Government of Uttar Pradesh - Report No. 1 of the year 2014

सत्यमेव जयते

Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended 31 March 2013

The Report has been laid on the table of the State Legislature Assembly on 20-06-2014

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(Revenue Sector)

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PREFACE

This Report for the year ended 31 March 2013 has been prepared for submission to the Governor under Article 151 (2) of the Constitution of India.

The audit of revenue receipts of the State Government is conducted under Section 13 and 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 and expenditure comprising Tax on Sales, Trade, etc., State Excise, Taxes on Vehicles, Goods and Passengers, Stamps and Registration Fees and Other Tax and Non Tax Receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2012-13 as well as those which came to notice in earlier years but could not be included in the previous Audit Reports.

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

OVERVIEW

This Report contains 49 paragraphs including one Review on **"Working of Enforcement Wing in Commercial Tax Department"** relating to short/non-levy of tax, duty and interest, penalty etc. involving financial effect of ` 427.93 crore. The Departments/Government have accepted audit observations involving ` 103.91 crore out of which ` 2.05 crore has been recovered. Some of the major findings are mentioned below:

I. General

The total receipts of the Government of Uttar Pradesh for the year 2012-13 were ` 1,45,903.99 crore against ` 1,30,869.70 crore during 2011-12. The revenue raised by the State Government amounted to ` 71,068.34 crore comprising tax revenue of ` 58,098.36 crore and non-tax revenue of ` 12,969.98 crore. The receipts from the Government of India were ` 74,835.65 crore (State's share of divisible Union taxes: ` 57,497.86 crore and grants-in-aid: ` 17,337.79 crore). Thus, the State Government could raise only 49 *per cent* of the total revenue.

(Paragraph 1.1)

At the end of June 2013, 30,694 audit observations involving ` 6,305.36 crore relating to 10,808 Inspection Reports issued upto December 2012 remained outstanding.

(Paragraph 1.6.1)

Our test check of the records of 1,285 units relating to Tax on Sales, trade etc., State Excise, Taxes on Vehicles, Goods and Passengers, Stamps and Registration fees and Other Tax and Non Tax Receipts conducted during the year 2012-13 revealed cases of underassessment/short levy and other deficiencies aggregating to ` 2045.28 crore in 6,373 cases. During the course of the year, the Departments concerned accepted underassessment and other deficiencies of ` 3.35 crore in 496 cases and recovered ` 1.24 crore in 359 cases.

(Paragraph 1.12.3)

II. Tax on Sales, Trade etc.

A review of "**Working of Enforcement Wing of Commercial Tax Department"** and our compliance audit of the Department revealed that:

- Despite computerisation which was begun in 2009, the policies, rules and procedures are still being developed, change management controls are not adequate and there are no disaster recovery and business continuity plans.

(Paragraph 2.8.7.1, 2.8.7.2)

- Due to absence of mechanism regarding transiting of the taxable goods through the State number of seizure cases and value of goods involved

decreased from 14632 cases of ` 557.67 crore to 30 cases of ` 1.53 crore only.

(Paragraph 2.8.7.5)

- Online downloading of Form 38 (Form of declaration of import) without filling transaction details led to risk of loss of revenue.

(Paragraph 2.8.7.6)

- Insufficient man power, non-functional control rooms and non-availability of devices etc. in Mobile Squad Units of the Department contributed to poor functioning of the Mobile Squad Units of the enforcement wing.

(Paragraph 2.8.8, 2.8.8.2)

- The Mobile Squad Units remained inoperational for 23 days to 288 days in a year, as a result cases of unauthorised movement of goods remained undetected.

(Paragraph 2.8.8.1)

- Circular issued in violation of Act resulted in short realisation of security of ` 32.37 crore.

(Paragraph 2.8.8.4)

- Lack of monitoring of seizure cases of registered dealers led to short realisation of security of ` 39.64 crore.

(Paragraph 2.8.8.5)

- Application of incorrect rate of tax, lower rate of tax, misclassification of goods and non-levy of tax resulted in non/short levy of tax of ` 16.92 crore.

(Paragraph 2.10)

- There was non-charging of interest of ` 26.71 crore on delayed credit of Entry tax to Government account.

(Paragraph 2.17.2.1)

- Non detection of cases of wrong/false claim of Input Tax Credit (ITC) led to non-reversal of ITC, non-imposition of penalty and interest of ` 14.99 crore.

(Paragraph 2.21)

III. State Excise

Due to inconsistency in the treatment of fixing of Minimum Retail Price of Indian Made Foreign Liquor and Country Liquor, the Government was deprived of revenue of ` 481.20 crore by way of additional licence fee.

(Paragraph 3.8.7.1)

Incorrect allowance of wastage resulted in undue advantage of ` 111.57 crore to whole sellers of country liquor.

(Paragraph 3.8.7.2)

Failure of the Department to comply with the Rules deprived the Government of revenue of ` 53.68 crore by way of Basic Licence Fee and security deposit.

(Paragraph 3.8.8.1)

Short lifting of minimum guaranteed quota (MGQ) of country liquor in March resulted in loss of excise duty of ` 5.51 crore.

(Paragraph 3.8.8.3)

Low recovery of alcohol from molasses led to loss of revenue of ` 736.49 crore.

(Paragraph 3.8.10)

The non-forfeiture of security deposit for violation of the Rules resulted in short realisation of revenue of ` 47.74 crore.

(Paragraph 3.8.12)

IV. Taxes on Vehicles, Goods and Passengers

There was short levy of tax of ` 16.75 lakh from 723 vehicles in six Regional Transport Offices (RTOs)/Assistant Regional Transport Offices (ARTOs) due to adoption of lesser seating capacity during the period from April 2011 to August 2012.

(Paragraph 4.9)

There was non/short imposition of penalty of ` 2.97 crore in 23 RTOs/ARTOs in respect of 3,706 vehicles carrying excess load during the period from April 2012 to March 2013.

(Paragraph 4.13)

There was non-realisation of tax/additional tax of ` 87.55 lakh in 11 RTOs/ARTOs in respect of 179 vehicles surrendered for periods beyond three months during the period from May 2011 to October 2012.

(Paragraph 4.17)

V. Stamps and Registration Fees

Non-levy of additional stamp duty in development areas resulted in non realisation of revenue of ` 11.87 lakh.

(Paragraph 5.5)

Undervaluation of properties resulted in short levy of stamp duty and registration fees of ` 3.47 crore.

(Paragraph 5.6 to 5.10)

VI. Other Tax and Non-tax Receipts

In Entertainment Tax Department, there was non-realisation of license fee of ` 5.47 lakh in 122 cases of four offices and non-deposit of maintenance charges of ` 5.53 lakh in 13 cases of two offices.

(Paragraph 6. 3 and 6.4)

There was non-realisation of royalty and interest of ` 10.22 crore from 1,655 brick kiln owners in 22 district Mining Offices during the period 2009-10 to 2012-13.

(Paragraph 6.5)

There was non-levy of penalty of ` 30.75 crore for illegal removal of brick earth by 1,400 brick kiln owners in 13 District Mining Offices during the period April 2009 to February 2013.

(Paragraph 6.6.1)

Unauthorised extraction of minerals during the period July 2003 to March 2012 in District Mining Office, Sonebhadra resulted in non-realisation of the cost of excavated mineral of ` 7.08 crore as well as penalty of ` one lakh.

(Paragraph 6.9.1)

Excavation of mineral without renewal of mining plan in two District Mining Offices during the period April 2003 and May 2012 resulted in non-realisation of the cost of excavated mineral of ` 18.82 crore.

(Paragraph 6.9.2)

In Weights and Measurement Department, there was non-realisation of fee/additional fee of ` 8.50 lakh besides penalties in three cases.

(Paragraph 6.11)

EXECUTIVE SUMMARY

What we have highlighted in this chapter	In this Chapter we present the trend of Revenue Receipts of the State Government, variations between budget estimates and actual receipts, response of the Government/Departments towards Audit, position of the Departmental Audit Committee Meetings, position of compliance made by the Government to the earlier Audit Reports, action taken by the Government/ Departments to deal with the issues raised by Audit, position of outstanding paragraphs in Inspection Reports (IRs), action taken by the Government on the recommendations made in various Audits of State Excise Department included in previous Audit Reports and impact of audit.
Trend of revenue receipts of State Government	The revenue receipts of the Government of Uttar Pradesh comprises of tax and non-tax revenue raised by the State Government, the State's share of net proceeds of divisible Union taxes and duties assigned to State and Grants-in-aid received from the Government of India. During the year 2012-13, the revenue raised by the State Government was ` 71,068.34 crore which was 49 *per cent* of total revenue receipts. The balance 51 *per cent* of receipts of ` 74,835.65 crore during 2012-13 were from the Government of India.
Non compliance of observations included in Inspection Reports (IRs)	Inspection Reports issued upto December 2012 disclosed that 30,694 paragraphs relating to 10,808 IRs involving ` 6,305.36 crore remained outstanding at the end of June 2013 for want of compliances. The first reply required to be received from the Head of Offices within one month from the date of issue of the IRs were not received (30 June 2013) for 1,147 IRs issued upto March 2013. This pendency of the IRs due to non-receipt of replies is indicative of the fact that the Heads of Offices and Heads of Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.
Very low recovery of the amount pointed out in earlier Audit Reports	In respect of Audit Reports pertaining to the years 2007-08 to 2011-12, the Government/Departments accepted audit observations involving ` 1,437.76 crore, of which only ` 36.19 crore (2.52 *per cent*) was recovered till 31 December 2013.

Departmental audit committee meetings (ACM)	We noticed that during the year 2012-13 only three Departments[1] had convened 61 Audit Committee Meetings (ACMs) wherein 300 paragraphs involving money value of ` 1.46 crore were settled, while other Departments did not take any initiative to hold ACMs. It is recommended that Government may ensure convening of periodical ACMs by all the Departments for effective and expeditious settlement of outstanding paragraphs.
Our conclusion	Audit observations involving financial effect of ` 2045.28 crore were issued during the year 2012-13. The Government/Departments have accepted observation involving ` 3.35 crore in 496 cases and recovered ` 1.24 crore in 359 cases. The amounts outstanding as arrears of revenue for more than five years were 60.70 *per cent* of the total arrears. Government may make efforts to ensure speedy recovery of the arrears. Government may take suitable steps to introduce an effective procedure for prompt and appropriate response to audit observations as well as taking action against the officials for inaction to send the replies to the IRs/paragraphs as per the prescribed time schedule and also for not taking action to recover outstanding revenue in a time bound manner.

[1] Commercial Tax, Stamps and Registration and State Excise Department.

CHAPTER-I
GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Uttar Pradesh during the year 2012-13, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in the table no. 1.1:

Table No. 1.1

(` in crore)

Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
1.	**Revenue raised by the State Government**					
	• Tax revenue	28,658.97	33,877.60	41,355.00	52,613.43	58,098.36
	• Non-tax revenue	6,766.55	13,601.09	11,176.21	10,145.30	12,969.98
	Total	**35,425.52**	**47,478.69**	**52,531.21**	**62,758.73**	**71,068.34**
2.	**Receipts from the Government of India**					
	• State's share of divisible Union taxes	30,905.72	31,796.67	43,218.90	50,350.95	57,497.86[2]
	• Grants-in-aid	11,499.49	17,145.59	15,433.65	17,760.02	17,337.79
	Total	**42,405.21**	**48,942.26**	**58,652.55**	**68,110.97**	**74,835.65**
3.	**Total revenue receipts of the Government (1 and 2)**	**77,830.73**	**96,420.95**	**1,11,183.76**	**1,30,869.70**	**1,45,903.99**
4.	**Percentage of 1 to 3**	**46**	**49**	**47**	**48**	**49**

Source: Finance Accounts of the Government of Uttar Pradesh.

The above table indicates that during the year 2012-13, the revenue raised by the State Government was 49 *per cent* of the total revenue receipts (` 1,45,903.99 crore) against 48 *per cent* in the preceding year. The balance 51 *per cent* of receipts were from the Government of India.

