resources, Water Supply and Kalpsar Department. Further, loan of ₹ 91.40 crore was paid to the Board during the period between 2003-04 and 2005-06. The terms and conditions of these loans were also not finalised.

The FD replied (December 2010) that the administrative Department has issued resolution in April 2010 deciding the terms and conditions for loan of ₹ 1.75 crore sanctioned from 1998-99 to 2004-05. However, terms and conditions for the loan of ₹ 90.90 crore sanctioned in 2005-06 has not been finalised yet (December 2010).

7.2.13.2 During scrutiny of records of the Ports and Transport Department, we noticed that rate of interest in respect of loan of ₹ 170 crore provided to the Gujarat State Road Transport Corporation (GSRTC) during 2003-04 has not yet been finalised by the Department.

The Ports and Transport Department stated (June 2010) that the Government has decided to grant loan to GSRTC at 'Nil' rate of interest as financial position of the Corporation was critical. It was further stated that conversion of loan into subsidy is under consideration of the Government.

However, the fact remained that the Government did not finalise the matter even after lapse of more than six years (December 2010).

7.2.13.3 The Industries and Mines Department (IMD) sanctioned and disbursed (December 2008) a loan of ₹ 50 crore to Alcock Ashdown (Gujarat) Limited, a public sector undertaking of the State Government. We noticed (May 2010) that the terms and conditions of the said loan were not finalised. This resulted in non-recovery of interest of ₹ 2.10 crore calculated at the rate of 15 *per cent per annum*⁸⁵ for the period between 19 December 2008 and 31 March 2009.

⁸⁵ Rate of interest applicable to the State Government loans extended to manufacturing PSUs.

7.2.13.4 The IMD extended loan of ₹ 4.50 crore to Gujarat State Handloom and Handicraft Development Corporation Limited, for implementing voluntary retirement scheme, of which ₹ 3.50 crore was released in August 2003 and ₹ 1 crore in March 2004. We noticed that the Government did not fix the terms and conditions of the loan even after lapse of more than five years. The rate of interest for such types of loan provided from State Renewal Fund was fixed at 11 per cent vide Government Resolution of January 2002. Considering this rate, the notional loss of interest worked out to ₹ 2.71 crore.

While accepting the audit finding, IMD stated (May 2010) that proposal for fixing terms and conditions to the loan is initiated now. Further report has not been received (December 2010)

When the matter was brought to notice, the Finance Department stated (May 2010) that in majority of cases, terms and conditions are finalised by FD at the time of sanctioning the loan and in few cases, it was delayed. The Department added that instructions are issued to the administrative Departments to review each case and fix the terms and conditions immediately.

We recommend the Government to consider establishing a system for ensuring the fixation of terms and conditions of the loans before sanctioning of loans.

7.2.14 Non-recovery of loans and interest from PSUs under winding up

The Gujarat State Financial Services Limited (GSFS) is a State Government company, engaged in financial management. The Company through their two schemes, viz., liquid deposit scheme (LDS) and inter corporate deposit (ICD) scheme, collects surplus funds from other PSUs and pays interest at a prescribed rate.

Gujarat State Fisheries Development Corporation Limited (GSFDC) and Gujarat State Construction Corporation Limited (GSCC) are under process of winding up/closure since July

1998. During test check of records of GSFS, we noticed that these PSUs had maintained substantial balance in ICDs kept with GSFS as detailed below:

(₹ in crore)

Sl. No.	Name of the PSU	Amount in credit with GSFS as on 31 March 2009	Outstanding of loan received from State Government by the PSU	Interest accrued on the loans received from the State Government (as per available final accounts of the PSU)	
				Accounts available	Amount of accrued interest outstanding
1	GSFDC Ltd.	2.03	2.29	1998-99	1.00
2	GSCC Ltd.	1.28	9.63	2007-08	14.72
	Total	3.31	11.92		15.72

We observed that the State could have adjusted the ICDs against loan and interest liabilities of these companies, which could have realised ₹ 3.31 crore,

as management of these companies as well as that of GSFS are with the State Government.

The FD stated (May 2010) that the companies under winding up process are governed by the Companies Act and other laws. FD also stated that though cross holding of assets and liabilities may be with the Government, there cannot be any settlement out of legal process.

The reply is not tenable. In the cases of voluntary winding up under the Companies Act, the PSU could approach the legal authorities or Registrar of Companies for cancelling their name only after finalisation of their pending annual accounts. In the instant case, the PSUs are in arrears for finalisation of their accounts; hence, legal process under Companies Act and other laws is not applicable. Also, as per their last available Annual Accounts, these PSUs were considered as going concerns only.

