

**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector**

The Report has been laid on the table of the State Legislature Assembly on 22-07-2014

**for the year ended 31st March 2013**

**Government of Punjab  
Report No. 1 of the year 2014**

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## **PREFACE**

This Report is prepared for submission to the Governor of the State of Punjab under Article 151 of the Constitution of India.

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 taxes on sales, trade/value added tax, taxes on vehicles, stamp duty and registration fees, other tax and non tax receipts of the Government of Punjab.

The cases mentioned in the Report are among those which came to notice in the course of test audit of accounts during the year 2012-13 as well as those which had come to notice in earlier years but could not be reported in previous Audit Reports; matters relating to the period subsequent to 2012-13 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

# Overview

## Overview

This Report contains one performance audit on levy and collection of electricity duty and 14 paragraphs relating to incentive scheme implemented under Deferment and Exemption (D&E) Rules 1991 of PVAT Act, non/short levy of output tax/central sales tax, non/short levy of stamp duty and registration fees, non/short levy of motor vehicles, passengers and goods tax, retention of royalty etc. involving ₹ 91.05 crore.

### 1 General

The total receipts of the State Government for the year 2012-13 were ₹ 32,051.15 crore. The Government raised ₹ 25,216.77 crore, comprising tax revenue of ₹ 22,587.56 crore and non-tax revenue of ₹ 2,629.21 crore. The State Government received ₹ 4,058.81 crore as State's share of divisible Union taxes and ₹ 2,775.57 crore as grants-in-aid from the Government of India.

#### (Paragraph 1.1.1)

Test check of records of the taxes/VAT on sales, trade etc., taxes on vehicles, state excise, stamp duty and registration fees, forest receipts, land revenue, other tax and non tax receipts conducted during the year 2012-13, showed under assessments, short/non-levy, loss of revenue amounting to ₹ 1,241.20 crore in 9,401 cases. During the year the departments accepted audit observations of ₹ 954.69 crore in 6,799 cases and collected ₹ 6.14 crore in 332 cases pertaining to the audit findings during the year and previous years.

#### (Paragraph 1.11.1)

### 2. Taxes/VAT on Sales, Trade etc.

Audit of incentive scheme implemented under Deferment and Exemption (D&E) Rules, 1991 showed the following:

Allowance of ITC in respect of entry tax paid by the exempted units in three cases resulted in inadmissible refund of ₹ 1.15 crore.

#### {Paragraph 2.3.1(a)}

Inadmissible ITC of ₹ 2.94 crore in respect of six cases on purchases consumed in manufacturing of exempted goods was allowed instead of making refunds. This had also resulted in short debit of exemption by ₹ 2.94 crore.

#### {Paragraph 2.3.1(b)}

Short debit of exemption in the accounts of 17 dealers by ₹ 2.57 crore than the amount of exemption actually availed by them.

#### {Paragraph 2.3.1(c) and (d)}

Incorrect carry forward of figures of available balance of exemptions in six cases resulted in excess availment of exemptions by ₹ 1.42 crore.

**(Paragraph 2.3.3)**

Non/short/excess allowance of input tax credit of ₹ 3.64 crore was allowed in 12 cases due to application of incorrect rate of tax, allowance of ITC on ineligible products, allowance of ITC on branch transfers, etc.

**(Paragraph 2.4.2)**

Output tax of ₹ 4.51 crore was short levied in seven cases due to misclassification, short computation of taxable turnover etc.

**(Paragraph 2.4.3)**

Availment of concessional rate of CST by a non-entitled company resulted in short levy of CST ₹ 3.28 crore.

**(Paragraph 2.4.4)**

### **3. Stamp Duty**

Short levy of stamp duty and registration fee of ₹ 1.88 crore in 41 instruments due to misclassification of properties.

**{Paragraph 3.3 (a)}**

Incorrect grant of remission of stamp duty in respect of five mortgage deeds executed for securing loans for construction of godown resulted in non levy of stamp duty and registration fee of ₹ 4.42 crore

**(Paragraph 3.5)**

Short levy of stamp duty and registration fee of ₹ 8.01 crore in 74 instruments due to non compliance of the instructions issued by the State Government.

**(Paragraph 3.6)**

### **4. Taxes on Vehicles, Goods and Passengers**

Non/short realisation of motor vehicle tax of ₹ 95.82 lakh in respect of stage carriage big buses.

**(Paragraph 4.3)**

## **5. Other Tax and Non Tax Receipts**

### **A. Forest Receipts**

Unauthorised retention of royalty and interest including adjustment of ₹ 5.63 crore towards loan and lease rent by PSFDC resulted in short recovery of forest receipts amounting to ₹ 32.95 crore.

**(Paragraph 5.3)**

### **B. Electricity Duty**

Performance audit on "**Levy and Collection of Electricity Duty**" showed the following:

Non formulation of policy guidelines and notification of rules facilitated the Punjab State Power Corporation Limited (PSPCL) to retain the government revenue of ₹ 251.38 crore.

**{Paragraph 5.4.8 (a)}**

Incorrect adjustment of subsidy by PSPCL against electricity duty of ₹ 270.22 crore resulted in understatement of government receipt in the year 2009-10.

**{Paragraph 5.4.8 (b)}**

Loss of interest amounting to ₹ 1.47 crore due to retention of ₹ 18.50 crore as sale of power instead of electricity duty by PSPCL.

**{Paragraph 5.4.8 (c)}**

Grant of inadmissible exemptions to the industrialists resulted in loss of revenue to state exchequer of ₹ 19.74 crore.

**(Paragraph 5.4.10.1)**

There was inadequate mechanism of monitoring, evaluation and prompt realisation of electricity duty.

**(Paragraph 5.4.12)**

# **Chapter-1**

## **General**

## CHAPTER-1: General

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Punjab, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the last five years ending 2012-13 are mentioned in table 1.1:

**Table 1.1**  
**Trend of Revenue Receipts**

(₹ in crore)						
Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
1.	<b>Revenue raised by State Government</b>					
	• Tax revenue	11,150.19	12,039.48	16,828.18	18,841.01	22,587.56
	• Non-tax revenue	5,783.91	5,652.70	5,330.17	1,398.45	2,629.21
	<b>Total</b>	<b>16,934.10</b>	<b>17,692.18</b>	<b>22,158.35</b>	<b>20,239.46</b>	<b>25,216.77</b>
2.	<b>Receipts from Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	2,084.01	2,144.10	3,050.87	3,554.31	4,058.81
	• Grants-in-aid	1,694.68	2,320.30	2,399.25	2,440.64	2,775.57
	<b>Total</b>	<b>3,778.69</b>	<b>4,464.40</b>	<b>5,450.12</b>	<b>5,994.95</b>	<b>6,834.38</b>
3.	Total receipts of the State Government (1 and 2 )	<b>20,712.79</b>	<b>22,156.58</b>	<b>27,608.47</b>	<b>26,234.41<sup>1</sup></b>	<b>32,051.15</b>
4.	Percentage of 1 to 3	<b>82</b>	<b>80</b>	<b>80</b>	<b>77</b>	<b>79</b>

During the year 2012-13, the revenue raised by the State Government (₹ 25,216.77 crore) was 79 *per cent* of the total revenue receipts (₹ 32,051.15 crore). The increase in tax revenue in 2012-13 was 19.88 *per cent* over the previous year, whereas increase in non-tax revenue was by 88 *per cent*. The balance 21 *per cent* of the receipts was received from the Government of India.

<sup>1</sup> For details please see statement number 11-Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Punjab for the year 2012-13. Figures under the head 0021- Taxes on income other than corporation tax-share of net proceeds assigned to States booked in the Finance Accounts under A – Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The details of tax revenue raised during the period from 2008-09 to 2012-13 are mentioned in table 1.2:

**Table 1.2**  
**Details of Tax Revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/ decrease (-) in 2012-13 over 2011-12
1	VAT <sup>2</sup> / Sales Tax	6,166.46	7,264.31	9,642.42	10,754.70	12,712.67	(+) 18.20
	Central Sales Tax	269.17	313.18	374.49	416.97	505.26	(+) 21.17
2	State Excise	1,809.95	2,100.92	2,373.07	2,754.60	3,331.96	(+) 20.96
3	Stamp Duty and Registration Fee	1,730.29	1,550.94	2,318.46	3,079.13	2,920.49	(-) 5.15
4	Taxes and Duties on Electricity	631.33	230.13	1,422.90	928.28	2,035.30	(+) 119.25
5	Taxes on Vehicles	524.09	554.74	653.91	850.06	994.72	(+) 17.01
6	Other Taxes and Duties on Commodities and Services	3.46	9.95	23.69	32.62	50.03	(+) 53.37
7	Land Revenue	15.44	15.31	19.24	24.65	37.13	(+) 50.62
<b>Total</b>		<b>11,150.19</b>	<b>12,039.48</b>	<b>16,828.18</b>	<b>18,841.01</b>	<b>22,587.56</b>	<b>(+) 19.88</b>

The following were the reasons for variations in 2012-13 over the year 2011-12 as reported by the concerned Departments:

**VAT/Sales Tax:** The increase of 18.20 *per cent* was attributed to increase in rate of VAT, prices of commodities and the number of dealers.

**State Excise:** The increase of 20.96 *per cent* was attributed to increase of quota of liquor, licence fee, application fee and the number of applicants.

**Stamp Duty and Registration Fee:** The decrease of 5.15 *per cent* was attributed to global recession leading to lower sale/purchase of properties.

**Taxes and Duties on Electricity:** The increase of 119.25 *per cent* was due to adjustment of recoverable electricity duty from PSPCL in lieu of subsidy provided by Punjab Government.

<sup>2</sup> Value Added Tax (VAT) with effect from 1 April 2005.



**Taxes on Vehicles:** The increase of 17.01 *per cent* was attributed to revised rates of MVT, online collection of taxes and better fiscal management by the department.

The other Departments did not intimate the reasons for variation.

**1.1.3** The details of the major non-tax revenue raised by the State during the period from 2008-09 to 2012-13 are mentioned in table 1.3:

**Table 1.3**  
**Details of Major Non-Tax Revenue**

(₹ in crore)							
Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/ decrease (-) in 2012-13 over 2011-12
1.	Interest Receipts	181.98	164.69	169.37	170.16	170.47	(+) 0.18
2.	Dairy Development	0.09	0.08	0.10	0.27	0.12	(-)55.55
3.	Other Non-Tax Receipts	760.97	486.88	559.19	627.12	680.88	(+) 8.57
4.	Forestry and Wild Life	15.52	26.47	12.52	5.22	5.78	(+) 10.72
5.	Non-ferrous Mining and Metallurgical Industries	37.07	37.99	61.98	35.58	24.02	(-) 32.49
6.	Miscellaneous General Services (including State Lotteries)	4,567.80	4,780.12	4,277.23	323.72	1,420.73	(+) 338.87
7.	Major and Medium Irrigation	11.85	34.62	29.60	25.19	50.98	(+) 102.38
8.	Medical and Public Health	47.63	45.13	71.88	68.43	79.12	(+) 15.62
9.	Co-operation	4.55	3.73	3.50	3.53	3.29	(-) 6.79
10.	Public Works	17.52	22.60	21.30	15.83	12.36	(-) 21.92
11.	Police	58.58	51.88	61.89	51.91	80.76	(+) 55.57
12.	Other Administrative Services	80.35	-1.49	61.61	71.49	100.70	(+) 40.85
<b>Total</b>		<b>5,783.91</b>	<b>5,652.70</b>	<b>5,330.17</b>	<b>1,398.45</b>	<b>2,629.21</b>	<b>(+) 88.00</b>

The following were the reasons for variations in 2012-13 over the year 2011-12 as reported by the concerned Departments:

**Forestry and Wild Life:** The increase of 10.72 *per cent* was due to sale of forest produce, plants, dead stock and proceed from realization of compensation from forest offenders etc.