1.1.2 The table no. 1.2 presents the details of tax revenue raised during the period 2008-09 to 2012-13:

Table No. 1.2

(` in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Increase or decrease (-) in 2012-13 over 2011-12	Percentage of increase or decrease over 2011-12
1.	Taxes on sales, trade etc. (0040)	17,482.05	20,825.18	24,836.52	33,107.34	34,870.16	1,762.82	05.32
2.	State Excise (0039)	4,720.01	5,666.06	6,723.49	8,139.20	9,782.49	1,643.29	20.19
3.	Stamps and Registration Fees (0030)	4,138.27	4,562.23	5,974.66	7,694.40	8,742.17	1,047.77	13.62
4.	Taxes on Vehicles (0041)	1,124.66	1,403.50	1,816.89	2,375.86	2,992.92	617.06	25.97
5.	Taxes on Goods and Passengers (0042)	266.49	271.05	241.69	4.81	1.04	(-) 3.77	(-) 78.38
6.	Taxes and Duties on Electricity (0043)	216.72	272.16	357.00	458.20	484.91	26.71	05.83
7.	Land Revenue (0029)	549.28	663.14	1134.16	490.68	804.64	313.96	63.98
8.	Other taxes and duties on commodities and services (0045)	140.58	193.34	245.15	312.46	385.08	72.62	23.24
9.	Hotel Receipts (0023)	20.91	20.94	25.44	30.46	34.95	4.49	14.74
	Total	**28,658.97**	**33,877.60**	**41,355.00**	**52,613.41**	**58,098.36**	**5,484.95**	**10.43**

Source: Finance Accounts of the Government of Uttar Pradesh.

[2] For details, please see Statement No. 11 - detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Uttar Pradesh for the year 2011-12. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties, 0044 - Service tax and 0045 - Other taxes and duties on commodities and services - Share of net proceeds assigned to States booked in the Finance Accounts under 'A - Tax revenue' have been excluded from revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

Reasons for variations have not been received (December 2013) despite request (September 2013).

1.1.3: The table no. 1.3 presents the details of the non-tax revenue raised during the period 2008-09 to 2012-13:

Table No. 1.3

(` in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Increase or decrease (-) in 2012-13 over 2011-12	Percentage of increase or decrease over 2011-12
1.	Misc. general services (0075)	1,698.79	8,075.13	5,120.67	4,035.23	4,494.11	458.88	11.37
2.	Interest receipts (0049)	963.87	603.66	689.32	789.22	1,186.41	397.19	50.33
3.	Forestry and wild life (0406)	271.92	271.29	280.34	285.88	332.08	46.20	16.16
4.	Non-ferrous mining and metallurgical industries (0853)	427.31	604.97	653.39	593.28	722.13	128.85	21.72
5.	Co-operation (0425)	26.46	16.39	9.38	9.78	11.99	2.21	22.60
6.	Miscellaneous[3]	2,499.74	3,203.40	3,711.37	3,484.40	5,535.76	2,051.36	58.87
7.	Others[4]	878.46	826.25	711.74	947.51	687.50	(-)260.01	(-) 27.44
Total		**6,766.55**	**13,601.09**	**11,176.21**	**10,145.30**	**12,969.98**	**2,824.68**	**27.84**

Source: Finance Accounts of the Government of Uttar Pradesh.

Reasons for variations have not been received (December 2013) despite request (September 2013).

1.2 Variations between budget estimates and actual receipts

Variations between budget estimates (BEs) and actual receipts for the year 2012-13 in respect of Major Heads of tax and non-tax revenue are mentioned in the table no. 1.4:

Table No. 1.4

(` in crore)

Sl. No.	Head of Revenue	Budget estimates	Actual receipts	Variation Excess (+) or Shortage (-)	Variation percentage
A. Tax Revenue					
1.	Tax on sales, trade etc. (0040)	38,492.18	34,870.16	(-) 3,622.02	(-)9.41
2.	State Excise (0039)	10,068.28	9,782.49	(-) 285.79	(-) 2.84
3.	Stamps and Registration Fees (0030)	9,308.00	8,742.17	(-) 565.83	(-) 6.08
4.	Taxes on Vehicles, Goods and Passengers (0041) & (0042)	3,093.90	2,993.96	(-) 99.94	(-) 3.23
5.	Taxes and Duties on Electricity (0043)	411.00	484.91	73.91	17.98
6.	Land Revenue (0029)	299.96	804.64	504.68	168.25
7.	Other taxes and duties on commodities and services (0045)	348.34	385.08	36.74	10.55
8.	Hotel Receipts (0023)	35.38	34.95	(-) 0.43	(-) 01.22
B. Non-Tax Revenue					
9.	Misc. General Services (0075)	3,264.23	4,494.11	1,229.88	37.68
10.	Interest receipts (0049)	924.36	1,186.42	262.06	28.35
11.	Forestry and wild life (0406)	353.93	332.08	(-) 21.85	(-) 6.17
12.	Non-ferrous mining and metallurgical industries (0853)	954.00	722.13	(-) 231.87	(-) 24.31
13.	Co-operation (0425)	11.25	11.99	0.74	06.58

[3] Miscellaneous include receipts from following:
Medium Irrigation, Minor Irrigation, Education, Sports, Art and Culture, Other administrative services, Police, Crop husbandry, Social Security and Welfare, Medical and Public Health, Road and Bridges, Public Works etc.

[4] Others include receipts from following:
Other Fiscal Services, Dividends and Profits, Public Service Commission, Stationery and Printing, Family Welfare, Water Supply and Sanitation, Housing, Urban Development, Information and Publicity, Labour and Employment etc.

It can be seen from the above table that variations between BEs and actuals ranged between (-) 24.31 *per cent* and 168.25 *per cent.*

Reasons for variations have not been received (December 2013) despite request (September 2013).

1.3 Cost of collection of major revenue receipts

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2012-13 along with All India Percentage of expenditure on collection in 2011-12 are mentioned in the table no. 1.5:

Table No. 1.5

(` in crore)

Head of revenue	Gross collection	Expenditure on collection	Percentage of expenditure to collection	All India average percentage of collection of 2011-12
Tax on sales, trade etc.	34,870.16	430.31	1.23	0.83
State Excise	9,782.49	116.88	1.19	2.98
Stamps and Registration Fees	8,742.17	237.57	2.72	1.89
Taxes on Vehicles, Goods and Passengers	2,993.96	95.45	3.19	2.96

Source: Finance Accounts of the Government of Uttar Pradesh.

The above table indicates that the percentage of expenditure on collection was higher than all India average percentage collection of preceding year under the heads of revenue 'Tax on sales, trade etc., Stamps and Registration Fee and Taxes on Vehicles, Goods and Passengers.' The Departments need to look into the matter and take steps to reduce the higher cost of collection. However, we appreciate that the cost of collection was below the all India average percentage of preceding year under the heads of revenue 'State Excise'.

1.4 Analysis of arrears of revenue in terms of total outstanding for more than five years

The arrears of some principal heads of revenue as on 31 March 2013 as reported by the Departments[5] amounted to ` 23,573.67 crore of which ` 14,310.37 crore was outstanding for more than five years are shown in the table no. 1.6:

Table No. 1.6

(` in crore)

Sl. No.	Head of Revenue	Arrears upto 31 March 2013	Arrears more than five years old upto 31 March 2013
1.	Tax on sales, trade etc.	22,850.53	14,256.01
2.	State Excise	54.06	48.51
3.	Stamps and Registration Fees	586.67	Not available
4.	Taxes on Vehicles	53.83	Not available
5.	Entertainment Tax	28.58	5.85
	Total	**23,573.67**	**14,310.37**

The details of arrears outstanding for more than five years were not available with Stamps and Registration Department and Transport Department.

[5] Commercial Tax, State Excise, Stamps and Registration, Transport and Entertainment Tax Department.

The amounts outstanding as arrears of revenue for more than five years were 60.70 *per cent* of the total arrears.

We recommend that the State Government may make efforts to ensure the recovery of the outstanding amounts at the earliest.

1.5 Arrears in assessment/scrutiny

As per sub Section 3 of Section 29 of UP Value Added Tax Act, the time limit for assessment has been prescribed for three years from the end of any assessment year.

The details of assessments relating to Commercial Tax Department for the year ending 31 March 2013 as intimated by the Department are mentioned in the table no. 1.7:

Table No. 1.7

Number of assessment cases pending at the beginning of the year 2012-13	Number of cases which became due for assessment during the year	Number of cases disposed during the year	Number of cases pending at the end of the year 2012-13
1,84,052	4,58,225	4,95,505	1,46,772

The Department needs to complete the pending assessment cases within the prescribed time limit.

1.6 Response of the Departments/Government towards Audit

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

1.6.1 Outstanding Inspection Reports and audit observations

We reviewed the IRs issued upto December 2012 and found that 30,694 paragraphs involving ` 6,305.36 crore relating to 10,808 IRs remained outstanding at the end of June 2013, as mentioned in the table no. 1.8 along with the corresponding figures for the preceding two years:

Table No. 1.8

Sl. No.	Description	June 2011	June 2012	June 2013
1.	Number of inspection reports pending settlement	10,349	11,538	10,808
2.	Number of outstanding audit observations	25,501	28,455	30,694
3.	Amount of revenue involved (` in crore)	4,445.39	5,234.12	6,305.36

Age-wise breakup of the outstanding paragraphs and IRs at the end of June 2013 is mentioned in table no. 1.9:

Table No. 1.9

Sl. No.	Description	Up to 10 years old	11 to 20 years old	Above 20 years old	Total
1.	Number of inspection reports pending settlement	6,751	2,945	1,112	10,808
2.	Number of outstanding audit observations	22,986	5,951	1,757	30,694
3.	Amount of revenue involved (` in crore)	5,399.73	862.10	43.53	6,305.36

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved are mentioned in the table no. 1.10:

Table No. 1.10

Sl. No.	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount of revenue involved (` in crore)	Year to which the observations relate
1.	Tax on sales, trade etc. including Entry Tax	4,854	16,796	2,582.71	1984-85 to 2012-13
2.	State Excise	1,169	2,315	335.17	1984-85 to 2012-13
3.	Taxes on Vehicles	1,066	3,871	805.30	1984-85 to 2012-13
4.	Stamps and Registration Fees	2,803	5,445	332.23	1984-85 to 2012-13
5.	Electricity Duty	177	222	171.89	1988-89 to 2012-13
6.	Entertainment Tax	162	272	12.65	1997-98 to 2012-13
7.	Forestry and Wild life	515	1,406	1,590.92	2003-04 to 2012-13
8.	Non-ferrous mining and metallurgical industries	62	367	474.49	2010-11 to 2012-13
Total		**10,808**	**30,694**	**6,305.36**	

1.6.2 Compliance to audit observations

The first reply required to be received from the Heads of offices within one month from the date of issue of IRs were not received for 1,147 IRs issued upto March 2013. This pendency of IRs is indicative of the fact that the Heads of Offices/Departments did not initiate action to rectify the lapses, omissions and irregularities pointed out by the AG in IRs.

We recommend that the Government may take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as initiate action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and/or recover outstanding demand in a time bound manner.

1.7 Departmental audit committee meetings

The Government sets up audit committees during various periods to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the Audit Committee Meetings held during the year 2012-13 and the paragraphs settled are mentioned in the table no. 1.11:

Table No. 1.11

Name of Department	Number of meetings held	Number of paragraphs settled	Amount (` in crore)	Period of the IRs in respect of paragraphs settled
Commercial Tax	32	262	0.88	1995-96 to 2012-13
Stamps and Registration	24	06	0.02	2010-11
State Excise	05	32	0.56	1996-97, 1998-99 to 2002-03 and 2009-10 to 2012-13
Total	**61**	**300**	**1.46**	

Audit will like to appreciate the efforts made by State Government in convening a sizable number of audit committee meetings.

In addition to Audit Committee Meetings, 552 paragraphs of ` 11.12 crore were settled during the year 2012-13 through spot discussions and replies received from the Departments as detailed in table no. 1.12:

Table No. 1.12

Name of Department	Number of paragraphs settled	Amount (` in crore)
Commercial Tax	426	4.79
Stamps and Registration	30	0.24
State Excise	73	5.32
Transport	05	0.13
Land Revenue	07	0.44
Geology and Mining	02	0.19
Entertainment Tax	09	0.01
Total	**552**	**11.12**

In order to expedite clearance of outstanding audit observations, it is necessary that Audit Committees should meet regularly and ensure appropriate action on all audit observations leading to their settlement.