7.2.15 Non-recovery of loan and interest due to irregular sanction

Agriculture and Co-operation Department recommended (July 2003) to the National Co-operative Development Corporation (NCDC) sanction of a working capital loan of ₹ 50 crore for three sugar co-operative societies⁸⁶ in the State. The NCDC sanctioned and released (September 2003) a loan of ₹ 50 crore carrying interest rate of nine *per cent*. The loan was passed on (October 2003) to the societies by the State Government. The loan was to be repaid in three equal instalments commencing from the completion of the first year after release of the loan without any moratorium period. All the three societies could not pay the principal of ₹ 47.60 crore and interest of ₹ 6.45 crore up to December 2006. A mention was made in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2007 (Civil) Government of Gujarat, regarding non-recovery of loan from the above societies.

7.2.15.1 During scrutiny of records (October 2009) of Director of Sugar for the period 2004-09, we noticed that for the purpose of strengthening the financial position of these sugar cooperatives, the State Government prepared a financial package and sanctioned (October 2005) liquidity support loan of ₹ 30.11 crore to them. The conditions to the said loan *inter alia* provided that the loan shall be repaid in five equal instalments after a moratorium of

two years and the rate of interest shall be four *per cent*. It was also stipulated that an escrow account⁸⁷ shall be opened wherein the amount of recoveries shall be deposited regularly by the cooperatives. The societies shall furnish the details of this account to the Director of Sugar every month and the Director of Sugar in turn shall send a monthly report in this regard to State Government.

⁸⁶ Maroli Sugar Co-operative Society, Sardar Sugar Co-operative Society and Vadodara Sugar Co-operative Society.

⁸⁷ Escrow account is an account in which funds are deposited for specific disbursements.

We further noticed that with respect to NCDC loan, principal of ₹ 42.67 crore and interest of ₹ 26.30 crore was outstanding. With respect to liquidity support loan, out of total ₹ 9.89 crore due, principal of ₹ 3.60 crore and interest of ₹ 3.87 crore was outstanding as on 31 March 2009. Also, all the three co-operatives did not open escrow account in violation of the terms and conditions of the loan.

We observed that the Government failed to follow up with the cooperatives after release of the liquidity support loan for achieving its projected goals. This resulted in non-realisation of interest of ₹ 30.17 crore on NCDC and liquidity support loans.

After this was brought to notice, the Director replied (November 2009) that a State level committee under the chairmanship of the Principal Secretary, Agriculture and Co-operation Department is reviewing the working of all these cooperative societies. However, outcome of the review has not been received (December 2010).

NCDC sanctioned (August 1995) a loan of ₹ 2.15 crore to a co-operative society for establishment of a rapeseed/mustard crushing mill and vegetable oil refinery at village Veda, Taluka Gandhinagar. The loan was to be routed through the State Government after State Government furnished the bank guarantee to the NCDC. NCDC released the amount during September 1997 to November 1998 to the co-operative society. The repayment of the loan was to be made in nine equal annual instalments starting from 1999-2000. The loan agreement provided for levy of interest at the rate of 17.75 per cent.

7.2.15.2 During test check of the records of the District Registrar, Co-operative Societies (Rural) Ahmedabad for 2004-09, we noticed that the society paid ₹ 71.49 lakh up to February 2005 leaving a balance of ₹ 1.43 crore towards principal and ₹ 1.06 crore towards interest. No further amount was recovered from

the society, which had gone into liquidation in September 2009. This resulted in non-realisation of Government dues of ₹ 2.49 crore.

Reply of the Government has not been received (December 2010).

7.2.16 Conclusion

For a sound financial planning and efficient execution of Government policies, it is essential that their revenues are realised promptly. Review on interest receipts revealed that Government has not developed a mechanism for ascertaining actual receipts and payments realised/paid by them. Further Government receipts are not realised immediately. Besides, for delay in crediting of Government revenue by banks, interest is not charged in accordance with the guidelines of RBI. In respect of Government revenue collected/recovered by Boards, the administrative Departments did not ensure the credit thereof in Government account immediately. In seven administrative Departments, we found that no internal control mechanism (except in Energy

and Petrochemicals Department) was evolved by them to keep an effective watch over the recovery of loans/interest. No loan register was maintained by them. The Finance Department also did not ensure compliance of the instructions issued by the Government from time to time by the administrative Departments. In case of Government Companies/Corporations under winding up or closure, the Government did not ensure the settlement of their loans and interest dues. The Government suffered loss of interest due to all of the above.