**Non-ferrous Mining and Metallurgical Industries:** The decrease of 32.49 *per cent* was due to ban imposed by the Hon'ble High Court on 241 small mines for want of environmental clearance.

**Miscellaneous General Services (State Lotteries):** The increase of revenue receipts of lottery department was due to more sale of bumper and monthly lottery schemes.

**Co-operation:** The decrease of 6.79 *per cent* was due to decrease of work of Industrial Cooperative Societies.

**Police:** The increase of 55.57 *per cent* was due to recovery of outstanding claims of the previous years.

The other Departments did not intimate the reasons for variations.

## 1.2 Variation between the budget estimates and actuals

The variation between the budget estimates and actuals of revenue receipts for the year 2012-13 in respect of the main heads of tax and non-tax revenue are mentioned in table 1.4:

**Table 1.4**  
**Details of budget estimates and actuals**

(₹ in crore)					
Sl. No.	Revenue head	Budget estimates	Actual	Variation excess (+)/ short fall (-)	Percentage of variation
<b>A Tax Revenue</b>					
1.	Sales Tax	14,213.00	13,217.93	(-)995.07	(-)7.00
2.	State Excise	3,800.00	3,331.96	(-)468.04	(-)12.31
3.	Stamp Duty and Registration Fee	3,375.00	2,920.49	(-)454.51	(-)13.46
4.	Taxes on Vehicles	864.00	994.72	(+)130.72	(+)15.12
5.	Taxes and Duties on Electricity	1,540.00	2,035.30	(+)495.30	(+)32.16
6.	Other Taxes and Duties on Commodities and Services	30.00	50.03	(+)20.03	(+)66.76
7.	Land Revenue	20.00	37.13	(+)17.13	(+)85.65
<b>B Non-Tax Revenue</b>					
1.	Interest Receipts	182.17	170.47	(-)11.70	(-)6.42
2.	Road Transport	200.58	222.51	(+)21.93	(+)10.93
3.	Major and Medium Irrigation	350.00	50.98	(-)299.02	(-)85.43
4.	Police	98.00	80.76	(-)17.24	(-)17.59
5.	Public Works	29.00	12.36	(-)16.64	(-)57.37
6.	Crop Husbandry	44.00	19.90	(-)24.10	(-)54.77
7.	Forestry and Wild Life	36.00	5.78	(-)30.22	(-)83.94
8.	Misc. General Services	516.66	1,420.73	(+)904.07	(+)174.98

The following were the reasons for variations in 2012-13 over the year 2011-12 as reported by the concerned Departments:

**Sales Tax/VAT:** The decrease of 7.00 *per cent* was due to enhancement of targets from time to time in view of growth.

**Taxes and Duties on Electricity:** The increase of 32.16 *per cent* was due to adjustment of recoverable electricity duty from PSPCL in lieu of subsidy provided by Punjab Government.

**Road transport:** The increase of 10.93 *per cent* was due to reimbursement of free/concessional travelling facility claims pertaining to the previous years.

**Police:** The decrease of 17.59 *per cent* was due to non-payment of deployment charges by other States/Departments.

**Crop Husbandry:** The decrease of 54.77 *per cent* was due to less renewal of licenses for sale of fertilizer, plant protection equipment, pesticides and weedicides.

The other Departments did not intimate the reasons for variation.

### 1.3 Cost of collection of major revenue receipts

The gross collection, expenditure on collection and the percentage of such expenditure to gross collection in respect of the major revenue receipts, during the year 2008-09 to 2012-13 along with the relevant All India average percentage of expenditure on collection are mentioned in table 1.5:

**Table 1.5**  
**Cost of Collection of Major Revenue Receipts**

(₹ in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2011-12
1	Taxes/VAT on Sales, Trade etc.	2008-09	6,435.63	48.53	0.75	0.83
		2009-10	7,577.49	59.83	0.79	
		2010-11	10,016.91	107.25	1.07	
		2011-12	11,171.67	99.73	0.89	
		2012-13	13,217.93	113.75	0.86	
2.	Taxes on Vehicles	2008-09	524.09	9.20	1.76	2.96
		2009-10	554.74	9.19	1.66	
		2010-11	653.91	10.92	1.67	
		2011-12	850.06	15.85	1.86	
		2012-13	994.72	24.52	2.46	
3.	State Excise	2008-09	1,809.95	14.57	0.80	2.98
		2009-10	2,100.92	17.23	0.82	
		2010-11	2,373.07	20.55	0.86	
		2011-12	2,754.60	30.16	1.09	
		2012-13	3,331.96	35.72	1.07	
4.	Stamp Duty and Registration fee	2008-09	1,730.29	23.69	1.37	1.89
		2009-10	1,550.94	12.42	0.80	
		2010-11	2,318.46	25.47	1.10	
		2011-12	3,079.13	27.56	0.90	
		2012-13	2,920.49	25.01	0.85	

It would be seen from above that the cost of collection under all the revenue heads was lower than the All India average except in Taxes/VAT on Sales, trade.

#### 1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 in respect of some principal heads of revenue amounted to ₹ 1,935.16 crore of which ₹ 627.32 crore was outstanding for more than five years as detailed in table 1.6:

**Table 1.6**  
**Arrears of revenue outstanding for more than 5 years**

(₹ in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Remarks
1.	Taxes/VAT on Sales, Trade etc.	1,781.57	570.72	Demands of ₹ 7.95 crore were covered by recovery certificate; arrears of ₹ 200.69 crore were stayed by the High Court/Judicial Authority; recovery stayed by Government Deptt. Authorities ₹ 1,260.29 crore; recovery due to rectification/review of application ₹ 4.64 crore; recovery of ₹ 2.08 crore due to insolvency of dealers; demands of ₹ 23.19 crore likely to be written off; demands of ₹ 0.99 crore were being recovered in instalments and balance amount of ₹ 281.74 crore was at different stages of action.
2.	State Excise	14.19	11.43	Demands of ₹ 4.56 crore were covered by recovery certificates; recovery of ₹ 1.27 crore was stayed by the High Court/other judicial and departmental authorities; demands amounting to ₹ 4.45 crore were likely to be written off; ₹ 0.53 crore were being recovered in instalments; recovery of ₹ 0.07 crore was held up due to rectification and the balance of ₹ 3.31 crore was at different stages of action.
3.	Taxes on Vehicles	102.21	43.76	Recovery of ₹ 0.31 crore were stayed by the High Court/Judicial Authority; ₹ 0.13 crore was stayed by the Government department; ₹ 0.08 crore was being recovered in instalments and the balance amount of ₹ 101.69 crore was at different stages of action.
4.	Forestry and Wild Life	37.19	1.41	Demands of ₹ 0.72 crore were covered by recovery certificates; ₹ 0.14 crore was likely to be written off; ₹ 1.95 crore was being recovered in instalments; ₹ 0.49 crore was at different stages of action and ₹ 33.89 crore was to be recovered as royalty from PSFDC Ltd.
	<b>Total</b>	<b>1,935.16</b>	<b>627.32</b>	

The arrears outstanding for more than five years constituted 32.42 *per cent* of the total arrears.

### 1.5 Arrears in assessment

The opening balance of assessment, assessment due, assessment disposed off and closing balance of assessment during the last three years from 2010-11 to 2012-13 as furnished by the Sales Tax/VAT Department are mentioned in table 1.7:

**Table 1.7**  
**Arrears of Assessment**

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year
2010-11	40,059	9,253	49,312	7,740	41,572
2011-12	41,572	10,049	51,621	11,155	40,466
2012-13	41,497*	7,494	48,991	9,102	39,889

\* Difference of 1,031 cases in opening balance was due to inclusion of 387 cases of 2007-08 and 644 cases of 2008-09.

**It is recommended that Government may consider issuing instructions for early disposal of the cases.**

### 1.6 Evasion of tax

The details of cases of evasion of tax detected by the Departments, cases finalised and the demand for additional tax raised at the end of each year during 2008-09 to 2012-13 as reported by the Departments are detailed in table 1.8:

**Table 1.8**

Sl. No.	Revenue Head	Year	No. of cases pending at beginning of the year	Cases detected during the year	Total	No. of cases in which assessments / investigations completed and additional demand including penalty etc. raised		No. of cases pending at the end of year
						No. of cases	Amount of demand (₹ in crore)	
1.	Taxes/ VAT on Sales, Trade etc	2008-09	3,307	1,725	5,032	2,706	17.84	2,326
		2009-10	2,326	4,538	6,864	3,068	24.94	3,796
		2010-11	3,796	7,970	11,766	8,376	63.86	3,390
		2011-12	3,390	6,154	9,544	7,203	108.83	2,341
		2012-13	2,341	5,913	8,254	5,487	125.84	2,767
2.	Taxes on Vehicles	2008-09	182	79	261	42	0.86	219
		2009-10	219	13	232	6	48.74	226
		2010-11	226	--	226	160	32.10	66
		2011-12	66	--	66	43	6.31	23
		2012-13	23	--	23	2	0.06	21
3.	State Excise	2008-09	1	--	1	1	0.01	--
		2009-10	--	--	--	--	--	--
		2010-11	--	182	182	159	1.45	23
		2011-12	23	75	98	98	0.10	--
		2012-13	--	105	105	88	0.11	17

### 1.7 Refunds

The opening balance of refund cases, refund cases received, refunds allowed and the closing balance during the period of five years ending 2012-13 as reported by the Excise & Taxation Department are mentioned in table 1.9 and 1.10:

Table 1.9

(₹ in crore)

Revenue Head	Year	Claims outstanding at the beginning of the year		Claims received during the year		Cases rejected		Refund made during the year		Balance outstanding at the end of the year	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Taxes/ VAT on Sales, Trade etc	2008-09	3,214	124.02	10,621	496.66	46	5.89	8,666	373.80	5,123	240.99
	2009-10	5,123	240.99	7,765	437.23	314	38.33	7,217	375.66	5,357	264.23
	2010-11	5,357	264.23	7,129	549.98	1,102	131.50	8,381	479.43	3,003	203.28
	2011-12	3,003	203.28	9,717	820.06	714	94.82	8,888	668.99	3,118	259.53
	2012-13	3,118	256.78 *	8,894	842.33	1,066	109.76	7,335	609.07	3,611	380.28

\* Difference in opening balance of ₹ 2.75 crore was due to incorrect booking (by clerical mistake) in previous year closing balance.

Table 1.10

(₹ in crore)

Revenue Head	Year	Claims outstanding at the beginning of the year		Claims received during the year		Refund made during the year		Balance outstanding at the end of the year	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
State Excise	2008-09	84	0.19	61	1.96	31	1.76	114	0.39
	2009-10	114	0.39	14	0.48	18	0.44	110	0.43
	2010-11	110	0.43	28	2.08	23	2.09	115	0.42
	2011-12	115	0.42	25	0.09	12	0.04	128	0.47
	2012-13	128	0.47	27	6.13	22	5.49	133	1.11

### 1.8 Response of the Government/Departments towards audit

- Replies to the audit observations are to be submitted by the Government Departments to the office of the Accountant General (Audit) within one month from the date of issue of Inspection Reports.
- If replies to the audit observations contained in the Inspection Reports are satisfactory, the observations are recommended for settlement after verification of the documents.
- The remaining audit observations are to be settled during the Audit Committee meetings, if the reply of the Department is satisfactory.
- If the audit observations are subjudice, the observations remain pending till decision of the court.

- At the time of next audit, rest of the audit observations are reviewed by the audit party at length and after verification of the records these are recommended for settlement.