1.8 Response of the Departments to the draft audit paragraphs

The Department of Finance issued directions to all the Departments 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. We forward the draft paragraphs to the Secretaries of the concerned Departments through demi-official letters by the AG, drawing their attention to the audit findings and requesting them to send their response within six weeks. In case of non-receipt of replies from the Departments the fact is invariably indicated at the end of each paragraph included in the Audit Report.

Fifty five draft paragraphs and one review (clubbed into 48 paragraphs and one review included in this Report) were forwarded to the Secretaries of the Departments concerned in July 2013 through demi-official letters. The Secretaries of the Departments concerned sent replies for one review and 53 draft paragraphs. Replies of two draft paragraphs of Commercial Tax Department have not been received so far (December 2013).

1.9 Follow-up on Audit Reports - summarised position

To ensure accountability of the executive in respect of all the issues dealt in the various Audit Reports (ARs), the Department of Finance issued instructions in June 1987 to initiate *suo moto* action on all paragraphs/reviews featured in the Audit Reports irrespective of whether the cases were taken up for examination by the Public Accounts Committee (PAC) or not. Out of 169 paragraphs/reviews included in Audit Reports relating to the period 2007-08 to 2011-2012 which have already been laid before the State Legislature, explanatory notes (ENs) in respect of 87 paragraphs/reviews were not received in our office as on November 2013. The outstanding ENs dating back to 2007 are as mentioned in the table no. 1.13:

Table No. 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 ENs have been received from the Departments	No. of paragraphs/ reviews on which ENs have not been received from the Departments
2007-08	17 February 2009	16	14	2
2008-09	28 January 2010	13	9	4
2008-09 (Stand Alone Report on State Excise)	5 August 2011	29	29	0
2009-10	8 August 2011	20	13	07
2010-11	30 May 2012	35	17	18
2011-12	16 September 2013	56	0	56
Total		**169**	**82**	**87**

There are specific provisions regarding Action Taken Note/Report (ATN/ATR) that it should be intimated within six months of the PAC meetings. However, no ATNs/ATRs have been intimated by the Department so far.

1.10 Analysis of the mechanism for dealing with the issues raised by Audit in State Excise Department

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last five years in respect of **State Excise Department** has been evaluated and included in this Audit Report.

The succeeding paragraphs 1.10.1 to 1.10.2 discuss the performance of the State Excise Department in dealing with the cases detected in the course of local audit conducted during the last six years and also the cases included in the Audit Reports for the years 2007-08 to 2011-12.

1.10.1 Position of Inspection Reports

The summarised position of Inspection Reports issued during the last six years, paragraphs included in these reports and their status as on March 2013 are mentioned in the table no. 1.14:

Table No. 1.14

(` in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2007-08	773	1,135	399.21	65	90	49.16	68	92	42.90	770	1,133	405.47
2008-09	770	1,133	405.47	69	111	14.98	45	72	10.73	794	1,172	409.72
2009-10	794	1,172	409.72	87	190	26.51	45	69	12.99	836	1,293	423.24
2010-11	836	1,293	423.24	79	171	119.00	55	112	4.21	860	1,352	538.03
2011-12	860	1,352	538.03	190	567	246.02	35	74	17.27	1,015	1,845	766.78
2012-13	1,015	1,845	766.78	120	320	47.83	11	49	1.04	1,124	2,116	813.57

During the years 2008-09 to 2012-13, 371 paragraphs involving money value ` 49.99 crore were settled in 19 Audit committee meetings.

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

1.10.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned in the table no. 1.15:

Table No. 1.15

(` 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 (up to 31.12.2013)
2007-08	2	1.26	01	0.76	0.26
2008-09	29	1,344.56	09	4.24	3.93
2009-10	03	1.44	0	0	0
2010-11	11	1.03	05	3.04	0.52
2011-12	08	12.08	02	0.49	0.12
Total	**53**	**1,360.37**	**17**	**8.53**	**4.83**

The foregoing table shows that the acceptance of the paragraphs is very low. The amount of recovery of accepted paragraphs is only 57 *per cent*.

We recommend that the Department ensure that it recovers at least the amounts involved in the accepted paragraphs.

1.11 Audit planning

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

During the year 2012-13, the audit universe comprised of 2,581 auditable units, of which 1,285 units were audited. The details are shown in the table no. 1.16:

Table No. 1.16

Sl. No.	Name of Department	Total number of auditable units	Total number of audited units
1.	Commercial Tax	1,643	616
2.	State Excise	296	148
3.	Transport	72	72
4.	Entertainment tax	72	24
5.	Stamps and Registration	425	352
6.	Geology and Mining	73	73
Total		**2,581**	**1,285**

While planning units under high risk had been given preference over medium and low risk units for audit.

Besides the compliance audit mentioned above, a review of **"Working of Enforcement Wing in Commercial Tax Department"** has also been attempted.

1.12 Impact of audit

1.12.1 Status of compliance of Audit Reports (2007-08 to 2011-12)

In our Audit Reports for the years 2007-08 to 2011-12, cases of underassessment, non/short levy of taxes, loss of revenue, failure to raise demands, etc. involving ` 3,517.44 crore were reported. As of November 2013, the Departments concerned have accepted observations of ` 1,437.76 crore and recovered ` 36.19 crore. Audit Report-wise details of cases accepted and recovered are mentioned in the table no. 1.17:

Table No. 1.17

(` in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made (up to 31.12.2013)
2007-08	1,035.85	927.83	12.83
2008-09	109.07	12.23	2.28
2008-09 (Stand Alone Report on State Excise)	1,344.56	4.24	3.93
2009-10	69.51	8.77	3.18
2010-11	100.50	46.28	11.37
2011-12	857.95	438.41	2.60
Total	**3,517.44**	**1,437.76**	**36.19**

The recovery in respect of the accepted cases is extremely low (2.52 *per cent*).

The Government needs to take necessary steps for prompt recovery of the amounts involved, especially in the accepted cases.

1.12.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

In our 5,492 Inspection Reports of 2007-08 to 2011-12, total number of 18,912 cases of underassessment, non/short levy of taxes, non-levy of penalties and other deficiencies involving ` 3,763.83 crore were reported. The Departments concerned accepted underassessments and other deficiencies of ` 31.25 crore involved in 2,501 cases. The Departments recovered ` 15.72 crore in 1,371 cases. Details of outstanding IRs are given in the table no. 1.18:

Table No. 1.18

(` in crore)

Sl. No.	Name of Department	Number of outstanding IRs	Number of outstanding audit observations	Amount of revenue involved	Accepted money value	Recovery made (up to 31.12.2013)
1.	Commercial Tax	2,578	11,022	2,084.95	17.93	2.48
2.	State Excise	1,169	2,315	335.17	2.65	2.65
3.	Transport	347	2,034	694.75	10.13	10.13
4.	Stamps and Registration	1,336	3,174	174.47	0.54	0.46
5.	Geology and Mining	62	367	474.49	0	0
	Total	**5,492**	**18,912**	**3,763.83**	**31.25**	**15.72**

The recovery in respect of the accepted cases is low.

1.12.3 Status of compliance to Inspection Reports (2012-13)

Our test check of the records of 1,285 units relating to Tax in Sales, trade etc., State Excise, Taxes on Vehicles, Goods and Passengers, Stamps and Registration fees and Other Tax and Non Tax Receipts conducted during the year 2012-13 revealed cases of underassessment/short levy and other deficiencies aggregating ` 2045.28 crore in 6,373 cases. During the course of the year, the Departments concerned accepted underassessment and other deficiencies of ` 3.35 crore in 496 cases and recovered ` 1.24 crore in 359 cases.

This report

This Report contains 49 paragraphs including one review of **"Working of Enforcement Wing in Commercial Tax Department"** relating to short/non-levy of tax, duty, interest and penalty etc., involving financial effect of ` 427.93 crore. The Departments/Government has accepted audit observations involving ` 103.91 crore out of which ` 2.05 crore has been recovered (December 2013).

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a review on **"Working of Enforcement Wing in Commercial Tax Department"** and illustrative cases of ` 149.94 crore selected from observations noticed during our test check or records relating to short levy of VAT, short/non levy of entry tax, and non-imposition of penalty, irregular exemption on declaration forms, short levy due to incorrect allowance of Form 'D', incorrect application of rate of tax etc.
Trend of receipts	In 2012-13, the collection from Tax on Sales, Trade etc. increased by 5.32 *per cent* over the previous year. The actual receipts of the Department were short by ` 3,622.52 crore (9.41 *per cent*) against the budget estimate.
Poor functioning of Enforcement Wing	The Enforcement wing (EW) of the Department comprises of Mobile Squad Units (MSUs) and Special Investigation Branches (SIBs). We noticed several deficiencies in functioning of the EW which is featured in the review on "Working of Enforcement Wing in Commercial Tax Department."
Status of compliance to Inspection Reports (2012-13)	We conducted test check of the assessments and other records in 54,141 cases out of 1,17,213 cases in 616 Commercial Tax Offices, during 2012-13, and found non/short levy of tax due to misclassification of goods and application of incorrect rate of tax, non/short levy of entry tax, incorrect exemption, etc. of ` 778.39 crore in 3,589 cases. During the year 2012-13, the Department accepted underassessment and other deficiencies of ` 2.94 crore involved in 438 cases. The Department recovered ` 89.26 lakh in 316 cases during the year 2012-13.

Our conclusion	The Department needs to improve the functioning of Enforcement Wing so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action recover the short/non-levy of tax, incorrect exemption on declarations forms, incorrect application of rate of tax etc. pointed out by us more so in those cases where it has accepted our observation.

CHAPTER-II
TAX ON SALES, TRADE ETC.

2.1 Tax administration

Trade Tax (TT) (known as Commercial Tax after December 2007) is the major source of revenue of the State and accounted for 60 *per cent* (` 34,870.16 crore) of the total tax revenue (` 58,098.36 crore) of the State during the year 2012-13. The levy of commercial tax is governed by the provisions of the Uttar Pradesh Trade Tax Act, 1948 (UPTT Act) and Rules made thereunder upto 31 December 2007 and thereafter by the provisions of the Uttar Pradesh Value Added Tax Act, 2008 (UPVAT Act) implemented from 1 January 2008. The levy of Entry Tax is governed by the provisions of the Uttar Pradesh Tax on Entry of Goods into Local Areas Act, 2007 and the Rules made thereunder. The levy of Central Sales Tax is regulated by the provisions of the Central Sales Tax Act, 1956 (CST Act) and the Rules made thereunder.

The Principal Secretary *Vanijya Kar Evam Manoranjan Kar* Uttar Pradesh is the administrative head at Government level. The overall control and direction of the Commercial Tax Department vests with the Commissioner, Commercial Tax (CCT), Uttar Pradesh, headquartered at Lucknow. He is assisted by 104 Additional Commissioners, 157 Joint Commissioners (JCs), 494 Deputy Commissioners (DCs), 964 Assistant Commissioners (ACs) and 1,275 Commercial Tax Officers (CTOs).

2.2 Trend of receipts

Actual receipts from Tax on sales, trade etc. during the last five years from 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the table no. 2.1:

Table No. 2.1

(` in crore)

Year	Budget estimates	Actual receipts	Variation excess(+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual TT/VAT receipts vis-à-vis total tax receipts
2008-09	19,705.00	17,482.05	(-) 2,222.95	(-) 11.28	28,658.97	61.00
2009-10	20,741.27	20,825.18	(+) 83.91	0.40	33,877.60	61.47
2010-11	26,978.34	24,836.52	(-) 2,141.82	(-) 7.94	41,355.00	60.06
2011-12	32,000.00	33,107.34	(+) 1,107.34	3.46	52,613.43	62.93
2012-13	38,492.18	34,870.16	(-) 3,622.02	(-) 9.41	58,098.36	60.02

Source: Finance Accounts of the Government of Uttar Pradesh.

In 2012-13, the collection from Tax on Sales, Trade etc. increased by 5.32 *per cent* over the previous year. Further, variations between budget estimates (BEs) and actual receipts ranged between (-) 11.28 *per cent* and 3.46 *per cent* during 2008-09 to 2012-13.

The Department, however, did not furnish specific reasons of variation between the BEs and actual receipts.

We recommend that the Government may ensure that variation between BEs and actual receipts is minimised by making BEs more realistic.