7.2.17 Summary of recommendations

The Government may consider implementing the recommendations as mentioned below:

- *development of a system for day to day cross checking of daily receipts and payment figures as collected from the treasury offices with the daily cash position as reported by the CAS, Nagpur;*
- *issuing instructions to all the administrative Departments to undertake a periodical review of the accounts of the Authority/Boards under them in order to ensure that Government money is not retained by them without justification; and*
- *develop a control mechanism for prompt recovery of loans and interest. Government may also review the performances of the loanees with reference to the achievement of goals set out for the Boards, Corporations.*

MINING RECEIPTS

7.3 Other audit observations

During the scrutiny of the records of various District Geologists offices and office of the Commissioner of Geology and Mining we noticed in several cases non-compliance of the provisions of the Mines and Minerals (Development and Regulation) (MMD&R) Act, 1957, the Mineral Concession (MC) Rules, 1960, the Mineral Conservation and Development Rules, 1988, the Gujarat Minor Mineral (GMM) Rules, 1966 framed by the State Government in exercise of the powers derived under the MMD&R Act and the Government notifications and other rules as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Departmental officials are pointed out in audit each year; however, not only do the irregularities persist, these remain undetected till an audit is conducted in the next year. There is need for the Government to improve the internal control system and internal audit so that such omissions can be detected and prevented in future.

7.4 Recommendations

- District Geologists should calculate the royalty payable as per rules and take appropriate actions for its recovery.
- District Geologists should ensure that full dead rent is received whenever the royalty payable is less than dead rent.
- Department should take strict action to stop illegal manufacturing of bricks.

7.5 Non/short levy of royalty and non-realisation of arrears of royalty

The MMD&R Act, the MC Rules and the GMM Rules provide that a lessee is liable to pay royalty in respect of any mineral removed or consumed from the leased area at the prescribed rates in respect of each lease for major/minor mineral. The procedure prescribed by the Department in December 2000 requires the lessee to pay royalty in advance. Government has introduced a system of issue of triplicate passbook on advance payment of royalty. Default in payment attracts simple interest at the rate⁸⁸ prescribed. Further, the rent, royalty, tax, fee or other sum due to Government under the Act, on certificate issued by an authorised officer is recoverable as arrears of land revenue as per the provisions of BLR Code, 1879 and shall be the first charge on the assets of the lease/licence holder.

7.5.1 During test check of the records of four District Geologists⁸⁹ for the period 2003-04 to 2008-09, between January 2008 and July 2009, we noticed that in 41 cases, the Departmental officials either did not levy or levied less royalty on minerals removed from leased area even after receipt of monthly returns from lease holders. Out of these cases, in case of two leases, the passbook was issued without payment of advance

royalty in contravention of instruction issued. In other four cases, Departmental officials failed to demand interest on delayed payment of royalty. In remaining 35 cases, the Departmental officials did not levy and recover royalty alongwith interest. This resulted in non/short levy of royalty and interest of ₹ 1.66 crore.

After we pointed this out between June 2008 and January 2010; the Department accepted the audit observations involving ₹ 1.65 crore in 39 cases and recovered ₹ 1.18 crore in 25 cases. A report on the recovery of the balance amount and replies in the remaining cases had not been received (December 2010).

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

7.5.2 During test check of the records of three District Geologists⁹⁰ between November 2007 and July 2009, we noticed that in 1069 cases, the lease holders

⁸⁸ 24 per cent per annum upto 7.10.2007 and 18 per cent per annum thereafter.

⁸⁹ Jamnagar, Mehsana, Surat and Vadodara.

⁹⁰ Jamnagar, Junagadh and Surat.

did not pay royalty/dead rent and surface rent etc. in respect of lease of major and minor minerals granted to them. The Departmental officials failed to initiate action to enforce the recovery by way of cancellation of lease, confiscation of minerals, machineries *etc.* as provided in the Act/Rules or by issue of recovery certificates as arrears of land revenue under the BLR code. This resulted in non-realisation of Government dues of ₹ 13.16 crore.

After we pointed this out in July 2008 and January 2010; the Department accepted the audit observations involving ₹ 13.16 crore in 1069 cases and recovered ₹ 3.33 crore in 248 cases. A report on the recovery of the balance amount has not been received (December 2010).