#### **1.8.1 Lack of responsiveness to audit**

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

Inspection reports issued upto December 2012 disclosed that 11,755 paragraphs involving ₹ 7,330.98 crore relating to 5,126 IRs remained outstanding at the end of June 2013 as mentioned in table 1.11:

**Table 1.11**

	<b>June 2011</b>	<b>June 2012</b>	<b>June 2013</b>
Number of outstanding IRs	6,031	5,004	5,126
Number of outstanding audit observations	11,330	7,640	11,755
Amount involved (₹ in crore)	6,822.66	7,329.25	7,330.98

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved are mentioned in table 1.12:



Table 1.12

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Department of Finance	Taxes/VAT on Sales, Trade etc.	1,841	3,763	469.09
		Electricity Duty	17	78	5,092.58
		Entertainment Tax etc.	280	443	22.24
2.	Excise and Taxation Commissioner, Excise	State Excise	228	270	381.80
3.	Revenue and Rehabilitation	Land Revenue	653	1,287	390.98
4.	Transport	Taxes on Motor Vehicles	611	2,075	541.85
5.	Stamps and Registration	Stamp Duty and Registration Fee	1,250	3,395	150.60
6.	Director of Lotteries	State Lotteries	17	36	128.89
7.	Forest and Environment	Forest and Wild Life	229	408	152.95
<b>Total</b>			<b>5,126</b>	<b>11,755</b>	<b>7,330.98</b>

Even the first replies required to be received from the heads of offices within one month from the date of issue of IRs were not received for 67 IRs issued upto December 2012. The large pendency of IRs due to non-receipt of replies was indicative of the fact that the Heads of offices and the Heads of Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by audit in the IRs.

**It is recommended that the Government may take suitable steps to put in place an effective procedure for prompt and appropriate response to audit observations as well as take action against the officer/officers who did not send replies to the IRs/paragraphs as per the prescribed time schedules and also did not take action to recover the loss/outstanding dues in a time bound manner.**

### **1.8.2 Departmental Audit Committee Meetings**

The Government sets up audit committees to monitor and expedite progress of the settlement of audit observations contained in the IRs. No audit committee meeting was held during the year 2012-13. All the Departments were requested to hold the audit committee meetings for expeditious settlement of the outstanding audit observations.

**It is recommended that Government should ensure holding of audit committee meetings.**

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

On the recommendation of the Public Accounts Committee (PAC), the Department of Finance issued directions to all the Departments in October 1967 to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs are forwarded demi officially to the Secretaries of the Departments concerned drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Government is invariably indicated at the end of each paragraph included in the Audit Report.

Eighteen paragraphs including one performance audit were sent to Secretaries of the respective Departments between June 2013 and October 2013 through demi official letters. The Secretaries of the Department did not send replies to fifteen paragraphs including performance audit and the same have been included in this Report without the response of the Departments.

### 1.8.4 Follow up on the Audit Reports – summarized position

With a view to ensure accountability of the executive in respect of issues dealt with in the audit reports, the Department of Finance issued instructions in August 1992 to initiate *suo moto* action on all paragraphs/reviews figuring in the Audit Reports irrespective of whether the cases were taken up for examination by the PAC or not. Out of 239 paragraphs/reviews included in Audit Reports relating to the period 2006-07 to 2011-12, which were laid before the State Legislature, action taken notes (ATNs) in respect of 106 paragraphs/reviews were not received as on June 2013 even after the lapse of the prescribed period of three months. Out of the above 239 paras, 32 paras pertain to the period 2006-07 and the rest to subsequent years as mentioned in table 1.13:

Table 1.13

Year of Report	Date of presentation of Audit Report to the Legislature	No. of paragraphs/ reviews included in the Audit Reports	No. of paragraphs/ reviews on which ATN were due from the Departments
2006-07 <sup>3</sup>	12 March 2008	32	12
2007-08	04 March 2009	49	20
2008-09	15 March 2010	50	09
2009-10	11 March 2011	31	16
2010-11	28 March 2012	31	09
2010-11	28 March 2012 (SAR)	26	20
2011-12	19 March 2013	20 (19+1)	20(19+1)
<b>Total</b>		<b>239</b>	<b>106</b>

3 Outstanding paragraphs pertaining to Audit Reports for the year 2006-07 and 2007-08 had been transferred (January 2012) by the Public Accounts Committee to the concerned Departments with direction to take further action at their own level.

### 1.8.5 Compliance with the earlier Audit Reports

During the period from 2007-08 to 2011-12, the Departments/Government accepted audit observations involving ₹ 469.50 crore, of which an amount of ₹ 18.17 crore had been recovered till 31 March 2013 as mentioned in table 1.14:

Table 1.14

(₹ in crore)

Sl. No.	Year of Audit Report	Total money value	Accepted money value	Recovery made
1	2007-08	352.33	35.46	2.82
2	2008-09	218.15	42.58	0.33
3	2009-10	94.52	32.51	0.07
4	2010-11	181.61	30.15	7.01
5	2011-12	855.13	328.80	7.94
<b>Total</b>		<b>1,701.74</b>	<b>469.50</b>	<b>18.17</b>

**The Government may issue appropriate instructions to the concerned Departments to effect recovery.**

### 1.9 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 IRs/ Audit Report by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Report of the last 10 years in respect of Land Revenue Department was evaluated and included in this Audit Report.

The succeeding paragraphs 1.9.1 and 1.9.2 discuss the performance of the Director, Land Revenue, Punjab to deal with cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 2003-04 to 2012-13.

- There is no Audit Committee set up by the Director, Land Revenue, Punjab and hence no audit committee meeting was held by the Department.
- At the level of Deputy Accountant General, half yearly reminders were issued to the Government/Department furnishing the list of the outstanding paragraphs in Inspection Reports and Audit Reports asking them to expedite necessary steps for early settlement.

#### 1.9.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and status of the same as on 30 June 2013 are given in the table 1.15:

Table 1.15

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing during the year		
	IRs	Parag raphs	Money value	IRs	Parag raphs	Money value	IRs	Parag raphs	Money value	IRs	Parag raphs	Money value
2003-04	515	865	11.22	51	114	0.13	43	97	0.02	523	882	11.33
2004-05	523	882	11.33	25	71	0.75	4	31	0.004	544	922	12.08
2005-06	544	922	12.08	63	215	0.40	27	121	0.03	580	1,016	12.45
2006-07	580	1,016	12.45	34	94	0.17	5	23	0.31	609	1,087	12.31
2007-08	609	1,087	12.31	37	104	40.87	43	104	1.14	603	1,087	52.03
2008-09	603	1,087	52.03	109	234	17.02	17	48	1.44	695	1,273	67.61
2009-10	695	1,273	67.61	28	77	297.47	3	13	0.02	720	1,337	365.06
2010-11	720	1,337	365.06	75	172	14.18	4	19	18.75	791	1,490	360.48
2011-12	791	1,490	360.48	36	121	68.19	37	94	17.64	790	1,517	411.03
2012-13	790	1,517	411.03	27	61	28.19	164	291	48.24	653	1,287	390.98

Audit observed that the number of IRs/paras had increased from 609/1,087 involving ₹ 12.31 crore in 2007-08 to 653/1,287 involving ₹ 390.98 crore in 2012-13. There has been a significant clearance of outstanding IRs (164) involving 291 paragraphs of value of ₹ 48.24 crore in 2012-13.

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

#### 1.9.2.1 Recovery of accepted cases

The position of paragraphs included in the audit report, those accepted by the Department and the amount recovered since 2004-05 are mentioned in table 1.16:

Table 1.16

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2004-05	2	6.44	-	-	-	PAC decided not to pursue these paras further.
2005-06	-	-	-	-	-	-
2006-07	1	0.23	-	-	-	PAC decided not to pursue these paras further.
2007-08	3	9.22	-	-	-	-do-
2008-09	6	2.66	-	-	-	No reply furnished by the department.
2009-10	2	0.31	-	-	-	-do-
2010-11	1	0.06	-	-	-	-do-
2011-12	-	-	-	-	-	-
<b>Total</b>	<b>15</b>	<b>18.92</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

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

The draft performance audits conducted by the Accountant General are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. These performance audits are also discussed in exit conference and the Departments/Government's views are incorporated while finalising the performance audit for the Audit Reports of Comptroller and Auditor General of India.

During last ten years, performance audit on “**Land Revenue**” was conducted with four recommendations. No reply was furnished by the department (October 2013).

### 1.10 Audit planning

The unit offices under various Departments are categorized into high, medium and low risk units according to revenue earning, past trends of audit observations and other parameters of the concerned Department. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes 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 the past five years etc.

During the year 2012-13, there were 498 auditable units, of which 268 units (53.81 *per cent*) were planned and audited.

### 1.11 Results of audit

#### 1.11.1 Position of local audit conducted during the year

Test check of the records of 268 units of Sales Tax, State Excise, Motor Vehicles Tax, Stamp Duty and Registration Fees, Other tax and non tax receipts showed under assessment/short levy/loss of revenue amounting to ₹ 1,241.20 crore in 9,401 cases. During the year, Departments accepted under assessment and other deficiencies of ₹ 954.69 crore involved in 6,799 cases. The Departments collected ₹ 6.14 crore in 332 cases pertaining to earlier years.

#### 1.11.2 About this Report

This Report contains one performance audit on “**Levy and Collection of Electricity Duty**” and 14 paragraphs having financial effect of ₹ 91.05 crore. The Departments/Government have accepted audit observations involving ₹ 2.26 crore out of which ₹ 34.05 lakh had been recovered/adjusted during 2012-13. These are discussed in the succeeding chapters 2, 3, 4 and 5.

## **Chapter-2**

### **Taxes/VAT on Sales, Trade etc.**

## CHAPTER-2

### Taxes/VAT on Sales, Trade etc.

#### 2.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. Subject to overall control and superintendence of the Excise and Taxation Commissioner (ETC), the administration of the Punjab Value Added Tax Act (PVAT Act)/Central Sales Tax Act (CST Act), is carried out with the help of Additional Excise and Taxation Commissioner (Addl. ETC), Joint Excise and Taxation Commissioners at the headquarters (JETCs), Deputy Excise and Taxation Commissioners (DETCs) at the divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other allied staff at the district level. The authorities performing duties within jurisdictions as specified by the Government under the PVAT Act are called as Designated Officers (DOs).

#### 2.2 Results of audit

Test check of the records of 43 units relating to Sales tax/VAT during 2012-13 showed underassessment of tax and other irregularities involving ₹ 285.74 crore in 394 cases under the following categories as mentioned in table 2.1:

Table 2.1

(₹ in crore)			
Sl.No.	Categories	No. of cases	Amount
1.	Loss of revenue due to excess refund of VAT	39	14.58
2.	Non/short levy of sales tax/VAT	158	196.30
3.	Incorrect grant of exemption from tax	25	09.85
4.	Non/short levy of penalty	05	34.43
5.	Other irregularities	167	30.58
<b>Total</b>		<b>394</b>	<b>285.74</b>

During the year 2012-13, the Department accepted audit observations involving ₹ 142.82 crore in 215 cases and recovered ₹ 0.72 crore in 15 cases pertaining to the audit findings of previous years.

A few illustrative audit observations involving ₹ 21.98 crore are discussed in the succeeding paragraphs.

### **2.3 Audit of incentive scheme implemented under Deferment and Exemption (D&E) Rules 1991.**

The Department of Industries (DOI), Government of Punjab formulates the schemes of incentives for industries and issues notifications in this regard setting forth eligibility conditions for prospective industries. Based on the schemes, notifications, Excise and Taxation department issued notifications under various provisions of PGST 1948 (now VAT Act 2005) for such exemption and concessions. To avail the benefit of exemptions/deferment, the unit has to obtain eligibility certificate (EC) from General Manager of District Industries Centre (DIC) specifying the category of unit, kind of goods to be manufactured, investment in fixed capital assets, quantum of benefit and period of availment.

#### **2.3.1 Inadmissible allowance of ITC/Refund**

Condition No. 2(1) of new conditions for concessions under the PVAT Act, 2005 and the PGST (Deferment and Exemption) Rules 1991 provides that a unit availing the benefit of deferment or exemption from payment of tax, shall be entitled to refund of tax, paid or payable by it on the purchases made from a taxable person within the State, for use in manufacturing, processing or packing of taxable goods and no input tax credit (ITC) shall be admissible/available in respect of such purchases. It was further provided under Commentary No. 22 under Section 13 of PVAT Act that ITC will not be available in respect of entry tax paid on purchases made by exempted units.