2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ` 22,850.53 crore of which ` 14,256.01 crore was outstanding for more than five years. The table no. 2.2 depicts the position of arrears of revenue during the period 2008-09 and 2012-13.

Table No. 2.2

(` in crore)

Year	Opening balance of arrears	Closing balance of arrears
2008-09	11,081.94	15,389.85
2009-10	15,389.85	16,453.30
2010-11	16,453.30	16,665.41
2011-12	16,665.41	18,960.28
2012-13	18,960.28	22,850.53

Source: Information provided by the Department.

Out of ` 22, 850.53 crore of arrears pending as on 31.03.2013, the Department stated that the demand certified for recovery as arrears of land revenue of ` 1,730.04 crore has been issued, ` 4,566.12 crore had been stayed by the Courts and Government, recovery outstanding on Government Departments and semi-Government Departments was ` 489.86 crore, recovery certificates of ` 1,166.26 crore were sent to other States, recovery certificates of ` 51.78 crore pertained to transporters in the State, demand of ` 1,579.44 crore is likely to be written-off. Specific action taken in respect of the remaining arrears of ` 13,267.03 crore has not been intimated by the Department.

2.4 Cost of tax on sales, Trade etc. per assessee

The cost of Tax on Sales, Trade etc. per assessee during the period from 2010-11 to 2012-13 is mentioned in the table no. 2.3:

Table No. 2.3

Year	Number of dealers	Gross collection (` in crore)	Expenditure on collection (` in crore)	Cost per assessee (In `)
2010-11	5,94,695	24,836.52	391.45	6,582.37
2011-12	6,42,645	33,107.34	440.89	6,860.55
2012-13	7,08,636	34,870.16	430.31	6,072.37

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

2.5 Arrears in assessment

As per sub Section 3 of Section 29 of UP Value Added Tax Act the time limit for assessment has been prescribed for three years from the end of any assessment year.

The details of assessments relating to commercial tax pending at the beginning of the year, additional cases that became due for assessment during the year, cases disposed of during the year and cases pending at the end of the year as furnished by the Commercial Tax Department during 2008-09 to 2012-13 are mentioned in the table no. 2.4:

Table No. 2.4

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed of during the year	Cases pending at the close of the year	Percentage of column 6 to 4
2008-09	9,38,667	5,33,358	14,72,025	9,50,313	5,21,712	35.44
2009-10	5,21,712	1,83,378	7,05,090	6,92,704	12,386	1.76
2010-11	12,386	5,44,458	5,56,844	5,50,802	6,042	1.09
2011-12	6,042	6,54,378	6,60,420	4,76,368	1,84,052	27.87
2012-13	1,84,052	4,58,225	6,42,277	4,95,505	1,46,772	22.85

Source: Information provided by the Department.

From the above it would be seen that pendency in finalisation of assessments ranged between 1.09 *per cent* and 35.44 *per cent.*

The Department needs to complete the pending assessment cases within the prescribed time limit.

2.6 Cost of collection

The gross collection from Taxes on sales, Trade etc., expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2008-09 to 2012-13 along with the all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned in the table no. 2.5:

Table No. 2.5

(` in crore)

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the previous year
2008-09	17,482.05	272.54	1.56	0.83
2009-10	20,825.18	358.43	1.72	0.88
2010-11	24,836.52	406.65	1.64	0.96
2011-12	33,107.34	440.89	1.33	0.75
2012-13	34,870.16	430.31	1.23	0.83

Source: Finance Accounts of the Government of Uttar Pradesh.

The cost of collection is higher than the all India average during the years 2008-09 to 2012-13.

We recommend that the Government may take appropriate steps to reduce the cost of collection.

2.7 Impact of audit

2.7.1 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12):

During the period 2007-08 to 2011-12 we had pointed out through our Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ` 1,560.51 crore in 10,987 cases. Of these, the Department/Government had accepted audit observations in 1,843 cases involving ` 17.93 crore and had since recovered ` 2.48 crore in 732 cases. The details are shown in the table no. 2.6:

Table No. 2.6

(` in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	489	1,210	1,191.14	124	0.51	114	0.46
2008-09	591	1,967	64.65	202	5.60	128	0.68
2009-10	685	2,711	77.32	559	7.13	112	0.36
2010-11	892	2,648	94.73	436	1.63	148	0.53
2011-12	615	2,451	132.67	522	3.06	230	0.45
Total	**3,272**	**10,987**	**1,560.51**	**1,843**	**17.93**	**732**	**2.48**

2.7.2 Status of compliance to Inspection Reports (2012-13):

Test check of the assessments and other records in 54,141 cases out of 1,17,213 cases in 616 Commercial Tax Offices, conducted during 2012-13,

revealed non/short levy of tax, and other irregularities of ` 778.39 crore in 3,589 cases, which fall under the following categories as mentioned in table no. 2.7:

Table No. 2.7

(` in crore)

Sl. No.	Categories	Number of cases	Amount
1.	**Working of Enforcement wing in Commercial Tax Department (A review)**	1	73.20
2.	Non/short levy of penalty/interest	711	75.47
3.	Non/short levy of tax	334	54.67
4.	Irregular grant of exemption from tax	326	18.45
5.	Incorrect classification of rate of goods	301	8.50
6.	Misclassification of goods	4	0.08
7.	Irregularities relating to central sales tax	56	3.21
8.	Mistakes in computation	14	16.96
9.	Turnover escaping tax	11	0.09
10.	Other irregularities	1,831	527.76
Total		**3,589**	**778.39**

During the year 2012-13, the Department accepted underassessment and other deficiencies of ` 2.94 crore involved in 438 cases of which one case involving ` 8,000 had been pointed out during 2012-13 and the remaining in the earlier years. The Department recovered ` 89.26 lakh in 316 cases during the year 2012-13.

A review of **'Working of Enforcement Wing in Commercial Tax Department'** and a few illustrative cases involving financial impact of ` 149.94 crore are mentioned in the following paragraphs.

2.8 Working of Enforcement Wing in Commercial Tax Department

Highlights

- Despite computerisation which was begun in 2009, the policies, rules and procedures are still being developed, change management controls are not adequate and there are no disaster recovery and business continuity plans.

(Paragraph 2.8.7.1, 2.8.7.2)

- Due to absence of mechanism regarding transiting of the taxable goods through the State number of seizure cases and value of goods involved decreased from 14632 of ` 557.67 crore to 30 of ` 1.53 crore only.

(Paragraph 2.8.7.5)

- Online downloading of Form 38 (Form of declaration of import) without filling transaction details led to risk of loss of revenue.

(Paragraph 2.8.7.6)

- Insufficient manpower, non-functional control rooms and non-availability of devices etc. in Mobile Squad Units of the Department contributed to poor functioning of the Mobile Squad Units of the enforcement wing.

(Paragraph 2.8.8, 2.8.8.2)

- The Mobile Squad Units remained inoperational for 23 days to 287 days in a year, as a result cases of unauthorised movement of goods remained undetected.

(Paragraph 2.8.8.1)

- Circular issued in violation of Act resulted in short realisation of security of ` 32.37 crore.

(Paragraph 2.8.8.4)

- Lack of monitoring of seizure cases of registered dealers led to short realisation of security of ` 39.64 crore.

(Paragraph 2.8.8.5)

2.8.1 Introduction

The Enforcement Wing of the Commercial Tax Department derives its powers from the provisions under Sections 13A, 28, 28A and 28B of UP Trade Tax (UPTT) Act read with Rules 83 and 87 of UP Trade Tax Rules and under Sections 45 to 52 of UP Value Added Tax (UPVAT) Act 2008 read with Rules 52 to 59 of UPVAT Rules 2008. The constituents of the Enforcement Wing are Check Posts (CPs abolished between August 2008 and August 2009), Mobile Squad Units (MSUs) and Special Investigation Branches (SIBs), which function to check the evasion of tax.

Eighty three CPs at the strategic points on borders of State were responsible for checking the movement of goods from outside the State. MSUs are deployed to check evasion of tax during movement of goods.

Forty six SIBs were set up to investigate tax evasion cases**.** These SIBs are responsible for collection of information regarding prominent items of tax and

examining the methodologies adopted by dealers to evade tax, like irregular inter and intra-State sale, stock transfers, misinterpretation of decisions of Hon'ble Courts, non-payment of tax etc. The SIBs conduct confidential surveys and when required conduct raids/searches[1] in premises of dealers/transporters to check tax evasion.

Value Added Tax (VAT) was made applicable in Uttar Pradesh with effect from 1 January 2008. During 2008-09 and 2009-10, all the 83 check posts were abolished in two phases by the Government of Uttar Pradesh. After the abolition of CPs, the MSUs have become the sole agency of the Department to check evasion of tax, if any, by the movement of goods, within and transiting through the State without prescribed documents. The number of MSUs was increased[2] from 55 to 150 in June 2008.

We conducted a review of "Working of Enforcement Wing in Commercial Tax Department" which revealed a number of deficiencies in the post VAT System i.e. after the abolition of the check posts and also lacunae in the UP VAT Act, rules made thereunder and circular issued from time to time.

2.8.2 Organisational Setup

The determination of policy, monitoring and control at the Government level is done by the Principal Secretary *Vanijya Kar Evam Manoranjan Kar*, Uttar Pradesh. The overall control and direction of the Commercial Tax Department is with the Commissioner, Commercial Tax, Uttar Pradesh (CCT) with headquarters at Lucknow. For the purpose of administrative control and proper performance of enforcement activities, the Department has been divided into 20 zones. Zones are further divided into 45 ranges. Working of Enforcement Wing is monitored at Headquarters by Additional Commissioner, CT who is assisted by Joint Commissioner (JC) (SIB) and Joint Commissioner (MS). In field offices Additional Commissioner Grade-II (SIB) controls/monitors activities of Enforcement Wing at zonal level. He is assisted by Joint Commissioner (SIB). Deputy Commissioner (DC) is in-charge of SIB units at range level and is assisted by Assistant Commissioner (AC) and Commercial Tax Officer (CTO). There are 144 units[3] of Mobile Squads (MS) headed by an AC (MS). All the MS of a range report to JC (SIB) of the range. Information Technology (IT) wing of the Department is headed by a JC (IT) at the Headquarters, who is assisted by one DC (IT), one AC (IT) and supporting staff.

2.8.3 Audit Objectives

The review was conducted with a view to ascertain:

- Conformity to the compliance of provisions of Acts and Rules made under notifications and circulars issued from time to time.
- Efficiency and effectiveness of SIB and MSUs in preventing the evasion of tax.
- Impact of Computerisation in Enforcement Wing.
- Effectiveness of internal control system.
- Utilisation of manpower in Enforcement Wing.

[1] Under Section 45 of UPVAT Act and under Section 28 A and B of UPTT Act.
[2] Vide notification no. *Ka.Ni.*-4-1080/11-2008-400 (35)/91 dated 10 June 2008.
[3] Against 150 sanctioned units as on 01 January 2013.

2.8.4 Audit Criteria

The audit criteria for the topic of review have been derived from the following sources:

- UPTT Act 1948, UPVAT Act 2008 and Rules made thereunder.
- Enforcement Manual (EM) issued by the Commercial Tax Department.
- Notifications and circulars issued by the Government/Department from time to time.

2.8.5 Audit Scope and Methodology

We conducted the review between April 2012 and March 2013 and covered the period from 2008-09 to 2011-12. The scope of the audit was limited to the checking of records of Enforcement Wing of the Department. We test checked the records of CCT office and 35 MSUs[4] and 19 DC (SIB)[5] of 14 zones[6]. The DC (SIB) concerned of the zone under which these MSUs were working, were also selected for audit. In addition we collected information from 17 MSUs[7] and three zones of SIB[8] for the period 2008-09 to 2011-12. An entry conference was held with the Department in November 2012 in which the Department was apprised of the scope and methodology of audit. The findings of the review were forwarded to the Department and the Government in July 2013. An Exit Conference was held in September 2013 in which the Additional Commissioner represented the Department and Secretary, Department of Commercial Tax and Entertainment Tax represented the Government. The response of the Government/Department has been incorporated in the relevant paragraphs.

2.8.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of Commercial Tax Department for providing necessary information and records for audit.

Audit Findings

2.8.7 Use of Information Technology (IT)

The Department introduced (July 2009 and September 2009) an online system of downloading of Transit Declaration Forms (TDFs)[9] and form[10] 38 by the dealers/transporters respectively.