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

7.6 Loss of revenue due to non-adherence of conditions of lease sanction order

The MMD&R Act and Rules made thereunder empowers the State Government to sanction the lease of major minerals with prior approval of the Central Government. The Bombay Land Revenue (BLR) Code, 1879, and Rules made thereunder provide that any agricultural land can be used for any other purpose after obtaining a permission of the Collector for such non-agricultural (NA) use and on payment of conversion tax at prescribed rate in advance. Non-agricultural assessment at the applicable rate for use of land for non-agricultural use is also recoverable every year. The owner of the land is liable for penalty at prescribed rate for use of agricultural land for non-agricultural purpose without obtaining the permission of the Collector.

Test check of the records of District Geologist, Bharuch for the period 2007-08 in February 2009 revealed that Government of Gujarat granted a lease in respect of land admeasuring 384.96.18 hectares of various survey numbers of Village Amod, Taluka Amod to Gujarat Mineral Development Corporation Limited (lessee) for mining of lignite for a period of

30 years. The area of 384.96.18 hectares consisted of 126.40.71 hectares and 258.55.47 hectares of private land and Government land respectively. As per condition of the sanction order, the lessee was required to obtain NA permission from the competent authority under the provisions of the BLR Code. Scrutiny of records however revealed that the lessee had not obtained NA permission but started mining activity from December 2007 and extracted 3,90,641.65 MT of lignite during 2007-08. Collector also failed to observe the provisions of Act/Rules/Government instructions to keep watch on non-agriculture use of land without obtaining the permission of the competent authorities. Thus, non-compliance of the condition of the sanction order of the lease resulted in loss of revenue in the form of conversion tax of ₹ 75.84 lakh and non-agricultural assessment of ₹ 1.90 lakh; aggregating to ₹ 77.74 lakh.

After we pointed this out in September 2009, the Department stated (June 2010) that the lessee was not required to obtain NA permission in view of Department circular dated 25 March 1981. However, in that case, the lessee was liable to pay the conversion tax and NA assessment immediately on handing over possession of the lease. The report of recovery of conversion tax and NA assessment has not been received (December 2010).

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

7.7 Non/short levy of dead rent

The MMD&R Act, the MC Rules and the GMM Rules provide that a lessee is liable to pay dead rent at the specified rates annually in respect of area covered by the lease for major/minor mineral. Where the lease holder is liable to pay royalty for any mineral removed or consumed from the leased area, the lessee is liable to pay dead rent or royalty, whichever is higher, in respect of that lease. Default in payment attracts simple interest at the rate⁹¹ prescribed.

During test check of the records of office of 11 District Geologists⁹² for the period 2003-04 to 2008-09, between February 2008 and July 2009, we noticed that in 371 cases, the Departmental officials either did not levy or levied less dead rent resulting in non/short levy of dead rent of

₹ 1.37 crore.

After we pointed this out between June 2008 and January 2010, the Department accepted the audit observations involving ₹ 1.06 crore in 252 cases and recovered ₹ 80.51 lakh in 182 cases. A report on the recovery of the balance amount and replies in the remaining cases had not been received (December 2010).

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

⁹¹ 24 per cent per annum upto 7.10.2007 and 18 per cent per annum thereafter.

⁹² Bharuch, Gandhinagar, Himatnagar, Jamnagar, Junagadh, Mehsana, Navsari, Surat, Surendranagar, Vadodara and Valsad

7.8 Non-realisation of royalty due to non-observance of provisions of Act/Rules

The MMD&R Act and Rules made thereunder empowers the State Government to grant lease in respect of any major mineral with the prior approval of the Central Government. The Act also empowers the State Government to terminate the mining lease on request of the Central Government. The lease holder is required to execute a lease deed in prescribed form within six months of sanction of lease. The conditions of lease deed provide that any mineral not removed by the leaseholder within stipulated period shall become property of the State and such mineral can be sold or disposed off after notice of one month for its removal from leased area.

During test check of records of the District Geologist, Bharuch for the period 2007-08 in February 2009, we noticed that Gujarat Mineral Development Corporation (GMDC) executed (April 2002) an agreement with Bhavani Minerals (a lease holder of silica sand) to lift and sell silica sand excavated as a part of overburden of mining on work

permit (July 2002) issued to the GMDC. Work permit was issued to GMDC in anticipation of sanction of mining lease of lignite. Agreement with Bhavani Minerals included payment of royalty at prescribed rate on removal of silica sand. GMDC however, did not obtain simultaneous permit for removal of silica sand and consequently Bhavani Minerals could not remove 3,30,189 MT silica sand lying in adjoining area of lignite lease from July 2002 to June 2007. In other three cases, 2,06,463.442 MT silica sand was lying with the lease holders after lapse of six months from the cancellation of leases. The Department did not initiate action to obtain possession of the mineral and dispose of the mineral. This resulted in non-realisation of royalty of ₹ 1.07 crore.