The Excise and Taxation Commissioner further clarified vide circular No. 463-84 dated 2.3.2007 that a dealer dealing in both exempted and non-exempted goods, is not allowed to set off the ITC on purchases made for exempted goods against the out put tax liability of non exempted goods.

(a) Audit of the scheme (November 2012 and January 2013) showed that in three cases<sup>1</sup> of assessment/refund for the period 2010-11, the dealers (exempted units) were allowed inadmissible refund of ₹ 1.15 crore paid as entry tax.

The Government in its reply stated (May 2013) in respect of AETC Amritsar-II that as per Section 13A of PVAT Act 2005, every taxable person is entitled to ITC in respect of entry tax paid by him, if such goods are used for sale in the State or in the course of inter State trade or commerce or in the course of export as per amendment inserted with effect from 21-11-2007 vide no.3-leg/2008 dated 09/01/2008. Hence, refund was rightly allowed by

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<sup>1</sup> Amritsar-II and Faridkot.



the Designated officer. The reply of the Government is not acceptable since condition no. 2(1) notified on 6.4.2005 does not allow refund of entry tax paid by the exempted units.

(b) Audit (July 2012 and December 2012) of six assessment/refund cases showed that dealers were allowed ITC of ₹ 7.15 crore against the admissible ITC of ₹ 4.21 crore. The balance ITC of ₹ 2.94 crore were required to be claimed as refund since it was input tax paid on purchases made in connection with manufacturing of exempted goods. This also resulted in short debit of exemption by ₹ 2.94 crore.

(c) Audit (July 2012 to November 2012) of assessment cases of 10 dealers<sup>2</sup> for the year 2005-06 to 2006-07 showed that exemption to the tune of ₹ 2.05 crore were incorrectly debited to the accounts of the dealer as against the correct exemption of ₹ 3.78 crore leading to short debit of exemption of ₹ 1.73 crore.

(d) Audit found (July 2012 to November 2012) in assessment cases of seven dealers<sup>3</sup> for the year 2005-06 to 2006-07 that the exemption accounts were debited only to the extent of refund of ₹ 8.85 lakh as against the refund of ₹ 92.70 lakh which resulted in short debit of exemption of ₹ 83.85 lakh.

The Department accepted and debited the exemption to the tune of ₹ 29.05 lakh in case of Jalandhar-II.

(e) Audit (July 2012 to November 2012) of assessment cases of two dealers<sup>4</sup> for the years 2007-09 showed that the exemption account of the dealers were debited by ₹ 2.26 crore on account of inter-state stock transfer as against ₹ 3.47 crore resulting in short debit of exemption of ₹ 1.21 crore.

In case of a dealer of AETC Amritsar-II, the Government stated that the firm made branch transfer from purchases made within the state as well as inter-state purchase and debited exemption on pro-rata basis. The reply of the government is not acceptable as sub condition (ii) of condition 3 requires that output tax on inter-state stock transfer be calculated at the rate of four *per cent* on the estimated value of goods so transferred.

### 2.3.2 Inadmissible allowance of Notional Input Tax Credit

Sub condition (7) of condition 5 of D&E VAT conditions provides that a taxable person which is an exempted unit shall not be entitled for notional input tax credit on purchases of raw material manufactured in any other exempted unit.

<sup>2</sup> Muktsar 9 and Sangrur 1.

<sup>3</sup> Bathinda-2, Sangrur-3, Jalandhar-II 1 and Fatehgarh Sahib 1.

<sup>4</sup> Ferozepur 1 and Amritsar-II 1.

Audit (December, 2010 and 2011) of assessment for the year 2006-07 of a dealer under AETC Ferozepur showed that the assessee had made gross sale of ₹ 107.57 crore including ₹ 92.70 crore of exempted sale and the dealer made exempted purchase of ₹ 16.81 crore out of which ₹ 14.48 crore was consumed in exempted sales. The dealer was allowed ₹ 49.88 lakh notional input tax credit on purchases made from exempted unit, against admissible notional input tax credit of ₹ 9.29 lakh. This resulted into inadmissible allowance of notional input tax credit of ₹ 40.60 lakh.

### **2.3.3 Excess availing of exemption**

Audit found (July 2012) in the assessment of six dealers<sup>5</sup> for the year 2006-07 and 2007-08 that the available balance of exemption was taken as ₹ 16.46 crore as against the actual balance of exemption of ₹ 15.04 crore leading to excess allowance of exemption of ₹ 1.42 crore.

In case of Jalandhar-II, Department stated that exemption of five lakh had been debited, however, reply in respect of others and reply of the Government were still awaited.

The above points were brought to the notice of the Department and Government. The replies wherever received have been incorporated and are awaited in respect of others (October 2013).

### **2.4.1 Excess/inadmissible allowance of refund**

Sub section (1) of section 39 of PVAT Act provides that the Commissioner or the designated officer shall, in such manner and within such period, as may be prescribed, refund to a person, the amount of tax, penalty or interest, if any, paid by such person in excess of the amount due from him and also the excess of input tax credit over output tax payable under this Act.

Audit of assessment of four dealers for the period 2008-09 to 2010-11 showed that they were allowed inadmissible refund of ₹ 83.61 lakh in contravention of the various provisions of the Act as per details given in table 2.2:

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<sup>5</sup> Bathinda 1, Ludhiana II 1, Sangrur 2, Moga 1 and Jalandhar II 1.

Table 2.2

(₹ in lakhs)

Sl. No.	District	period	Amount	Nature of irregularities
1	Amritsar I	2008-09	3.42	Allowed refund of ₹ 5.28 lakh inclusive of inadmissible notional input tax credit of ₹ 3.42 lakh.
2	Mohali	Apr-10 to Jun-10	2.17	Inadmissible entry tax of ₹ 2.17 lakh was refunded.
3	Fatehgarh Sahib	Jan-10 to Mar-10	10.28	As against the refund of entry tax of ₹ 35.35 lakh, ₹ 45.63 lakh was allowed.
4	Mohali	Apr-09 to Jun-09	67.74	The dealer restored ITC of ₹ 264.36 lakh in respect of vehicle of received back from job work on ₹ 6,608.88 lakh against ₹ 4,915.32 lakh, resulted in excess allowance of refund of ₹ 67.74 lakh.
<b>Total</b>			<b>83.61</b>	

The matter was brought to the notice of the Department/Government (June 2012). In respect of case at serial number 4, Government stated (February 2013) that provisional assessment under Section-30 of PVAT Act 2005 was finalised creating an additional demand of ₹ 67.74 lakh which stands adjusted in the refund for the quarter ended June 2010, whereas the refund order states that the amount has been retained subject to final assessment. The reply furnished by government is not acceptable as the final assessment is still awaited. In respect of remaining three cases, their replies were awaited (October 2013).

#### 2.4.2 Non/short/excess/inadmissible allowance of Input Tax Credit

Section 13 of PVAT Act provides that a taxable person shall be entitled to input tax credit, in such manner and subject to such conditions, as may be prescribed, in respect of input tax on taxable goods, including capital goods, purchased by him from a taxable person within the State during the tax period.

Audit (between February 2011 and May 2012) of 12 cases of assessments for the period 2005-11 showed that the dealers were allowed excess claim of ITC of ₹ 3.64 crore in contravention to the various provisions of the Act as per details given in table 2.3:

Table 2.3

(₹ in lakhs)

Sl. No.	District	Period	Excess ITC	Nature of irregularities
1	Tarn Taran	2008-09	2.64	Credit notes of ₹ 21.15 lakh received on gross purchases of ₹ 549.89 lakh by the dealer were not reduced from the gross purchase at the time of allowing ITC resulting in excess allowance of ITC of ₹ 2.64 lakh.
2	Amritsar-I	2006-08	5.41	The ITC of ₹ 89.07 lakh instead of admissible ITC of ₹ 81.60 lakh on eligible purchases of ₹ 6.95 crore was allowed resulting in excess allowance of ITC of ₹ 7.47 lakh.
3	Amritsar-I	2007-08	2.06	
4	Jalandhar-I	2007-08	6.43	Non reversal of ITC on account of manufacturing tax free goods resulted in excess allowance of ITC of ₹ 6.43 lakh.
5	Patiala	2007-08	5.28	NITC at rate of four <i>per cent</i> instead of three <i>per cent</i> admissible to the extent of CST charged was allowed resulting in excess allowance of NITC of ₹ 5.28 lakh.
6	Ludhiana-II	2005-06	2.04	Purchase return of ₹ 51.06 lakh was not deducted from the gross purchases of ₹ 352.08 lakh resulting in excess allowance of ITC of ₹ 2.04 lakh on purchases.
7	Sangrur	2005-06	5.10	ITC on Capital goods to the tune of ₹ 7.49 lakh instead of ₹ 2.39 lakh was allowed resulting in excess allowance of ITC of ₹ 5.10 lakh.
8	Fatehgarh Sahib	2005-06	5.70	Allowance of ITC of ₹ 14,68,024 at four <i>per cent</i> instead of ₹ 7,34,012 at two <i>per cent</i> as notional ITC as admissible to the extent of CST chargeable resulted in excess allowance of notional ITC of ₹ 7.33 lakh
9	Fatehgarh Sahib	2005-08	1.63	
10	Hoshiarpur, Barnala and Ludhiana-I	2007-11	27.44	Inadmissible allowance of ITC of ₹ 27.44 lakh on purchase of diesel of ₹ 297.17 lakh by dealers not engaged in sale of diesel.
11	Barnala and Hoshiarpur	2009-11	150.96	Non reversal of ITC ₹ 150.96 lakh on account of Entry Tax and non-apportionment in respect of branch transfer.
12	Amritsar-I, Barnala, Fatehgarh Sahib, Hoshiarpur and Mohali	2005-10	149.34	Non reversal of input tax credit of ₹ 149.34 lakh on account of Branch transfer made by the dealers.
		<b>Total</b>	<b>364.03</b>	

In case of Amritsar-I at serial number 2 and 3, Department stated (February 2013) that the dealers have received credit notes and selling dealer has deposited full amount of VAT. The reply of the Department is not acceptable, as the audit observations point out on wrong calculation of ITC.

In case of Patiala, the Department stated (February 2013) that the condition 5 (5) (ii) is applicable only where exempted goods are sold as such in the course of inter-state trade. The reply of the Department is not acceptable as there is no mention in the condition 5(5) (ii) regarding goods sold as such.

In case of Ludhiana II at serial number 6, the Department stated (February 2013) that the purchases return was shown in VAT-20 due to technical error. The reply of the Department is not acceptable as the observation raised by the audit was from the Annual Statement which was duly certified by the Chartered Accountant. Besides, the dealer also failed to rectify the error, if any, which came to his notice as provided under Sub-Section-4 of Section 26 of the Act, within specified period. Moreover, no statement in this regard was recorded by designated officer during finalisation of assessment. In remaining cases replies were awaited (October 2013).