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[4] AC MS-2 Agra, AC MS-1 and 2 Bareilly, AC MS-Bulandshahar, AC MS-1, 4, 5 and 6 Gautam Budha Nagar, AC MS-1, 2, 3 and 4 Ghaziabad, AC MS-2 and 3 Gorakhpur, AC MS-1 and 2 Jhansi, AC MS-1, 2 and 3 Kanpur, AC MS-1 Lucknow, AC MS-1 and 4 Mathura, AC MS-2 ,4 and 5 Meerut, AC MS-2, 3 and 5 Moradabad, AC MS-1, 3 and 4 Saharanpur, AC MS-Mughalsarai at Varanasi, AC MS-1 Chandauli at Varanasi, AC MS-2 Naubatpur Chandauli at Varanasi, AC MS-4 Varanasi.

[5] DC (SIB) Range A and B Agra, DC (SIB) Range A and B Bareilly, DC (SIB) Range A and B Gorakhpur, DC (SIB) Range Jhansi, DC (SIB) Range A, C and D Kanpur, DC (SIB) Range Mathura, DC (SIB) Range A & B Meerut, DC (SIB) Range A and B Moradabad, DC (SIB) Range A and B Saharanpur, DC (SIB) Range A and B Varanasi.

[6] Agra, Aligarh, Bareilly, Gautam Buddha Nagar, Ghaziabad I, Gorakhpur, Jhansi, Kanpur I and II, Lucknow I, Meerut, Moradabad, Saharanpur and Varanasi I.

[7] AC MS-1, 3, 4, 5, 6, 7 and 8 Agra, AC MS-9, 10, 11 and 12 Kanpur, AC MS-2, 3, 4 and 5 Lucknow, AC MS-2 and 3 Mathura.

[8] Ghaziabad-II, Lucknow-II and Varanasi-II

[9] **TDF** is a document to be carried by driver or person in-charge of a vehicle coming from a place outside the State and destined for a place outside the State, passes through the State (UP). As a proof that the goods laden in vehicle is not for sale in UP. Online system introduced in 27 July 2009 vide circular no. Check post/528/*Vanijya kar* dated 27 July 2009.

For the implementation of the IT system as per VAT Act (w.e.f. 1 January 2008) computerisation work was carried out with the help of National Informatics Centre in Mission Mode Project. Moreover a time frame for the same was also prescribed by the Government of India vide letter[11] dated June 2010. As per benchmark laid down the following works were to be completed by December 2010:

(i) Certification and testing of application by an independent agency like Standardisation Testing and Quality Certification (STQC) is to be done as soon as the application is ready for use.

(ii) Disaster management plan to ensure that system runs 24x365 days even in the case of long power outages, floods, earthquake, virus attacks etc.

As part of the functions of Check Posts was taken over by these computerised online systems of the Department, we conducted an IT audit of the TDF system. Our findings are as follows:

2.8.7.1 IT Audit of Data Bank of TDF

The National Informatics Centre (NIC), Lucknow has developed software for issuing /downloading transit passes/Transit Declaration Form (TDF) for carrying goods from one State to another State *via* Uttar Pradesh to provide enhanced Management Information System (MIS) and reporting capabilities for smarter decision making, thereby helping in arresting tax evasion and resulting in greater revenue mobilisation. The software designed by the NIC was a web-enabled application with Java Server Pages in the front end and Oracle RDBMS (Relational Data Base Management System) at the back end. All the Departmental offices have their own Local Area Network (LAN) and are connected with the central server in Commissioner's office, of a Wide Area Network (WAN) through Bharat Sanchar Nigam Limited leased line (64 kbps).

A formulated and documented IT policy is essential to ensure adherence to time frame, integration of business plan with IT plan and to prevent inconsistency and aphorism in decision making.

We conducted IT audit of data bank of transit passes issued/ downloaded to ensure as to whether IT strategy and IT policy existed in the Department, System Requirement Specification (SRS) was documented, data bank relating to transit passes stored was reliable and centralised data was being evaluated at Headquarters for effective use of MIS.

The data bank relating to transit passes were analysed using computer assisted auditing tool *viz.* IDEA (Interactive Data Extraction and Analysis) for examining the correctness, completeness and integrity of the data. The Department could make available the data for the period from 11 February 2010 to 16 December 2012 only and this was analysed for existence and adequacy of IT controls and efficiency and effectiveness of IT support system.

[10] Form-38 is a form of declaration to be carried by registered dealers of UP who intend to bring/import taxable goods from any place outside the State, for the purpose of business. Online downloading system introduced in September 2009 vide circular no. Check Post-Form-38 *vyawastha*/0910045/*Vanijya Kar* dated 28 August 2009.

[11] F. No. S-31013/2/2010-SO/(ST), dated 24.06.2010.

We noticed that the Department did not formulate policies for implementation of IT system, computer security policy, change management control (to ensure that changes to a product or system are introduced in controlled and coordinated manner), storage of back-up data, disaster recovery and business continuity plan. These points have been discussed in succeeding paragraphs.

During exit conference, the Government stated (September 2013) that the Policies and Framework are being developed in the light of IT system of CT Department.

The reply confirms that policies rules and procedures were not developed and are still in the process of being developed.

2.8.7.2 Disaster management and business continuity plan

We found that there is no disaster management and business continuity plan outlining the action to be taken immediately after a disaster and to ensure that the data processing operation could be re-started immediately. The backup of the database is maintained by the NIC on incremental basis whereas the backup of the whole database should also be stored at the place other than premises of Department so as to ensure the availability of data in case of natural or technological calamities. The key configuration items *viz.* hardware, software, personnel and other assets which were required for continuity of the IT activities in case of disaster, had not been identified and documented.

During exit conference, the Government stated (September 2013) that the data back-up is being kept in tape drive and hard disk at State Data Centre of NIC established in *Yojana Bhawan*. Disaster management plan and procedures are being developed.

From the above it is clear that the Government could not achieve the bench mark of disaster recovery plan to be completed by December 2010.

We recommend that the Disaster management plan and business continuity plan be put in place.

2.8.7.3 Input and validation controls

Input controls are introduced to ensure that data entered in system fulfills defined criteria and are genuine and complete. It also addresses data consistency issue. The system design and its operation should be adequate to capture the data from the inputs. In case of deficiencies in the input control and validation checks, there are possibilities of errors in generation of transit passes and the related data bank on the basis of filling fake data.

To ensure correctness, completeness and reliability of the database, it is necessary to ensure application of appropriate controls during the data entry. Such controls ensure that the data received for processing is genuine, complete, valid, accurate and properly authorised and the data transfer is done accurately without duplication of fields and all the fields are duly filled in before the data is entered in the system.

The system design and its operation should be adequate to capture the data from the inputs. In case of deficiencies in the input control and validation checks, there are possibilities of errors in generation of transit passes and the related data bank.

We checked the data bank of 1,04,62,126 transit passes covering transaction value of ` 98,11,54,740.90 crore generated/downloaded during the period 11 February 2010 to 16 December 2012 and

noticed that number of transit passes downloaded increased to 4,10,189 in March 2012 against the transit passes numbering 4,726 in February 2010.

Scrutiny of the database of TDFs revealed that in 6,50,971 cases many crucial fields like description of goods, weight and units, owner's name, departure State, destination State etc. were left blank. Further in a number of cases fields like value of goods, *bility* number, number of bills etc. were entered as zero. Details are mentioned in the table no. 2.8:

Table No. 2.8

Sl. No.	Field	Field details Blank/Zero	No. of cases
1.	Chassis number	Blank	6,662
2.	Departing State		5,748
3.	Description of goods		32,490
4.	Destination State		35,976
5.	Engine number		6,661
6.	Owners		6,023
7.	Weight and units of goods		36,006
8.	Name of transporter		18,997
9.	Value of goods	Zero	70,878
10.	*Bility* number.		3,71,154
11.	Number of bills		60,376

Our analysis of the database revealed that following fields contained incorrect/unrealistic data as detailed in the table no. 2.9:

Table No. 2.9

Sl. No.	Field	Field details	No. of cases
1.	Date of entry/exit	Not available in correct format[12]	19,400
2.	Exit date	Filled earlier[13] than entry date	35
3.	Exit date	Exit date was less than four days from Entry date	38,60,760
4.	Vehicle number and transporter	Multiple downloading of TDF for same vehicle on same day	7,93, 593

During the exit conference, the Department stated (September 2013) that the problems have now been rectified after web-site security audit and updation/modification of software in respect of incorrect date format. The Department further stated that due to data conversion in the Excel table format, the data of dates might have been changed. We do not agree as the reports are generated by the IDEA[14] and there is no conversion of date field as IDEA software analyses databank without any data conversion.

In case of transit passes downloaded for less than four days and multiple passes downloaded for same vehicle for same day, the Department stated that so many places in the State exist where vehicles plied across within five to six hours. We do not agree as the entry point and destination in above mentioned cases at serial number 3 and 4 of the table above was beyond 390 kilometers where it was not possible to perform the return journey in one or two days.

[12] Dates of entry in the State and exit out of State should be filled in DD/MM/YYYY i.e. 02/11/2012.
[13] No vehicle can exit out of State before its entry so entry date must be of earlier period than exit date *e.g.* entry date 17/04/2010 while exit date 11/04/2010.
[14] A certified International audit tool used by C&AG.

2.8.7.4 Weaknesses of online TDF system

Under the provisions of Section 28 of UPTT Act and Section 49 of UPVAT Act, CPs at strategic points along its borders with the neighbouring States were established with a view to check the evasion of tax by irregular import of goods into UP and their non-accounting in the books by the dealers. The CPs were responsible to:

- Check the unauthorised entry of vehicles carrying taxable goods into the State by endorsing and checking the import declaration forms (Form-38).
- Issue transit passes (*Bahati*) to the owner/transporter of the vehicles carrying taxable goods from outside the State and bound for another State, transiting through the State of UP.
- Endorsement (Cancellation) of the transit passes at the exit CPs.

With effect from 1 January 2008 UPVAT Act was enacted. At that time 83 CPs were working at strategic points along its borders with the neighboring States. During 2008-09 and 2009-10, all the CPs were abolished in two phases i.e. 46 CPs[15] in June 2008 and 37 CPs[16] in July 2009.

A substitute online system of downloading of Transit Declaration Forms (TDFs) and Import Declaration Form (Form-38) by the dealers/transporters was begun in July 2009[17] and September 2009[18] respectively. In the new system information[19] on 19 points was to be filled up online by transporter/vehicle in charge. After filling the required information TDF having self-generated 14 digits number was issued online. By taking copy of this TDF vehicle in charge was allowed to pass through the State. TDF was valid for four days from the date of entry and it was deemed that vehicle will pass out of State within this period. There was a gap of 12 months between abolition of 46 CPs and the implementation of online downloading system of the TDFs. Because of that gap routes of UP of those areas where CPs were abolished were not covered by any TDF.

We noticed that no system for analysis/monitoring of downloaded TDFs at MSU/Zonal/Headquarters level was established. Further no electronic system was introduced which could confirm that the goods destined for a place out of State has actually passed out of the State. We further noticed that while an online downloaded TDF is valid for four days, there is no system check to

[15] Acchnera, Amarpur, Ambabai, Bhagwantpura, Bangra, Bindhamgunj, BadshahiBagh, Bhopura, Bhoyapur, Chakhani, Chanddiyar, Devarimau-Ranipur, Dungarwala, Dumchadi, DL Chauraha, Governdhan, Hathinikund, Indrapuri, Jhuppa, Gram Khunwa, Kumhraura, KundaliBangar, Kulesara, Kuwangaon, Maharajpur, Makanpur, Mehrauna, Mohand, Maswari Chauraha, Madhotanda, Naglabich (Nandgaon), Narain Nagla, Naraini Chauraha, Panwadi, Rainanagar, Raipuri, Rampur Bujurg, Sahibabad (Kadkadpul),Samaur, Saunkh, Shamsabad, Sitapur, Suanwala (Bhootpuri), TP Nagar, Tilakothi, Wipravali.