After we pointed this out in September 2009, the Department stated (June 2010) that notices have been issued to concerned lease holders. Further report has not been received (December 2010).

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

7.9 Non-levy of royalty on illegal mining and manufacturing of bricks due to lack of co-ordination

The MMD&R Act, the MC Rules and the GMM Rules provides that brick manufacturers shall quarry, remove or carry away any minor mineral on payment of lump sum royalty as prescribed by the Government from time to time. Under the provisions of the BLR Code, permission is required from the Collector for using agricultural land for brick manufacturing, even for temporary period. Also, registration with the Geologist is required for payment of royalty on production of bricks. Failure to obtain permission would make the person liable for payment of royalty at applicable rate and penalty of ₹ 10,000 for the illegal mining and manufacturing of bricks.

During cross check of the records of three District Geologists⁹³ with records of respective District Development Officers (DDOs) for the period 2006-07 to 2007-08, between December 2008 and February 2009 we noticed that the DDOs had detected 208 cases of illegal mining and manufacturing of bricks in the area under their jurisdiction.

However, these cases were not transmitted to concerned District Geologists for further necessary action. There was no system in place for communication of such illegal mining activities to the mineral administration in the State. Lack of system for co-ordination between the Revenue Authorities and concerned District Geologists resulted in non-levy of royalty of ₹ 53.44 lakh including penalty of ₹ 20.80 lakh.

After we pointed this out in September 2009, the Department stated (June 2010) that action would be initiated to recover outstanding amount from the defaulters when they come in new season for registration. Further report has not been received (December 2010).

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

⁹³ Jamnagar, Surat and Vadodara.

7.10 Loss of revenue due to inoperative mining leases

The MMD&R Act, the MC Rules and the GMM Rules provides that where a lease holder fails to undertake mining operations for a period of two years after the date of execution of the lease or discontinued the operation of mining for a period of two years, the lease shall lapse on the expiry of the period of two years after execution of lease deed or discontinuance of mining. As per the instructions issued (July 1986) by the Commissioner of Geology and Mining, the District Geologists are required to inspect every mine and quarry at least once in a year. Further, the Act provides that a lessee is liable to pay dead rent at the specified rates for major/minor mineral annually in respect of area covered by the lease.

During test check of the records of District Geologists, Junagadh and Mehsana for the period 2006-07 to 2007-08 in November 2007 and June 2008, we noticed that in 106 cases, the leases of major and minor minerals were *i n - o p e r a t i v e* continuously for two years. District Geologists did not initiate action to

regularise the non-operation or discontinuation of the mining operation. This indicated weak internal control mechanism in respect of inspection of leases leading to non-detection of inoperative leases and consequent shortfall in Government revenue, and resulted not only in blockage of Government land admeasuring 339.89 hectares for mining but also non-realisation of dead rent of ₹ 40.40 lakh.

After we pointed this out in July and October 2008, the Department accepted and recovered the audit observations involving ₹ 9.23 lakh in 35 cases. A report on the recovery and replies in the remaining cases had not been received (December 2010).

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

7.11 Non/short levy of surface rent

The MMD&R Act, the MC Rules and the GMM Rules provide that a lessee is liable to pay surface rent on the area of land leased to him for mining activities, at such rate not exceeding the land revenue assessable on the land as may be specified by the State Government. Default in payment attracts simple interest at the rate⁹⁴ prescribed.

During test check of the records of four District Geologists⁹⁵ for the period 2006-07 to 2008-09 between February 2008 and July 2009, we noticed that in 39 cases, the Departmental officials

had either not levied or levied short surface rent of ₹ 17.20 lakh.

After we pointed this out between June 2008 and January 2010, the Department accepted the audit observations involving ₹ 4.92 lakh in 16 cases and recovered ₹ 3.50 lakh in 10 cases. A report on the recovery and replies in the remaining cases had not been received (December 2010).

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

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⁹⁴ 24 per cent per annum upto 7.10.2007 and 18 per cent per annum thereafter.

⁹⁵ Bharuch, Himatnagar, Mehsana and Vadodara.