#### **2.4.3 Short levy of tax**

Audit noticed (between July 2011 and July 2012) in the assessment cases for the years 2005-06 to 2008-09 of seven dealers, the designated officer while finalising assessment short levied output tax of ₹ 4.51 crore on account of mis-classification, short computation of taxable turnover and irregular allowance of deduction from gross turnover as per details given in table 2.4:

Table 2.4

(₹ in lakhs)

Sl. No.	District	Period	Short levy of tax	Nature of irregularities
1	Ludhiana I	2005-07	11.91	Gross sales of ₹ 585.85 lakh were inclusive of tax free goods of ₹ 90.95 lakh. The deduction on account of tax-free sales of ₹ 388.69 lakh was allowed resulting in excess deduction of ₹ 297.74 lakh. As a result output tax of ₹ 11.91 lakh was short levied.
2	Ludhiana I	2008-09	58.48	Control panel, an unclassified item, was levied tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> resulting in short levy of output tax of ₹ 58.48 lakh.
3	Mohali	2007-08	54.28	Tax was assessed on ₹ 21.07 crore instead of ₹ 33.83 crore which resulted in short levy of tax of ₹ 54.28 lakh.
4	Mohali	2005-06	298.55	Levied tax on gross turnover of ₹ 74.43 crore instead of ₹ 98.32 crore resulted in short levy of output tax of ₹ 298.55 lakh.
5	Jalandhar I	2007-09	6.18	Unclassified item lubricants of ₹ 72.74 lakh was levied tax at four <i>per cent</i> instead of 12.5 <i>per cent</i> resulting in short levy of output tax of ₹ 6.18 lakh.
6	Jalandhar II	2006-07	16.39	Levied tax at the rate of two <i>per cent</i> instead of four <i>per cent</i> on government sales against D forms resulting in short levy of CST of ₹ 16.39 lakh.
7	Nawanshahar	2005-06	5.62	CST was levied on ₹ 1,410.70 lakh of sales instead of ₹ 1,551.11 lakh leading to non levy of tax on sales of ₹ 140.41 resulted in short levy of CST of ₹ 5.62 lakh.
		<b>Total</b>	<b>451.41</b>	

In case of Serial No. 4, the Department stated (February 2013) that Audit has taken gross turnover as per book version from the trading account, in which company had inadvertently added value of stock transfer twice. The reply of the Department is not acceptable because, as per certified trading account, the gross turnover was ₹ 98.32 crore which was inclusive of branch transfer. The

gross turnover was required to be taken as ₹ 98.32 crore instead of ₹ 74.43 crore.

In respect of case at Serial No. 5, the Department stated (February 2013) that the dealer mistakenly wrote the joint figure of lubricants along with the other sale. The reply of the Department was not acceptable as the item wise account was maintained in Trading and Profit and Loss Account which was duly certified by the statutory auditor. In remaining cases the replies were awaited (October 2013).

#### **2.4.4 Inadmissible availing of exemption**

Government of Punjab vide notification No. S.O.17/CA/74/56/S-8/2004 dated 08/10/2004 issued under Section 8(5) of CST Act 1956, allowed the payment of tax payable by M/s Apollo Fibres Ltd., Hoshiarpur in respect of inter State sales of polyster, staple fibre and staple yarn manufactured out of the expanded capacity of their unit, at the concessional rate of half *per cent* subject to production of 'C' Forms. The concession was allowed for five years commencing from the date of commercial production of these goods.

It was judicially held by Hon'ble Punjab and Haryana High Court in case of Lauren Organics Ltd. Vs State of Haryana vide (2007)-6-VST-38(P&H) that when unit availing exemption carried out manufacturing process for first few years of exemption period and thereafter carrying on production on behalf of another company, withdrawal of exemption granted to the earlier unit was justified.

Six companies including M/s Apollo Fibres Ltd. Hoshiarpur, (engaged in manufacture, sale and/or conversion of polyester products) engaged in same business as separate small entities decided to get united with a single unified entity engaged in both manufacturing and marketing of the final products with in-house manufacturing of feed stock and got amalgamated with M/s Indian Petro-Chemicals Corporation Ltd. which was engaged in the business of manufacturing and marketing of Mono Ethylene Glycol (MEG) which is the critical raw material for manufacture of polyester products, and new amalgamated company was named as Reliance Industries (September 2006).

Audit (May 2012) of assessment case of the dealer for the year 2006-07 showed that the dealer made inter-state sale of ₹ 218.58 crore of Polyester staple fibre and polyester yarn and availed concessional rate of CST at the rate of half *per cent*. This was not admissible as the newly emerged unit was not entitled to avail concessional rate of tax and was liable to pay tax at the rate of two *per cent* on inter-State sale. Thus, the availment of concessional rate of CST resulted in short levy of CST ₹ 3.28 crore.

The matter was brought to the notice of the Government/Department; their replies were awaited (October 2013).

## **Chapter-3**

### **Stamp Duty**



## CHAPTER-3

### Stamp Duty

#### 3.1 Tax administration

The State Government exercises control over the Registration of instruments through the Inspector General of Registration, who is assisted by the Deputy Commissioner (Collector), Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars (SRs) and Joint Sub-Registrars (JSRs) respectively. The Registrar exercises Superintendence and Control over the SRs and JSRs of the district. For the purpose of levy and collection of Stamp Duty and registration Fee, the State has been divided into five divisions and 22 districts having 22 Registrars, 82 SRs and 85 JSRs.

#### 3.2 Results of audit

Test check of the records of 109 units relating to stamp duty and registration fee during 2012-13 showed irregularities involving ₹ 32.25 crore in 1,674 cases, which fall under the following categories as detailed in table 3.1:

**Table 3.1**

(₹ in crore)

Sl.No.	Categories	Number of cases	Amount
1.	Non/short levy of stamp duty and registration fee	867	12.79
2.	Misclassification of instruments.	195	16.52
3.	Short levy of stamp duty and registration fees on lease deeds	300	0.92
4.	Other irregularities	312	2.02
	<b>Total</b>	<b>1,674</b>	<b>32.25</b>

During the year 2012-13, the Department accepted audit observations of ₹ 3.12 crore involved in 578 cases and recovered ₹ 3.08 crore in 259 cases pertaining to earlier years.

A few illustrative cases involving ₹ 15.26 crore are discussed in the succeeding paragraphs.

### **3.3 Short levy of stamp duty and registration fee due to misclassification of properties**

Under the Punjab Stamp (Dealing of Under-valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts as defined thereunder, fixes the minimum market value of land/properties locality wise and category wise in the district, for the purpose of levying stamp duty on the instrument of transfer of any property.

(a) Audit noticed from the records of 21 SRs<sup>1</sup> and four JSRs<sup>2</sup> that 41 instruments of transfer of properties valuing ₹ 18.50 crore were registered at the value set forth in these instruments instead of ₹ 48.50 crore computed on the basis of minimum market value of properties fixed by respective District Collectors for residential/commercial properties during the relevant years. The reason for omission was misclassifying the residential/commercial properties as agriculture property. This resulted in short levy of stamp duty and registration fee of ₹ 1.88 crore.

(b) In the offices of SR-Barnala and JSR Mullanpur Dakha, audit noticed that four instruments were registered after charging stamp duty leviable on the consideration of ₹ 44.80 lakh instead of correct value of ₹ 2.29 crore on the basis of minimum market rates approved by the Collector, as these properties were situated in particular locality/khasra numbers for which separate/higher rates were fixed by the Collector. Application of stamp duty on incorrect value of property resulted into short levy of stamp duty and registration fee of ₹ 10.66 lakh.

The matter was reported to the Government/Department (April, 2010 to March, 2013); their replies were awaited (October 2013).

### **3.4 Short levy of stamp duty due to application of pre-revised rates of stamp duty**

As per the Indian Stamp Act, 1899 (Schedule 1-A), a mortgage deed in respect of a specified property for securing loan, when possession is neither given nor agreed to be given, is chargeable to stamp duty at the rate of two *per cent* of the amount secured. The rate of stamp duty was revised from two *per cent* to four *per cent* vide notification, issued (August 2009) by the Punjab Government.

(a) Audit noticed from the records of 9 SRs/JSRs<sup>3</sup> that 11 instruments of mortgage deeds were executed and registered by individuals during 2011-12 for securing loans of ₹ 24.28 crore from the commercial/banking institutions after

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<sup>1</sup> SRs: Ajnala, Amritsar-I, Amritsar-II, Batala, Bhawanigarh, Dera Bassi, Fatehgarh Sahib, Faridkot, Ferozpur, Gurdaspur, Jalandhar-II, Kharar, Ludhiana (Central), Malerkotla, Mohali, Moga, Patiala, Rampura Phul, Ropar, Sangrur and Sunam.

<sup>2</sup> JSRs : Dhanaula, Dehlon, Kum Kalan and Sidhwan Bet.

<sup>3</sup> Hoshiapur, Jalandhar-I, Ludhiana (West), Maloud, Mohali, Nakodhar, Patiala, Phagwara and Shahkot.

charging stamp duty of ₹ 48.56 lakh at the pre-revised rate of two *per cent* against the leviable duty of ₹ 97.12 lakh chargeable at the revised rate of four *per cent*. Application of pre revised rate of stamp duty resulted in short levy of stamp duty of ₹ 48.56 lakh.

The matter was reported to the Government/Department (April 2011 to March 2013); their replies were awaited (October 2013).

(b) Audit noticed (August-2011) from the records of Sub Registrar, Khanna for the year 2010-11 that a mortgage deed without possession was executed and registered for securing loan of ₹ 6.95 crore from the bank for construction of building and stamp duty of ₹ 0.74 lakh was paid against the actual leviable duty of ₹ 27.80 lakh. This resulted into short levy of stamp duty amounting to ₹ 27.06 lakh. (27.80 - 0.74).

The matter was reported to the Government/Department (March-2012), their replies were awaited (October 2013).

### 3.5 Inadmissible remission of stamp duty and registration fee

The Government exempted (June 2001) stamp duty and registration fee leviable on instruments executed by a person for securing loan from a bank, co-operative society or banking institution to meet the expenditure on any of the items specified in connection with agricultural purpose or purposes allied to it.

Audit noticed (October, November 2012 and February 2013) from the records of four Sub-Registrars<sup>4</sup> for the year 2011-12 that five mortgage deeds were executed during June 2011 and March 2012 for securing loans of ₹ 110.18 crore from commercial/banking institutions for the building of Godowns/development of mandis without levying stamp duty and registration fee against security of immovable properties. As the loans were secured for the purposes other than those specified in the notification mentioned, *ibid*, the remission of stamp duty and registration fee as per above cited notification was not admissible. Incorrect grant of remission resulted into non levy of stamp duty and registration fee amounting to ₹ 4.42 crore.

On being pointed out in audit, Sub Registrar Nabha stated that deed was checked and it was found that the loan was taken for agricultural purpose and as per Punjab Government notification (June 2001), no stamp duty and registration fee was leviable. The reply of the Sub Registrar was not convincing because as per records of the concerned bank, the loan was raised for construction of rural godown building for preservation of food grains by the Government procurement agencies and not by the owner of land/farmer.

The matter was brought to the notice of Government/Department (April and May 2013); their replies were awaited (October 2013).

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<sup>4</sup> Bathinda, Nabha, Sangrur and Sunam.

### **3.6 Short levy of stamp duty and registration fee**

Under the Punjab stamp (Dealing of Under –valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts fixes the minimum market value of land/properties locality wise and category wise in the district for the purpose of levying stamp duty. Further, Government of Punjab, Department of Revenue and Rehabilitation clarified (January 2011) that in the case of purchase of land for more than one acre in urban area and 2.5 acre in rural area by a company or a Registered body for Housing Project and other commercial project, a copy of articles of association and a declaration indicating the purpose of purchase of land is required to be obtained from the purchaser. The rates of non agriculture land shall be applied for valuation of the property if the land is being purchased for Housing and other commercial purpose. Additional stamp duty at the rate of three *per cent* is also leviable on the value of the property if it falls within the Municipality or Corporation.

Audit noticed from the records relating to registration for the year 2010-11 and 2011-12 in the offices of 28 Sub Registrars<sup>5</sup> and eight Joint Sub Registrars<sup>6</sup> that 74 instruments of transfer of properties were registered during 2010-11 and 2011-12 in favour of Developer/Companies and stamp duty of ₹ 7.90 crore was charged on the consideration of ₹ 115.58 crore treating the land as agricultural land. It was further noticed that although the purchasers were Developers/Companies and the properties valued at ₹ 273.88 crore were located in the cities/villages which came within the limit of municipality yet the Department neither obtained the articles of association/declaration of the companies nor the rates for *gair-mumkin* (other than agriculture category) land were applied for the valuation of the properties. This resulted in short levy of stamp duty and registration fee of ₹ 8.01 crore.