[16] Amariya, Aamtanda, Audimod, Bara, Bhabni, Bhaguwala, Bharauli, Bhurahedi Gram, Badkala, Badhni, Chaukhata, Drumundgunj, FatehpurSikri, Gaurifanta, Gauripur, Harinagar, ICD Noida, Kairana, Kaudiya, Kaushalgunj, Kotwan, Loni, Majhola, Masaura, Mohan Nagar (including Mohan Nagar Extension), Mugarra, Naubatpur, Raksa, Rupaidiha, Sainya, Shahjahanpur, Srinagar, Sonauli, Tamkuhiraj, Thakurdwara, Udi, Vijai Nagar.

[17] Circular No. Check post/528/*Vanijya kar* dated 27 July 2009.

[18] Circular No. Check Post-Form-38 *vyawastha*/0910045/*Vanijya Kar* dated 28 August 2009.

[19] (i) Departing place of vehicle (ii) Destination place (iii) Vehicle number (iv) Chassis number (v) Engine number (vi) Transporter's name and address (vii) Present address as mentioned in insurance policy of vehicle (viii) Vehicle owner's name and address (ix) Detail of routes inside the State (x) Expected date of entry in State (xi) Expected date of exit from State (xii) Total number of bilities (xiii) Total number of bills (xiv) Total number of units (xv) Value of goods (in words) (xvi) Value of goods (in number) (xvii) Description of goods (xviii) Weight of goods (xix) Printing (server IP address).

prevent multiple generation of TDF forms for the same vehicle for same day, despite the fact that distance between entry and exit points precluded multiple trips on same day.

To ascertain the correct utilisation of TDF with respect to revenue we test checked and analysed the data of 99,000 TDF out of 1,04,62,126 downloaded by the dealers from Departmental website between the years 2010 and 2012 and noticed that:

- 3,605 dealers consigned their goods by road from one State to another through Uttar Pradesh by downloading 44,318 TDFs i.e. 44.77 *per cent* of total analysed 99,000 TDFs. The downloading ranged between five times and 569 times for the same consignment dispatch details for the same destination covered by the same vehicle from same route and for the same entry and exit places, dates in Uttar Pradesh, though only one TDF is required to perform complete journey from one state to another state till the handing over of goods to the purchaser. We noticed that Department did not examine this anomaly despite the fact that it was a continuous phenomenon from 2010 onwards and 425 forms in multiples were downloaded in 2010-11, 486 in 2011-12 and 36 in 2012-13 (upto May 2012).
- Out of 3605 dealers, 27 dealers showed consignment of their goods valued at ` 133.60 crore by downloading 911 TDF from one State to another State.

  We noticed that each of these vehicles had downloaded a TDF for a date one/two days prior to the entry date in the 2nd TDF. We further noticed that the distance between original place and destination place[20] as per the earlier downloaded TDF were too far apart for any vehicle to make onward and back journey in one/two days, hence legitimate use of the 2nd TDF downloaded in one/two days later is not physically possible.

  Five dealers had downloaded multiple TDF for 15 vehicles for transportation of their goods showing loading at different places with different dispatch destination of more than one State with the different entry and exit places in Uttar Pradesh on the same date for the same vehicle. Though one vehicle can be loaded at one place in a State for a particular destination in other State with one entry and exit place in UP.
- It was revealed that two transporters downloaded multiple TDFs with the same entry and exit dates for the same vehicle. This process was practiced by 12 transporters.
- We further, noticed that the IT wing of the Department had not established a system to detect the above and forward the same to the MS and SIB wings for analysis and further action in revenue interest.
- We cross checked the MIS website of the Department and noticed that the data was not automatically updated but manually uploading was done only twice a day[21]. Due to manual uploading of TDF data only two times a day,

[20] *e.g.* Ahmedabad (Gujrat) to Biratnagar (Nepal), Alarsa (Gujrat) to Dhuliyan (West Bengal), Bhiwandi(Maharashtra) to Kathmandu (Nepal), Indore (MP) to Bardwan (Bihar), Jamshedpur (Jharkhand) to Barmer (Rajasthan), Katni (Madhya Pradesh) to Dalsinghsaray (Bihar), Ludhiana (Punjab) to Cuttak (Orrissa), Parwanoo (Himachal Pradesh) to Patna (Bihar), Patna (Bihar) to Pune (Maharashtra) and Satna (Madhya Pradesh) to Giridih (Jharkhand).

[21] At 07.54 a.m. and 01.54 p.m.

there is a risk of the vehicles going back from jurisdiction of concerned MSUs in border areas like Agra, Bulandshahar, Ghaziabad, Jhansi, Mathura etc. after unloading the vehicles and resultant inability of enforcement wing to check these vehicles. This fact was accepted by field Enforcement units.

During exit conference, the Department stated (September 2013) that MIS report related to all online applications operated by the Department are available on Departmental website through user ID and password allotted to Departmental officers which provided roll based and consolidated reports. Vehicle wise, Day wise, State wise, Entry location wise, Exit location wise and Commodity wise reports of online downloaded TDFs available on website. Besides this officers can verify TDF at real time through SMS.

We do not agree with the reply as department has not examined and analysed the cases pointed out by us and cross checked them with data of vehicles caught by MSUs to rule out the risk of these vehicles having gone through unchecked. Further TDF verification facility through SMS is fruitful only when the vehicle comes under checking by MSU otherwise there is a risk of the vehicles intending tax evasion returning after unloading goods in the State before data of downloaded TDFs is posted on website.

2.8.7.5 Absence of mechanism regarding transiting of taxable goods from the State

As per provision of Section 28B of UPTT Act and Rule 87 of UPTT Rules and under Section 52[*] of UPVAT Act and Rule 58[**] made thereunder the driver or person in-charge of a vehicle carrying goods referred to in sub section (1) of Section 50, coming from a place outside the State and destined for a place outside the State, passes through the State, the driver or person-in-charge of a vehicle shall carry such documents and follow such procedures as may be determined by general or special order issued by the Commissioner from time to time.

Under Section 49 of UPVAT Act the Government was empowered to establish Check-posts or Barriers at such places as it may deem fit. This provision was omitted vide notification no. 1230 (2) /79-V-1-09-1 Ka 21/2009 dated 27 August 2009.

[*] Amended vide notification no. KA.NI.-2-1980/XI dated 27 August 2009.

[**] Amended vide notification no. KA.NI.-2-241/XI dated 4 February 2010.

We analysed the impact of the absence of a mechanism to provide assurance to the Department that consignments transiting through the State have actually crossed the State, and found that in only six zones[22] between 2007-08 and 2008-09, there were 14,632 cases of non-submission of transit passes at exit CPs covering the taxable goods valued at ` 4,448.60 crore. As per provision of the UPTT Act and UPVAT Act, tax of ` 557.67 crore was levied. From 2008-09 (July 2008 onwards) to 2011-12, the number of cases of invalid/no TDF caught by MSUs have come down to only 30 covering the goods of ` 1.53 crore having tax effect of ` 1.04 crore as shown in the table no. 2.10:

[22] The data from the remaining seven zones was not made available to us while Kanpur –I showed the details as 'nil'.

Table No. 2.10

(` in lakh)

TDF not cancelled							
Before abolition of Check posts					Cases caught by MSUS		
Period : 2007-08 to 2008-09					July 2008 to 2011-12		
Sl. No.	Zone	No. of TDF not cancelled	Total Amount	Amount of tax which is not deposited	No. of cases with invalid/no TDF	Total Amount	Amount of tax which is not deposited
1	Agra	Nil	Nil	0.43	Nil	Nil	Nil
2	Aligarh	11,003	3,932.53	1,730.31	NP	NP	NP
3	Jhansi	575	3,321.13	985.37	18	93.31	79.65
4	Kanpur-II	Nil	Nil	Nil	NP	NP	NP
5	Saharanpur	3,049	4,37,564.09	53,050.70	12	60.07	24.02
6	Varanasi-I	05	41.77	0	0	0	0
Total		**14,632**	**4,44,859.52**	**55,766.81**	**30**	**153.38**	**103.67**

Note: NP=Not provided.

It is clear that CPs have been inadequately substituted by MSUs which have not been as effective to check cases of unauthorised off-loading of goods in the State.

The details of the total number of TDFs issued manually by the CPs during 2007-08 to 2008-09 and the downloaded figures of TDFs between 2009-10 and 2011-12 are mentioned in the table no. 2.11:

Table No. 2.11

Year	Mode of issued TDF	No. of TDFs issued	Increase/ Decrease	Percentage increased/decreased
2006-07	Manual	17,99,323	--	--
2007-08	Manual	20,10,480	2,11,517	11.76
2008-09	Manual	19,74,896	(-) 35,944	(-) 01.79
2009-10 (September 2009 to March 2010)	Online	21,68,181	1,93,285	09.79*
2010-11	Online	37,19,217	17,44,321	88.32
2011-12	Online	42,90,260	5,71,043	15.35

Note: Data of manually issued TDFs for the period April, 2009 to August, 2009 was not available.
*This increase was during seven months duration only.

It is evident from the above table that during the years 2007-08 and 2008-09 when TDFs were issued manually, there was increase of 11.76 *per cent* and even decrease of 1.79 *per cent.* On introducing the system of online issuance of TDFs (with effect from 1 September 2009) there was increase of 9.79 *per cent* in six months period only. Moreover, this jumped to 88.32 *per cent* in the year 2010-11 whereas there was no corresponding increase in downloading of Form 38[23] which is evident from the table no. 2.12:

Table No. 2.12

(Number in lakh)

Year	Number of Forms 31/ 38 (printed and issued manually)	Year	Number of Forms 38 (issued manually and downloaded by the dealers)
2006-07	7.50	2009-10	48.31
2007-08	43.80	2010-11	18.48
2008-09	34.05	2011-12	37.65
Total	**85.35**	**Total**	**104.44**

This abnormal increase in TDFs is also not supported by the increase in the number of dealers in the neighboring States. We further noticed that under the provision of manual issued under the UPTT Act[24], DC (CP) was responsible

[23] Declaration Forms for Import i.e. Form 31 and Form 38 defined under Section 28-A (1) of UPTT Act and Rule 83(4) (a) (i) of UPTT Rules 1948 and Under Section 50 of UPVAT Act and Rule 54 (3) of UPVAT Rules 2008 as the form in which the name, value and quantity of taxable goods imported in the State are declared.

[24] In sub heading 11 (I) 3 of Chapter 2 of *Vyapar kar Sahayata Kendra/Sachal Dal* Manual issued under UPTT Act by authority of CTT.

for analysing the abnormal increase/decrease in number of TDFs but no equivalent provision has been made in the manual issued under the UPVAT Act.

We studied the system for checking of TDFs data in other States and found that in States like Gujarat, Madhya Pradesh, Karnataka, Uttarakhand and Assam, CPs are still in existence. In Bihar, where there was no system of CPs, the CP system introduced was with effect from June 2011. In Karnataka a specific system for verifying the TDFs has been introduced with effect from 1 July 2011.

During exit conference the Government accepted (September 2013) that the lacunae in the online TDFs system led to tax evasion and stated that on 03 September 2013[25] the Department has implemented new system to check the systematic tax evasion being carried out in guise of the TDF.

We recommend that Department may consider establishing a system at entry and exit points in the State for information collection to facilitate the dealers to voluntarily ensure compliance of codal provisions. This will confirm that goods loaded in other States destined for other States have actually passed from UP and check evasion of tax.

2.8.7.6 Online downloading of Form-38 (Form of declaration for Import) without filling transaction details

As per Section 50 of UPVAT Act and Rule 54 (1) of the UPVAT Rules 2008, a registered dealer who intends to bring/import taxable goods to the State from any place outside the State in such quantity or measure or of such value as may be notified by the State Government in this behalf in connection with business shall either obtain the prescribed form of declaration (Form 38) from the assessing authority or shall download from official website of the Department in such manner as may be prescribed.

In the meeting dated 06 July 2009 Government decided that filling of transaction details before downloading the Form would be mandatory for dealer.

Facility of online downloading of Form 38 was introduced with effect from 01 September 2009. Accordingly eligible dealers can download the form 38 online after feeding of date of downloading and details of the firm. Form 38 shall be utilised within three months from the date of downloading the same. The detail of utilisation of Form-38 is to be given online within seven days.

We noticed that while as per the decision of the Government[26] the filling of transactions details like name of goods, quantity, value, name and address of selling dealer was mandatory, however in the circular[27] issued by CCT stated that dealer could download Form 38 by only filling self-details like date of downloading, name of issuing office and name and address of dealer. The dealer was given the facility to fill the remaining transaction details like name of goods, quantity, value, name and address of selling dealer, at time of online submission of

[25] Vide circular no. *Sachal Dal* – Transit Pass- 2013-14/ 1341/1314041 dated 03.09.2013.
[26] In meeting date 06 July 2009.
[27] No. Check Post-Form-38 *vyawastha*/0910045/*Vanijya Kar* dated 28 August 2009.

the utilisation form seven days after utilisation. Hence the transaction details would be available to department for cross check only three months and seven days after downloading of the Form-38. The circular of the CCT of August 2009 was at variance with the decision of the Government taken in July 2009. Non filling of mandatory fields like name of goods, quantity, value, name and address of selling dealer lead to a risk that the same form can be printed and used multiple times during the three months seven day period.

When CPs were in existence, Form-38 was required to be endorsed by the CP at entry into the State and this endorsement provided a check against repeated use of the same form. This lack of application control in form of mandatory fields in the downloadable Form-38, brings out a clear risk of goods being brought in UP for sale, out of accounts and ultimately loss of revenue to the Department/ Government.

The utilisation against downloaded forms was to be submitted online within seven days of utilisation. We also noticed that utilisation in respect of 15.33 *per cent* to 19 *per cent* of the downloaded forms has not been submitted. Details are mentioned in table no. 2.13:

Table No. 2.13

Year	Total number of Form-38 downloaded	Utilisation submitted	Difference
2009-10	46,533	Nil	46,533
2010-11	18,48,298	15,60,832	2,87,466
2011-12	37,64,719	31,87,381	5,77,338
2012-13	44,96,865	36,41,038	8,55,827

In reply (May 2013), the Department stated that the system of Karnataka, Gujarat and Maharashtra state was studied prior to implementation. We do not agree with the reply as the system of Gujarat and Karnataka is different and online feeding of all the particulars of transaction of goods being transported is compulsory before its movement and the same is verified by the officers-in-charge of CP. As CPs do not exist in the State, a strong application control to check misuse of form-38 was needed.

We recommend that the Department may consider making provisions for mandatory filling details of transaction online before downloading Form-38 in line with the Government's decision of July 2009.

2.8.7.7 Identification of repeated offenders and caught unregistered dealers

Under the provision of Sub Section-1 of Section 17 of UPVAT Act, read with Sub Section 4 of Section 3 of the Act, every dealer whose taxable quantum of turnover in a year is ` 5 lakh will be liable to pay tax and shall obtain registration certificate issued by the prescribed registering authority in the prescribed form and manner. Further, under the provision of Section 54 (1) (7) of UPVAT Act, if a dealer being liable for registration carried on business without getting the registration, he shall be liable to pay penalty at the rate of ` 100 per day during which business was carried.

Government of India vide letter no. F. No. S-31013/2/2010-SO/(ST), dated 24 June 2010 approved project cost of ` 58.40 crore for the Mission Mode Project for computerisation of Commercial Taxes Administration (MMPCT) of Commercial Tax Department of UP with the condition that the

Government of UP will ensure that the important benchmarks are achieved. In compliance of the above order the Commercial Tax Department got the necessary software developed by the National Informatics Centre Services Incorporate (NICSI).

We studied the computerisation process of the Department and found that there was no specific module[28] related to working of Enforcement Wing of the Department. We checked the records of the offices of 25 MSUs and found that details of 151 unregistered dealers, who were caught carrying the taxable goods worth more than ` 5 lakh, were available in the *Panji*-5[29] for period between 2008-09 and 2011-12, an important record maintained by the MSUs. Though necessary security/penalty/tax of ` 6.54 crore was realised from them but there was no system to ascertain whether the same dealer/transporter was caught one or more time in a year. We also found that out of 1946 cases[30] there were 123 cases wherein the same vehicle was caught more than once, carrying goods of value ` 4.35 crore on which penalty of ` 1.41 crore was imposed. However there was no method to compile the information of such repeated offenders for appropriate action against the same. A module in the software could have made such information available to the Department.

We recommend that Department may consider identification of dealers caught evading tax on consignment of ` five lakh and above, by an enforcement module software which may also have a provision for identification of and maintaining profile of repeat offending dealers. Appropriate provision for registration and minimum penalties on such dealers should also be considered.

2.8.8 Working of MSUs

The Mobile Squad Units (MSUs) are deployed to check evasion of tax during movement of goods within and transiting through the State not covered by prescribed documents[31]/information and purported the belonging to unregistered dealers. Assistant Commissioners (Mobile Squad) are officer in charge of their MSUs. Their main responsibility is to check goods transported through vehicles and in godowns of transporters under the provisions of Sections 45, 46, 47, 48, 50, 51 and 52 of UPVAT Act. Their other responsibilities are to collect bills, with collection of bills of sensitive goods and leading manufacturers being a priority. They are required to check movement of goods with fake documents inside the State, prevent tax evasion with reference to goods imported by rail and roads through effective search work. The MSUs are required to seize the goods not covered by prescribed documents, assess the value of the taxable goods being transported and levy the prescribed penalty/realised security amount[32] prior to releasing the goods.

We test checked the records[33] of office of the CCT and noticed that when 83 CPs were in existence prior to June 2008[34], as per norms 267 ACs and 422

[28] Modules – for TDF module, e-payment module, e- return module, e-registration module, e–form module (for Form 38 etc.) online MIS module and online GRC (Grievance Redressal Cell) module.

[29] *Panji 5* is a register with details of vehicle number, Name and address of the transporter, name of the commodity, estimated value of goods and amount of penalty/security imposed.

[30] Where value of goods seized was more than ` two lakh.

[31] Invoice/Challan copy, TDF/Form-31/Form-38, name of dealer, value of goods, weights, measure or number etc.

[32] Prescribed under Section 48 (5) of the UPVAT Act

[33] Annual Reports of the Department and Enforcement Manual.

[34] Check-posts were abolished vide order no. vide notification no. *Ka.Ni.*-4-1080/11-2008-400 (35)/91 dated 10 June 2008 and *KA.NI.*-4-1459/11-2009-400(137)/2001 TC-5 dated 30 July 2009 of Government of UP

CTOs were to be posted at the CPs[35]. After the abolition of CPs to strengthen enforcement activities, 95 new MSUs were sanctioned[36] increasing number of MSUs from 55 to 150. 144 units (including two units at Headquarters for control room) were in operation in 2012-13. The sanctioned strength for a MSU is: - One AC, two CTOs, others (driver, clerks etc.) five.

We noticed that there is gap between sanctioned strength between the officials engaged in enforcement activities before and after abolition of CPs. This shows that the planning for staffing of main enforcement wing was not optimum. The officers/staff of the abolished CPs[37] were not deployed for enforcement activities. The details are as mentioned in the table no. 2.14:

Table No. 2.14

Particulars	Sanctioned strength before abolition of CPs			Sanctioned strength after abolition of CPs For MSUs	Difference
	For CPs as per norms of EM	For MSUs	Total		
ACs	267	55	322	150	172
CTOs	422	110	532	300	232
Others	559	275	834	750	84

The details of number of vehicles caught by the CPs and MSUs and the revenue realised in form of penalty/security are mentioned in the table no. 2.15:

Table No. 2.15

(` in lakh)

Year	CPs			MSUs			Total no. of vehicles caught during year		Percentage increase with respect to previous year
	No. of CPs	No. of vehicles caught	Penalty/Security realised	No. of MSUs	No. of vehicles caught	Penalty/ Security realised	Nos.	Penalty/ Security realised	
2007-08	83	5,84,282	14,988.01	55	20,817	6,480.79	6,05,109	21,468.80	(+) 8.35
2008-09 (Apr. 08 to Jul.08)	83	NA	NA	NA	NA	3,242.39	NA	3,242.39*	NA
2008-09 (Aug. 08 to March, 09	37	NA	NA	NA	NA		NA		NA
2009-10	Nil	Nil	Nil	136	15,990	6,859.15	15,990	6,859.15	(-) 68.05
2010-11	Nil	Nil	Nil	136	21,693	9,079.67	21,693	9,079.67	(-) 57.70
2011-12	Nil	Nil	Nil	136	21,446	11,294.50	21,446	11,294.50	(-) 47.39

*Figures as given by Department for 2008-09.
NA= Figure not available with Department.

It would be seen from the above that:

- During the period from 2009-10 to 2011-12, number of MSUs increased by 147 *per cent* compared to 2007-08, whereas the revenue realisation actually decreased between 47.39 to 68.05 *per cent.*
- The number of vehicles caught was almost same during the period 2007-08 to 2011-12 despite the increased number of MSUs which indicates inadequate substitution of CPs by MSUs.

During exit conference Government stated (September 2013) that during CPs there was a continuous checking system so more manpower was deployed. After abolition of CPs in MSU system there is system of surprise checking, so staff was deployed as per requirement.

[35] As per norms prescribed in Chapter 3(3) of *Bikri kar Jaanch Chowki Sachal Dal* Manual persons were posted at check-posts.
[36] Vide notification no. *Ka.Ni.*-4-1080/11-2008-400 (35)/91 dated 10 June 2008.
[37] No. of CPs 83, no. of AC 267 and CTOs 422.

We do not agree as even in surprise check there is need for deployment in shifts so that randomness is maintained. The sanctioned strength of the MSUs is designed only for a single shift. Hence, out of 24 hours the MSU is active only for one duty shift, showing inadequate substitution of CPs by deployment of MSUs.

2.8.8.1 Operational gaps in MSUs

Under Section 45 of UPVAT Act, Mobile Squad units inside the State are responsible for checking the movement of goods, not covered by proper documents. The duties and responsibilities of the MS have been laid down in the Enforcement Manual of the Department. The mobile squads have been established to check evasion during transportation of goods and to seize goods not covered by valid document etc. Para 2(1) (xiii) of Chapter-10 of Enforcement Manual specifically states that the MS in a zone should be deployed in such manner that there remains no break even on public holidays.

With a view to check the effectiveness of Mobile Squads in checking evasion of tax by irregular import/ transport of goods into the State, we test checked the records[38] of 35 MSUs[39] and found that during 2008-09 to 2011-12, MSUs were not deployed in accordance with the provisions of Enforcement Manual. The number of days of operation of MS ranged between 78 and 343 days in a year. Details are indicated in **Appendix-I.**

Thus the purpose of stopping leakage of revenue through deployment of Mobile Squads without break was defeated.

During the exit conference the Department stated (September, 2013) that 24 hours road checking was not possible as after seizure of vehicles/goods, other formalities like Physical Verification, Issue of Notice and Depositing of Security etc. were performed by the Mobile Squads. As such round the clock watch on all the roads by MSUs was not possible. Further, the Department stated that the data as compiled by audit is hypothetical.

We do not agree as the reply was not in conformity with the provisions of the Enforcement Manual. As regards genuineness of data it is stated that the details have been worked out from the log books of the vehicles assigned to Mobile Squads.

[38] Log book of vehicles attached to the MSUs.

[39] AC (MS)-2, 4, 5, 7 and 8 Agra, AC (MS)-1 and 2 Bareilly, AC (MS) Bulandshahar, AC (MS)-1 Chandauli, AC (MS)- 4 Gautam buddha Nagar, AC(MS)-1, 2, 3, and 4 Ghaziabad, AC (MS)-1 and 2 Jhansi, AC (MS)-1, 2, 3, 8 and 12 Kanpur, AC (MS)-1and 5 Lucknow, AC (MS)-4, Mathura, AC (MS)-2, 4 and 5, Meerut, AC (MS)-3 and 6 Moradabad, AC (MS) 1, 5 and 6 Noida, AC (MS)-1 and 4 Saharanpur and AC (MS)-4, Varanasi.

2.8.8.2 Non-functional Control Rooms and non-availability of devices

Under the provision of Para 2 (c) 3 (i) of Chapter 4 of Enforcement Manual JC (SIB) is responsible for establishment of control room at zonal level for monitoring of enforcement activities by deriving an effective information network.

Para 1 of Chapter 10 and Para 2 of Chapter 4 of Enforcement Manual AC/MSUs are responsible for checking the vehicles on the basis of collection of data of daily downloaded Transit Declaration Forms (TDFs) with the help of internet. JC (SIB) is responsible for planning and monitoring.