Audit reported the matter to the Government/Department; their replies were awaited (October 2013).

### **3.7 Irregular remission of stamp duty and registration fee**

Punjab Government remitted (February 1981) stamp duty and registration fee chargeable on instruments of conveyance by sale or gift in favour of the charitable institutions for charitable purposes. In order to rule out the mis-utilisation of this exemption by the charitable institutions, the Government issued instructions vide 16/27/08/ST/2/ 8070-90 dated 26.5.10 that it was to be confirmed by the District Collector whether the transfer of immovable property in favour of the charitable institution is eligible for exemption from the levy of

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<sup>5</sup> Abohar, Amloh, Amritsar II, Barnala, Dera Bassi, Dhuri, Fazilka, Firozepur, Jagraon, Jalandhar-I, Khanna, Kharar, Ludhiana(west), Ludhiana(central), Malerkotla, Malout, Mohali, Nawan Shahar, Nurmahal, Phagwara, Phillour, Raikot, Roop Nagar, Sangrur, Sunam, Talwandi Saboo, Tapa and Tarn-Taran.

<sup>6</sup> Attari, Bareta, Koom kalan, Majri, Mandi Gobindgarh, Mullanpur Dakha, Sidwan Bet and Tarsika.

stamp duty/registration fee or not. Further, under Section 3C, Social Security Fund in the form of additional stamp duty leviable at the rate of three *per cent* is also chargeable in respect of every instrument of immovable properties falling within the municipal limit.

Audit noticed (August, October and July 2012) from the offices of two Sub-Registrars<sup>7</sup> and Joint Sub-Registrar Dehlon that three instruments of transfer of immovable property were registered with consideration of ₹ 1.21 crore as set forth in the deeds. These instruments were registered during 2010-12 in favour of charitable institutions without charging stamp duty/registration fee, treating the transfer for charitable purposes. The prior certification of the District Collector required to be obtained in such cases was not obtained, in the absence of which allowance of exemption was irregular. This had resulted in violation of the instructions of the Government and resulted in irregular remission of stamp duty and registration fee of ₹ 7.70 lakh.

The matter was reported to the Government/Department (April 2013). Sub-Registrar, Sangrur in its reply stated (May 2013) that the case has been sent to District Collector under Section 47-A. Reply in the remaining cases was awaited (October 2013).

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<sup>7</sup> Baba bakala and Sangrur.

## **Chapter-4**

# **Taxes on Vehicles, Goods and Passengers**

## CHAPTER-4

### Taxes on Vehicles, Goods and Passengers

#### 4.1 Tax administration

The overall charge of the Transport Department vests with the State Transport Commissioner (STC), Punjab, Chandigarh. There are 22 districts each headed by a District Transport Officer (DTO) who monitors due observance of the Punjab Motor Vehicles Taxation Act, 1924 and the Rules made thereunder and maintains the records of receipt of motor vehicles taxes and various fee. Besides, there are four Regional Transport Authorities (RTAs) for regulating the transport vehicles in the State in conformity with the Act and collection of motor vehicles taxes in respect of buses of other States.

#### 4.2 Results of audit

Test check of the records of 28 units relating to taxes on vehicles during 2012-13 showed irregularities involving ₹ 77.98 crore in 2,885 cases, which fall under the following categories as mentioned in table 4.1:

**Table 4.1**

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	Non-short recovery of MVT	2,822	21.72
2.	Short/Non deposit of Government receipt	24	0.06
3.	Other irregularities	39	56.20
	<b>Total</b>	<b>2,885</b>	<b>77.98</b>

During the year 2012-13, the Department accepted audit observations amounting to ₹ 15.64 crore involved in 1,804 cases and recovered ₹ 1.34 crore in 46 cases pertaining to earlier years.

A few illustrative cases involving ₹ 1.11 crore are discussed in the succeeding paragraphs.

#### 4.3 Non/Short realization of Motor Vehicle Tax in respect of stage carriage big buses

Under Section-3 of the Punjab Motor Vehicle Taxation Act, 1924, as amended in November 2007, tax shall be levied on every motor vehicle on year to year basis which shall be payable from such date, in such manner and at such rate as may be determined by the Government from time to time. The Government specified Motor Vehicle Tax (MVT) in respect of stage carriage big buses registered in the State of Punjab at the rate of ₹ 2.25 per kilometer (Km) per vehicle per day for the permitted Kms payable at the end of every

month. The Government allowed exemption of 50 days during the year, under Section -13 (3) for all stage carriage buses registered in the Punjab State only.

Audit noticed (between May 2012 and February 2013) from the records of six Districts Transport Offices<sup>1</sup> for the year 2011-12 that MVT amounting to ₹ 1.34 crore was due from 17<sup>2</sup> private transport companies worked out on the basis of entire kilometers permitted to be covered during 2011-12. The Department neither demanded the balance MVT due nor initiated any action against the defaulting transport companies by raising of demand/issue of demand notices. This resulted into non/short realisation of MVT of ₹ 95.82 lakh. Besides, penalty under Section-8 (4) and interest under Section-11 (1) is also leviable after giving a reasonable opportunity of being heard to the defaulter.

The matter was reported to the Department/Government (July 2012 and June 2013); their replies were awaited (October 2013).

#### **4.4 Short realisation of one time tax**

Punjab Government vide notification (June 2011) amended Sub Section-3 (8) of Punjab Motor Vehicles Taxation Act, 1924 and revised the rate of one time tax in respect of new stage carriage permit for big buses from ₹ 500/- to ₹ 1,500/- per kilometer with effect from 09-06-2011.

Audit noticed (May and July 2012) from the records of two Regional Transport Authorities (RTAs)<sup>3</sup> for the period of 2011-12 that four new permits were issued (July 2011) to two transport companies for stage carriage big buses at unrevised rate. It resulted into short realization of one-time tax of ₹ 7.61 lakh. Besides, penalty under Section-8(4) and interest under Section-11 (1) is also leviable.

On being pointed out in audit, all the RTAs stated that notices had been issued to the concerned transport companies to deposit balance motor vehicle tax.

The matter was reported to the Department/Government (July, September 2012 and June 2013); their replies were awaited (October 2013).

#### **4.5 Non realisation of MVT in respect of tourist buses**

Under Section-3 (I) of the Punjab Motor Vehicles Taxation Act, 1924, tax shall be levied on every motor vehicle on year to year basis, which shall be payable from such date, in such manner and at such rate, as may be determined by the Government from time to time. But in case of Tourist vehicles, MVT shall be paid monthly, quarterly or annually in advance by 15<sup>th</sup> of the month or by the 15<sup>th</sup> of the first month of the quarter or 15<sup>th</sup> April of the year as the case may be. Government of Punjab vide notification (November 2007) notified rates of tax recoverable from various categories of

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<sup>1</sup> Barnala, Ferozepur, Jalandhar, Mansa, Moga and Sangrur.

<sup>2</sup> Barnala (4), Ferozepur (3), Jalandhar (2), Mansa (3), Moga (4) and Sangrur (1).

<sup>3</sup> Jalandhar and Patiala.



motor vehicles with effect from 22 November 2007 in view of which MVT in respect of air conditioned tourist buses was payable at the rate of ₹ 5,000/- per seat per annum.

During test check of records (January 2013) of State Transport Commissioner (STC) Punjab, Chandigarh for the period 2010-12, it was noticed that MVT amounting to ₹ 7,96,250/- for the period 12/2010 to 3/2012 in respect of three transport companies having fleet of five tourist air conditioned buses registered in Punjab State was neither paid by the owners nor demanded by the STC. This omission resulted into non-realisation of MVT amounting to ₹ 7.96 lakh. Besides this, penalty under Section-8 (4) and interest under Section-11 (1) is also leviable.

The matter was reported to the Department/Government (June-2013); their replies were awaited (October 2013).

# **Chapter-5**

## **Other Tax and Non Tax Receipts**

## CHAPTER 5

### Other Tax and Non Tax Receipts

#### 5.1 Tax Administration

This chapter consists of receipts from State Excise, Electricity Duty, Forest and Wild Life, Lottery Department etc. The tax administration is governed by Acts and Rules framed separately for each Department.

#### 5.2 Results of audit

Test check of records relating to State Excise, Electricity Duty, Land Revenue, Other taxes and duties on commodities and services (Entertainment and Luxury tax), Forest and Wild Life and State Lotteries during 2012-13 showed irregularities involving ₹ 845.43 crore in 4,448 cases, which fall under the following categories as per details mentioned in table 5.1:

**Table 5.1**

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
<b>A : Other Tax Receipts</b>			
<b>(i) State Excise</b>			
1	Non levy of renewal fee	1	0.03
2	Short/Non deposit of licence fee	4	0.04
3	Non recovery of interest	3	0.12
4	Other irregularities	2	0.18
	<b>TOTAL</b>	<b>10</b>	<b>0.37</b>
<b>(ii) Electricity Duty</b>			
1.	Performance Audit on "Levy and collection of Electricity Duty	<b>1</b>	<b>19.74</b>
2.	Non/delayed recovery of electricity duty, irregular retention of government money etc.	37	676.49
	<b>TOTAL</b>	<b>38</b>	<b>696.23</b>
<b>(iii) Land Revenue</b>			
1	Non/ short recovery of chowkidara tax	21	1.88
2	Non recovery of arrear declared as land revenue	38	19.57
3	Loss to the Govt. Exchequer	13	3.75
4	Non recovery of rent from the unauthorised occupants of Govt. land	3	1.81
5	Non recovery of service charges/fee	1	0.01
	<b>TOTAL</b>	<b>76</b>	<b>27.02</b>

Sl. No.	Categories	No. of cases	Amount
<b>Other taxes and duties on commodities and services</b>			
1	Non levy of entertainment tax	100	0.15
2	Non levy of interest and penalty and non filing of annual return	74	0.07
	<b>TOTAL</b>	<b>174</b>	<b>0.22</b>
<b>B: Non-tax Receipts</b>			
<b>(i) Forest and Wild Life</b>			
1	Non recovery of dues from contractors/officials	264	5.75
2	Outstanding amount of royalty/interest	41	49.69
	Non realisation of cost of land used for non forest activities	79	30.30
	Other irregularities	3,761	25.41
	<b>TOTAL</b>	<b>4,145</b>	<b>111.15</b>
<b>(ii) State Lotteries</b>			
1	Loss of Revenue due to ill planning and defective bumper scheme, Non supply of lottery tickets.	2	1.79
2.	Loss of revenue due to non-conducting of draw of fortnightly scheme	1	0.25
3	Non deduction of establishment cost from the prize money of tickets.	1	8.18
4	Non disposal of unserviceable items of stock	1	0.02
	<b>TOTAL</b>	<b>5</b>	<b>10.24</b>
	<b>Grand Total</b>	<b>4,448</b>	<b>845.23</b>

During the year 2012-13, the Forest and Wildlife Department recovered ₹ 0.92 crore in two cases pertaining to previous year.

A few illustrative cases including performance audit on “Levy and Collection of Electricity Duty” involving ₹ 52.69 crore are discussed in succeeding paragraphs.

### 5.3 Unauthorised retention of royalty and its utilisation

Punjab State Forest Development Corporation (PSFDC) was required to deposit the amount of royalty on account of standing trees offered to it with the Department within a period of seven months from the date of offer of trees, failing which, interest at the rate of 12 *per cent* per annum was chargeable as per Government instructions (March 1999 and September 2003). Punjab Financial Rules (PFR) stipulate that it is primarily the responsibility of the departmental authorities to see that all revenue due to Government is regularly and promptly assessed, realised and credited into the Government account.

Rule 2.4 of PFR Vol.-I and Rule 8.1 of Punjab Treasury Rules prohibits utilisation of revenue towards expenditure.

Audit of Principal Chief Conservator of Forest (PCCF) for the period 2010-12 and information obtained from PSFDC disclosed that PSFDC had retained ₹ 32.95 crore royalty payable to Forest Department as mentioned in table 5.2:

Table 5.2

(₹ in crore)

Year	Opening balance with PSFDC	Royalty due from PSFDC	Interest	Total	Royalty remitted to treasury	Balance royalty remaining with PSFDC including interest	Diverted for loan and lease rent
2010-11	6.61	15.01	1.73	23.35	4.11	19.24	2.35
2011-12	19.24	11.43	2.66	33.33	0.38	32.95	3.28
<b>Total</b>							<b>5.63</b>

- Forest Department did not recover royalty of ₹ 32.95 crore as on March 2012. The Department violated the prescribed financial and treasury rules.
- Forest Department raised a loan of ₹ 2.25 crore from PSFDC (October 2010) at an interest rate of 12.5 *per cent* per annum for fixture, furniture and land-scaping of the Forest Complex which was to be repaid by 31 March 2011. PSFDC adjusted ₹ 2.35 crore (Principal: ₹ 2.25 crore, Interest: ₹ 0.10 crore) from the royalty due for the year 2010-11 due to failure in repayment of loan by the Department.

The Department attributed (August 2013) raising of loan from PSFDC due to non-finalisation of the proposal to incur expenditure from CAMPA funds and also due to non allocation of funds by the State Government.

The reply of the Department was not in order as the inadmissible adjustment out of State Receipts was in violation of financial rules.

- Forest Department leased out a part (two towers) of the Forest Complex, Mohali to PSFDC for 51 years by entering (March 2009) into a Memorandum of Understanding (MoU), without fixing the amount of lease. In accordance with the MoU, the PSFDC rented out office accommodation in these towers to the State Government Departments through General Administration Department (GAD) being tenant for all administrative, financial and legal purposes. It was decided (October 2010) that the Finance Department would provide adequate budget grant to the GAD for payment of rent. Audit observed that the tenant offices stopped paying rent and PSFDC instead of getting the funds released from Finance Department in favour of GAD, adjusted an amount of ₹ 3.28 crore from royalty in 2011-12. The admittance of the debit against royalty in the absence of any approval for direct appropriation of revenue was unjustified. The Department

replied (August 2013) that the steering committee decided that dues from GAD would be paid to PSFDC by making adjustment of rent against royalty.

The reply of the Department was not in order as the inadmissible adjustment out of State Receipts was in violation of financial rules.

This resulted in blockade of government receipt to the tune of ₹ 32.95 crore inclusive of ₹ 5.63 crore adjusted for loan and lease rent.

The above matter was reported to Government; their reply was awaited (October 2013). **WER**

#### **5.4 PERFORMANCE AUDIT ON “LEVY AND COLLECTION OF ELECTRICITY DUTY”**

##### **Highlights**

- Non formulation of policy guidelines and notification of rules facilitated the Punjab State Power Corporation Limited (PSPCL) to retain the government revenue ₹ 251.38 crore.

**{Paragraph 5.4.8 (a)}**

- Incorrect adjustment of subsidy by PSPCL against electricity duty ₹ 270.22 crore resulted in understatement of government receipt in the year 2009-10.

**{Paragraph 5.4.8 (b)}**

- Loss of interest amounting to ₹ 1.47 crore due to retention of ₹ 18.50 crore misclassified as sale of power instead of electricity duty by PSPCL.

**{Paragraph 5.4.8 (c)}**

- Grant of inadmissible exemptions to the industrialists resulted in loss of revenue to state exchequer ₹ 19.74 crore.

**(Paragraph 5.4.10.1)**

- There was inadequate mechanism of monitoring, evaluation and prompt realisation of electricity duty.

**(Paragraph 5.4.12)**

##### **5.4.1 Introduction**

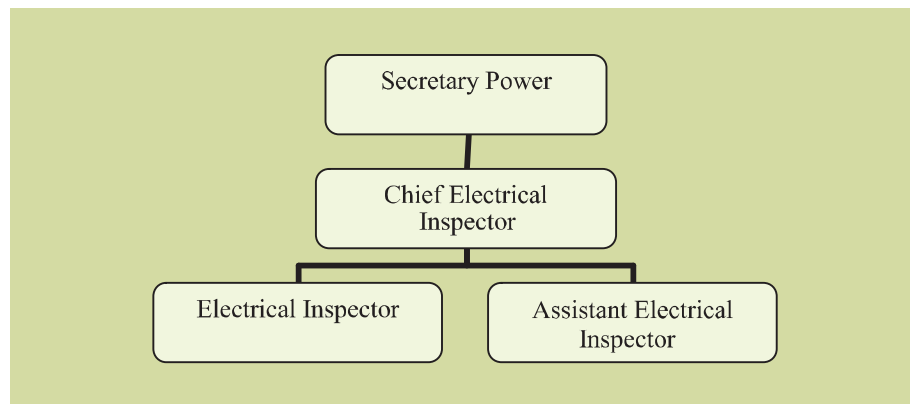
Electricity Duty (ED) is a tax regulated under the Punjab Electricity Duty Act 2005 (Act). ED is leviable on usage of electricity supplied to the consumers or licensees by the erstwhile Punjab State Electricity Board (PSEB) up to 16 April 2010 and thereafter by PSPCL at the prescribed rates. ED is collected

from the consumers on the sale of electricity through electricity bills and is credited into Government account. PSPCL thus assesses, levies, collects and credits the ED into Government account. The contribution of electricity duty (ED) to the total revenue of the State ranged between 1.91 and 9.01 *per cent* of the total tax receipt during 2007-08 to 2012-13.

#### 5.4.2 Organisational set up of the Department

The Secretary of the Power Department is the head of the Department at the Government level. The Chief Electrical Inspector (CEI), is responsible for monitoring the collection of ED from the licensees/self-generating units and its payment into Government account. The CEI is assisted by technical staff comprising of Electrical Inspectors (EIs) and Assistant Electrical Inspectors (AEIs) for conducting inspection of new installations and periodical inspection of old installations in the State.

##### Organogram



#### 5.4.3 Audit objectives

The performance audit was conducted with a view to assess:

- whether the budget estimates prepared by Department were realistic and accurate;
- whether the system of collecting and crediting electricity duty in Government accounts was adequate,
- whether the provisions of the Act and instructions of the Government for granting exemptions to consumers/licensees were being adhered to;
- whether an effective internal control mechanism to ensure proper realisation of electricity duty existed.

#### 5.4.4 Scope of audit and criteria

The performance audit on the efficacy of the system of collection of ED and its credit in Government account for the period from April 2007 to March 2012 was conducted by auditing the records in the office of the CEI during November 2012. As the ED was assessed, levied, collected and remitted into Government accounts by PSPCL, data/information collected from the office of PSPCL, was also cross verified with the records maintained by the CEI.

The following were the sources of criteria for the performance audit:

- The Punjab State Electricity (Duty) Act 2005 and Indian Electricity Rules 2003 (Rules);
- Notifications, circulars and instructions issued by the Government of Punjab;
- Returns of collection and remittances of electricity duty submitted by the licensees and companies.

#### 5.4.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of Department of Power in providing necessary information and facilitating audit. An entry conference for the performance audit was held with the Chief Electrical Inspector to the Government of Punjab (November 2012) where the objectives and scope of the performance audit were explained. An exit conference was held (September 2013) with the Secretary, Department of Power where the audit findings were discussed.

#### 5.4.6 Trend of revenue

The Punjab Budget Manual provides that budget estimates should take into account only such receipts as the estimating officer expects to be actually realisable or made during every financial year. The actual vis-a-vis estimates of ED for the period 2007-08 to 2012-13 is mentioned in table 5.3:

Table 5.3

(₹ in crore)					
Year	Budget estimates of ED	Receipt by PSPCL	ED credited into Govt. Account	Excess(+)/ shortfall(-)	Percentage of Variation
2007-08	576	616.54	603.80	27.80	4.83
2008-09	653	650.77	631.33	-21.67	-3.32
2009-10	900	744.45	230.13	-669.87	-74.43
2010-11	980	1,135.88	1,422.90	442.90	45.19
2011-12	1,400	1,399.23	928.28	-471.72	-33.69
2012-13	1,540	1,540.00	2,035.31	495.31	32.16

Source: Finance accounts for actual receipts and budget estimates from detailed estimates of revenue of respective years of Govt. of Punjab.



It is seen from the above table that there was unrealistic preparation of budget estimates. The variations between budget estimates and actual realisation of electricity duty varied between (-) 74 to (+) 45 *per cent*. There was a sharp increase in ED from ₹ 230.13 crore in 2009-10 to 1,422.90 crore in the year 2010-11 owing to revision of rate of ED from 10 *per cent* to 13 *per cent* of sale of power charges with effect from April 2010. The less realisation of ED in years 2009-10 and 2011-12 was due to delay in remittance by PSPCL to Government account as mentioned in para 5.4.8.

The CEI admitted (November 2012) that the budget estimates were being prepared by increasing the amount of previous year collection of ED by five to 10 *per cent*. The CEI also averred in the exit conference that the contention of audit to consider the factors of installed capacity and power generation would be considered while preparing budget estimates.

#### **5.4.7 Non reconciliation of receipt with the treasury accounts**

Punjab Financial Rules (PFR), Volume I, requires that every Controlling Officer is required to conduct monthly reconciliation of departmental remittance with the treasury accounts to ensure that the amount remitted in the treasury through challans by the consumers of electricity is genuine and has been accounted for under proper head of accounts.

Audit of the CEI (December 2012) showed that the ED amounting to ₹ 3,816.44 crore for the years 2007-08 to 2011-12 had been deposited by PSPCL into Government account but monthly reconciliation of challans received as proof of deposit of ED was not carried out with the records of treasury/sub-treasury concerned as required under provisions of the PFR. It was also noticed that the CEI did not collect and reconcile the figures of Sale of power (SOP) on the basis of which the PSPCL assess, levy and collect ED from the consumers. The provision of the PFR needs to be followed strictly.

In reply, the CEI attributed the failure to reconcile the deposit of ED into treasury to shortage of staff. The plea taken by the CEI was not convincing as the statutory provision of the PFR was to be complied with to safeguard the interest of the Government.

#### **5.4.8 Position of arrears of ED**

Under Section 3 (1) and (3) of the Act, the licensee is required to collect the ED from all the consumers and credit the same into Government account as the State Government has the first charge on the ED so collected and none of the Board (now PSPCL) or any licensee is authorised to utilise the ED to meet its expenses therefrom without the previous sanction of the Government. In the event of failure to credit the ED in Government account, Section-8 and 9 of the Act provides for imposition of penalty up to four times the amount of ED due and its recovery as arrear of land revenue.

a) Audit of CEI disclosed that PSPCL collected ED of ₹ 2,286.69 crore but credited ₹ 2,035.31 crore into the Government account leaving

₹ 251.38 crore unpaid at the close of financial year 2012-13. The year wise details are given in table 5.4:

**Table 5.4**

Year	Opening balance of unremitted ED	Receipt by PSPCL during the year	Credited to Government Account	Balance unremitted ED at the end of the year	(₹ in crore)
					Percentage of ED retained against receipt
2007-08	16.26	616.54	603.80	29.00	4.70
2008-09	29.00	650.77	631.33	48.44	7.44
2009-10	48.44	744.45	230.13	562.76	75.59
2010-11	562.76	1,135.88	1,422.90	275.74	24.28
2011-12	275.74	1,399.23	928.28	746.69	53.36
2012-13	746.69	1,540.00	2,035.31	251.38	16.32

The unremitted amount of ED collected by PSPCL grew from 29 crore at the end of 2007-08 to a staggering 251.38 crore at the end of 2012-13. In percentage term it ranged from 4.70 to 75.59 *per cent* in 2009-10 as evident from the table above. The CEI issued reminders but failed to impose penalty which could be up to four times the amount of ED unremitted to the tune of ₹ 1,005.52 crore.

The non-notification of rules and non-enforcement of penalty for non-remittance of ED allowed PSPCL to retain Government revenue while the State borrowed money even when revenues collected on its behalf were available.

The CEI admitted (December 2012) that due to non-formulation of Rules and absence of any time bound action plan by the Government, the PSPCL could not be forced to deposit ED along with interest. However, regular reminders were being issued to the PSPCL to deposit the unremitted ED into Government account.

**b) Incorrect adjustment of subsidy against electricity duty**

The cross verification of statements of ED realised by PSPCL with Finance Account for the year 2009-10, showed that the PSPCL carried out adjustment of subsidy on account of free/subsidised supply of power to agriculture sector at its own to the extent of ₹ 270.22 crore against ED payable to the Government in the year 2009-10 without governmental sanction orders. This receipt had not been reflected in the Finance Account for the year 2009-10 under head 0043-Taxes and Duty on Electricity. This violation of the provision of Government Accounting resulted in understatement of the government receipt to the tune of ₹ 270.22 crore in the year 2009-10.

The Department admitted that the ED was adjusted against the subsidy payable to PSPCL during the year 2009-10. The reply furnished by the Department was not in conformity with the financial rules and proper accounting procedure to adjust the departmental receipts towards subsidy should have been followed.

*c) Loss of interest and penalty due to retention of misclassified electricity duty*

Audit further noticed (December 2012) that CEI detected an amount of ₹ 18.50 crore (April 2011 and March 2012) misclassified as “sale of power (SOP)” instead of “Electricity Duty” by PSPCL but the CEI neither took any initiative to get the misclassification rectified nor made any effort to recover this amount of ED. The inaction on the part of the CEI not only reflected upon the poor control of the CEI over realisation of ED but also benefited the PSPCL to this extent at the cost of the Government exchequer. Had the amount of ₹ 18.50 crore been correctly classified and deposited in the Government account, payment of interest amounting to ₹ 1.47 crore<sup>1</sup> paid on Government borrowings could have been saved.

The CEI stated (September 2013) that action to recover the misclassified amount of ED had now been taken up, but expressed helplessness to charge interest on this misclassified amount of ED, due to the absence of rules/provisions.

#### **5.4.9 Non formulation and notification of rules**

Section 13 of the Act requires, Rules governing the implementation of the Act to be notified by the State Government. Besides, specifying the role of CEI, the rules with regard to manner of collection and payment of electricity duty, manner of ascertaining the amount of electricity duty, format of maintenance of records, manner of submission of returns and the powers and duties to be exercised by the CEI to check the authenticity of ED collected and inspection of installation.

Audit observed that even after a lapse of more than seven years of the Act coming into force, the State Government neither notified the Rules for its implementation nor framed any supplementary provisions regarding time frame for remittance of ED collected into government account, getting the arrears recovered as arrears of Land revenue, empowering the departmental authorities to enforce the provision of Act, expeditious recovery of arrear and initiate penal actions against defaulting assesseees.

Failure to promulgate the Rules facilitated the PSPCL to prepare and submit periodical returns<sup>2</sup> at their own convenience. Audit observed delay ranging between one to 12 months in depositing the ED into Government account. The delayed remittance of ED forced the Government to borrow more money for meeting its liabilities. We observed that had the ED been received in time the State could have saved the payment of interest of ₹ 161.89 crore on its loans during 2010-12.

CEI stated (December 2012) that the draft Rules framed for implementation of the PED Act, 2005 were pending with Government since November 2009. CEI

<sup>1</sup> Calculated at average rates of interest of 7.96 per cent on Government borrowings paid during 2011-12 respectively.

<sup>2</sup> Statement of electricity sold to consumers and licensees, balance of ED from the defaulters, ED assessed and paid by generating licensee along with details of electricity consumed for his own use or consumption.

also stated that in the absence of framing ED Rules, not only policy guidelines for time bound action plan suffered but also the arrears of ED kept on increasing year by year and the monitoring of correctness of ED became difficult.

#### **5.4.10 Operationalisation of Dedicated Social Security Fund**

##### **5.4.10.1 Loss of revenue to state exchequer due to inadmissible grant of exemptions to the industrialists**

With a view to provide financial assistance to needy, deserving and weaker sections of the society in the State of Punjab, the State Government (March 2005) enhanced the rate of ED from five to ten *per cent* for making contribution to the Dedicated Social Security Fund (DSSF) on the SOP with effect from March 2005. Further, the State Government also clarified (June 2005) that exemptions on the payment of electricity duty would be granted/adjusted only at the rate of five *per cent* of SOP and should not be adjusted against the DSSF which was also five *per cent*, because the head of the account for the same being different.

Audit of the CEI (December 2012) disclosed that during 2006-2012, licensees were found to have been granted exemptions even on the enhanced element of ED which was meant for creating DSSF and exemptions on this segment of the ED was strictly inadmissible. Audit calculated that the inadmissible exemption so granted worked out to ₹ 19.74 crore in 27 cases in 2005-10 and 36 cases in 2010-12.

The CEI stated (September 2013) that matter was taken up with the Secretary, Power and outcome would be intimated to Audit.

##### **5.4.10.2 Irregular adjustment of DSSF towards subsidy payable by the Government**

For creation, operation and maintenance of the Social Security Fund, the Government of Punjab notified (January 2005) that the authority which is responsible for collecting the Electricity Duty under the head “0043-Taxes and duties on electricity” would transmit this amount into the Personal Ledger Account (PLA) of the Department of Social Security and Women Welfare and Department of Welfare of SC and BC at District Treasury, Chandigarh.

Scrutiny of record for the period 2007-12 of CEI showed that PSPCL adjusted ₹ 270 crore (₹ 135.11 crore-2009-10 and 134.89 crore-2010-11) out of DSSF component of the ED against the subsidy payable by the Government, which was irregular as Government notification did not envisage and permit any adjustment/diversion. This deprived the Government of finances for providing financial assistance to needy, deserving and weaker sections of the society.

The Department stated that the amount of subsidy was adjusted against DSSF by the PSPCL. The reply furnished by the Department was not convincing as the DSSF component of the ED is not adjustable.

#### 5.4.11 Inadequate mechanism of inspections by field staff

Section 7(2) specify the powers and duties to be exercised and performed by the inspecting officers for carrying out the provisions of the Act and Rules to be framed by the state government as per provision of section 13(2)(f) of the Act. In addition, Rule 46 and 63 of the Indian Electricity Rules, 1956 prescribes that every installation connected to supply system of the supplier shall be inspected periodically and tested at an interval not exceeding five years<sup>3</sup> by CEI or any subordinate officer, on payment of fees in advance at the prescribed rates depending on the connection load. The payment of fee for inspection of electrical installations was discontinued by Government of India while notifying (September 2010) Safety Regulations Rules 2010.

Audit noticed (December 2012) from the records of CEI that in the absence of specifying the role of CEI due to non-formulation of rules there-against, the CEI could not evolve any mechanism in the Department to conduct inspections to ensure the correctness of the assessment, collection and remittance of ED at the sub-division level, for cross verification of ED assessed and remitted by the PSPCL into Government Account. Consequently, the CEI had to rely upon the figures of the ED remitted by the PSPCL and this might lead to short levy of ED at any stage.

Further, out of 22,22,795 electrical installations due to be inspected, only 2,62,195 (12 *per cent*) were inspected during 2007-12 thereby leaving 19,60,600 installations uninspected as per details mentioned in table 5.5. Audit observed that all the inspections conducted by the CEI were of HT, EHT and MVI electrical installations only and none of the available 10,46,537 LVI electrical installations were got inspected by the CEI during this period which was indicative of non-prioritising the inspections by the CEI.

**Table 5.5**

Year	Inspections due	Inspections done	Inspections not done	Percentage shortfall (column 4 to 2)
2007-08	4,17,776	74,694	3,43,082	82.12
2008-09	4,21,096	56,417	3,64,679	86.60
2009-10	4,36,683	50,135	3,86,548	88.52
2010-11	4,66,401	48,422	4,17,979	89.62
2011-12	4,80,839	32,527	4,48,312	93.24
	<b>22,22,795</b>	<b>2,62,195</b>	<b>19,60,600</b>	

The shortfall in inspections of electrical installations ranging between 82 and 93 *per cent* was a great risk to public safety as is evident from 1,278 cases of electrocution reported during 2007-12 which could have been avoided. Moreover, the CEI should keep a check over inspections of electrical installations becoming due, actually conducted and shortfall and investigate

<sup>3</sup> High Tension (HT) and Extra High Tension (EHT) installation once every year, Medium Voltage Installation (MVI) once every three years and Low Voltage Installation (LVI) once in every five years.

reasons thereof. Owing to non carrying out targeted inspections, possibility of theft/unauthorized electric connection cannot be ruled out.

On being pointed out, the CEI attributed the shortfall in inspection of electrical installations to shortage of staff. While appreciating the shortage, we feel that the reply of the CEI was not convincing as with the available staff, strategically selected electrical installations should have been prioritised for inspection rather than totally ignoring all the LVI electrical installations. However, no reply was furnished in respect of non-conducting of inspections at sub-division level by field staff.

#### **5.4.12 Inadequate monitoring, evaluation and internal control**

An independent and effective monitoring by the CEI to ensure compliance of the provisions of the Act and Government instructions regarding assessment of ED, raising of demands, its collection, accounting and timely credit to the Government account, besides overall functioning of system is of utmost importance.

Scrutiny of records in the office of CEI (November 2012) showed that the monthly return was submitted by distribution company in an unprescribed format and the return also did not include the SOP charges on the basis of which, ED was to be levied. The incomplete return was merely compiled by the CEI and forwarded to the Government without ensuring the veracity of data furnished by the field units. The follow up system to improve the working of the Department also did not exist.

On being pointed out, CEI admitted the fact of not receiving the returns in the prescribed format and also stated that in the absence of Rules for collection of ED, the monitoring of returns was not possible but assured that in future, the returns would be obtained in prescribed format, monitored and evaluated as suggested by Audit.

#### **5.4.13 Conclusions**

The budget estimates were unrealistic and there was huge variation between estimates and actuals. Non-formulation of Rules under the Act led the PSPCL to deposit ED into Government account at its own convenience causing the State Government to suffer losses as the ED collected by the company was either not deposited or was deposited with a delay. The distribution company irregularly adjusted the DSSF against their claims, and granted inadmissible exemptions to industrialists. Reconciliation of Government receipts with treasury records was absent and there was a weak internal control in the Department.

#### **5.4.14 Recommendations**

The Government may consider the following:

- Budget estimates be prepared realistically;
- approve rules for proper implementation of the provision of the Act without any further delay along-with insertion of clause of interest and penalty for delayed remittance of ED into Government Account;
- strengthening of internal control mechanism to ensure the adequacy of collection and remittance of ED into Government account; and
- reconcile the figure of ED and provide adequate manpower to carry out inspection of electric connections as per norms.

**Chandigarh :**  
**The**

**(AJAIB SINGH)**  
**Accountant General (Audit), Punjab**

**Countersigned**

**New Delhi :**  
**The**

**(SHASHI KANT SHARMA)**  
**Comptroller and Auditor General of India**

## Annexure- "A"

### Audit Plan for the year 2012-13 (Para 1.10)

Sl. No.	Category/Nature of receipt	Total number of auditable units	No. of Units planned and audited during the year
1.	AETC VAT Audit and Refund (including contingency)	26	26
2	Information Collection Centres	35	14
3.	AETC Mobile Wing	6	3
<b>Other Receipts</b>			
1	State Excise	69	31
2	Stamp duty and Registration Fee	174	109
3	Motor Vehicle Tax	28	28
4	Entertainment Duty and Luxury tax	26	9
5	Electricity Duty	1	1
6	Land Revenue	98	27
7	Lotteries	1	1
8	Forestry & wildlife	34	19
<b>Total Units</b>		<b>498</b>	<b>268</b>