In audit of 35 units of MSUs of 11 zones between April, 2012 and March, 2013 we noticed that in six zones[40], the Control Rooms were established, but in two[41] of these, the control room was not functioning as no staff/MSUs was posted there. Also there was no internet connection in the control rooms established for the purpose of analysis of TDFs, verification of Tax payers Identification Number and address of dealers etc. We found that no control rooms were established in five zones[42]. Resultantly purpose of establishing the control room was not fulfilled, which can be seen from fact that only 21999 cases were detected (between 2009-10 and 2011-12) in the seven zones[43] where the Control Rooms were not established/non-functioning when compared to 20187 cases detected during same period in the four zones[44] where Control Rooms were functional. Thus efficiency was better in zones where Control Rooms were established.

We further noticed that no devices[45] with internet connectivity have been provided to the officers of MS units for verification of information such as name and address of the dealer, Taxpayers Identification Number (TIN) etc. related to consignment loaded in the vehicle. The absence of such devices and with non-functional control rooms, the officers had no way to verify or cross check the information regarding the consignment carried by the vehicles when the MSUs are in the field. After withdrawal of provisions of Rule 55 (2) of UPVAT Rules vide notification no. *Ka.Ni.*-2-241/XI-9 (295)/07-UP Act-5-2008-UPVAT *niyamavali*-08-order-(55)-2010 dated 4 February 2010 the MSUs in-charge has no authority to demand the documentation with reference to the ownership of vehicle to ascertain the genuineness of consignment and its owner on the spot.

The MSU officers have a push and pull SMS facility[46] for verification of TIN numbers of registered dealers only, and getting the TDF details of a vehicle, however, we noticed that no CUG[47] facility has been given to the Department officials for the same.

During the exit conference the Government stated (September 2013) that devices are not available and that providing of the same was under

[40] Agra, Ghaziabad, Gorakhpur, Kanpur –I & II, Varanasi.
[41] Agra and Gorakhpur.
[42] Bareilly, Jhansi, Meerut, Moradabad and Saharanpur.
[43] Agra, Bareilly, Gorakhpur, Jhansi, Meerut, Moradabad and Saharanpur.
[44] Ghaziabad, Kanpur I and II and Varanasi.
[45] Like laptops, Tablets, smart phones etc.
[46] SMS to a specific number
[47] CUG – Common User Group numbers, which are billed at one source.

consideration. It further stated that there are grievance cells at Headquarters and zonal levels.

2.8.8.3 Lack of monitoring on the deployment of MSUs

Para 2 (1) of Chapter 10 of EM envisages establishment of beat according to requirement after identifying the entry roads into the city (covering area with two or more entry roads). Beat should be made as per requirement and number of beats may be kept as per number of MSU. In every beat one MSU will carry out road checking work on all high-ways under its jurisdiction. Duty of MSUs should be changed weekly. A link unit should also be nominated for every beat so that it could perform vehicle checking duties for itself and the other beat in case of in-operation of beat. Holidays for each MSU should be fixed in such a way that all MSU get one day rest in a week and enforcement work remains uninterrupted even during public holidays. Intensive checking around railway stations and airports are also be done by the MSUs. JC (SIB) is in charge of the MSUs in the range.

In compliance with the provisions of the EM Additional Commissioners Grade II are required to prepare monthly duty chart for MSUs in their zone and performing their duty accordingly.

From the records[48] of 42 MSUs falling under 14 zones we noticed that in six zones[49] where 15 of the 42 MSUs were operating, no duty charts were prepared. In eight zones[50] where 21 of the 42 MSUs were operating, duty charts were prepared.

During exit conference, the Government stated that all concerned have been directed (September 2013) to remove shortcomings.

[48] Duty chart.
[49] Gorakhpur, Jhansi, Lucknow, Meerut, Moradabad and Saharanpur.
[50] Agra, Aligarh, Bareilly, GB Nagar ,Ghaziabad, Kanpur I & II, and Varanasi.

2.8.8.4 Circular issued in violation of Act

Section 48 (7) of UP VAT Act provides that if the officer in charge of the MS after taking into consideration the explanation of the dealer finds that there is sufficient reason to seize the goods, will pass an order in writing mentioning the fact of such seizure and indicating the amount, not exceeding such amount as would be sufficient to cover the penalty likely to be imposed. As per Section 54 (1) of UP Value Added Tax Act, 2008 the penalty of 40 *per cent* is leviable in such cases. CCT vide Circular no. *Che.po.-25 Ka-Paripatra/2008/0809100* dated 03 February 2009 prescribed that in the seizure cases of registered dealers transporting goods within the State and from outside the State respectively, without valid documents, the security value was to be realised at the rate of twice or three times the due tax respectively or 40 *per cent* of the value of goods whichever is less. This order was withdrawn vide circular no. *Che.Po.-25Ka-Paripatra jama praman patra/2009-2010/0910060* dated 05 November 2009.

We checked the records of 21 MSUs[51] and collected information from 13 other MSUs[52] and found that between February 2009 and November 2009, in 3031 cases, goods of registered dealers valued at ` 128.97 crore was seized by these MSUs. Security of ` 19.22 crore was realised in these cases, being two or three times the tax due. As per provisions of the Act, security of 40 *per cent* calculated to ` 51.59 crore was to be imposed. The revenue impact of circular of CCT issued in contravention of Section 48 (7) of the UPVAT Act led to short realisation of security of ` 32.37 crore in the cases of these 34 MSUs alone.

During exit conference, the Government stated (September 2013) that the circular did not violate the legal provisions of Section 48 (7).

The reply is contrary to the Act which states to deposit such amount as would be sufficient to cover the penalty likely to be imposed. The penalty defined under Section 54 (1) is fixed i.e. 40 *per cent* in these cases.

[51] AC (MS)- 2 Agra, AC (MS)-1 and 2 Bareilly, AC (MS)-2, 3 and 4 Ghaziabad, AC (MS)-4 Gautambudh Nagar, AC (MS)-2 Gorakhpur, AC (MS)-1 and 2 Jhansi, AC (MS)-1, 2 and 3 Kanpur, AC (MS)-1Lucknow, AC (MS)-1and 4 Mathura, AC (MS)- 6 Moradabad, AC (MS)-3 and 4 Saharanpur and AC (MS)-Mughalsarai and Naubatpur situated at Varanasi.

[52] AC (MS)-1, 3, 4, 5, 6, 7 and 8 Agra, AC (MS) 9 and 11 Kanpur, AC (MS) 3, 4 Lucknow, AC (MS) 2 and 3 Mathura.

2.8.8.5 Monitoring of seizure cases of registered dealers

Section 48 of UP VAT Act provides that if the officer in charge of the MS finds that there is sufficient reason to seize the goods, will pass an order in writing mentioning the fact of such seizure and indicating the amount, not exceeding such amount as would be sufficient to cover the penalty likely to be imposed i.e. 40 *per cent* of the value of the seized goods. On deposit of security amount as per provision under Section 48 (5), the goods are released. In the case of registered dealers the matter is forwarded to the concerned sector for further examination.

These matters are required to be monitored by JC (Executive).

During the test check of records[53] of 12 Zones[54] we noticed that MSUs caught 41,081 vehicles transporting goods of ` 404.25 crore without prescribed documents, between 2007-08 and 2011-12 and penalty of ` 176.62 crore in 41081 cases of unregistered dealers was levied. In the case of registered dealers, 26,510 cases were sent to the AAs for assessment between 2007-08 and 2011-12. The details are mentioned in the table no. 2.16:

Table No. 2.16

(` in crore)

Year	No. of vehicles seized		Total	Value of goods		Total	Penalty imposed (Unregistered)	Sent to AAs in Sectors	Penalty recovered in Sectors*
	Registered	Unregistered		Registered	Unregistered				
2007-08	3014	5662	8676	52.57	35.32	87.89	16.86	3014	0.17
2008-09	6975	5563	12538	152.97	50.87	203.84	21.38	6975	1.90
2009-10	7504	8463	15967	218.75	79.81	298.56	33.79	7504	2.06
2010-11	4466	10725	15191	134.94	109.26	244.20	46.96	4466	1.70
2011-12	4551	10668	15219	133.63	128.99	262.62	57.63	4551	1.88
Total	**26510**	**41081**	**67591**	**692.86**	**404.25**	**1097.11**	**176.62**	**26510**	**7.71**

Source: Information collected during Audit.
*Information available for only three zones (Agra, Aligarh and Kanpur-II) with Department.

We noticed in the case of 17 MSUs[55], that out of the 17,151 vehicles seized[56], 2,566 vehicles belonged to registered dealers carrying goods of total value of ` 190.96 crore. As per provision ` 76.35 crore was realisable as penalty, whereas we noticed that only ` 36.71 crore was realised. Hence there was short realisation of ` 39.64 crore as security.

We also noticed that the MSUs or their supervisory officers neither maintained any record to keep a watch on the action taken at the end of AAs i.e. realisation and imposition of tax from the dealers caught by MSUs during road checking nor devised any system of sending periodic progress report regarding imposing of tax and realisation thereof by the AAs in respect of seizure cases of registered dealers.

[53] *Panji-5*.
[54] Agra, Aligarh, Bareilly, Gorakhpur, Jhansi, Kanpur-I and II, Lucknow-I and II, Moradabad, Saharanpur and Varanasi-I.
[55] AC MS-1 and 2 Bareilly, AC MS-4, Gautam Budh Nagar, AC MS-2, 3 and 4 Ghaziabad, AC MS 3 Gorakhpur, AC MS-1 and 2 Jhansi, AC MS-3 Kanpur, AC MS-1 Lucknow, AC MS-5 and 6 Moradabad, AC MS-3 and 4 Saharanpur, AC MS-Moghalsarai at Varanasi, AC MS-2, Naubatpur Chandauli at Varanasi.
[56] Between 2008-09 to 2011-12 (excluding seizures from February 2009 to November 2009, in the period covered under circular No. Che.Po-25 *Ka-Paripatra*/2008/0809100).

During exit conference the Government stated (September 2013) that a software has now been designed for uploading the details of the cases caught by MSUs and communicated to the AAs vide circular[57] of August 2013. While department has taken action for online entry of details, it has not given specific reply to our observation regarding short realisation of security.

2.8.8.6 Non-auction of seized goods

Under the provision of Sub Section 9 of Section 48 of UPVAT Act, if the assessed tax or imposed penalty is not deposited in respect of seized goods, the officer seizing the goods may sell the seized goods by public auction in prescribed manner. However, no time limit has been prescribed for auction of such goods after the seizure.

We test checked the *Panji*-5 of 25 MS units and found that in five MSUs, officers of the units intercepted between the year 1998-99 and 2010-11 the vehicles carrying the goods without proper documents. Goods were seized as the consigner did not deposit the security/penalty amount. The dealers did not turn up for a long time, the Department became the sole owner of the goods valued at ` 1.02 crore as detailed in the table no. 2.17:

Table No. 2.17

(` in lakh)

Sl. No.	Name of unit	Year	Number of cases	Name of goods	Value of goods
1	MS-4, Ghaziabad	2005-06 to 2009-10	3	Medicine,readymade garments, *parchoon*, PVC granules.	8.28
2	MS-1, Kanpur	2009-10 to 2010-11	4	Leather, Medicine, Misc goods etc.	1.37
3	MS-2, Kanpur	1998-99 to 2010-11	5	Medicine, *Supari, Gutkha.*	56.13
4	MS-3, Kanpur	1999-2000 to 2001-02	12	*Gutkha,* Tobacco, Medicine, Bangles, mixer-grinder, Hosiery.	7.09
5	MS- I, Lucknow	2001-02 to 2009-10	30	*Gutkha,* Medicine, Iron & steel etc.	28.73
	Total		**54**		**101.60**

We observed that the seized goods were not auctioned and were lying in godowns/even though a considerable portion of the goods are perishable such as medicines, leather, *supari, gutkha* etc. Due to the inaction on part of the Department the value of seized goods could not be realised.

During exit conference the Government accepted (September 2013) our observations and stated that zonal Additional Commissioners (SIB) have been instructed (September, 2013) to do needful for disposal of seized goods.

We recommend that the Department should set a time frame for the disposal of seized goods in the interest of the revenue.

2.8.8.7 Non-levy of tax

As per CCT's Circular No. Mobile Squad/Penalty/*ka.ni.*/Transit Pass/ 1011047/Commercial Tax dated 20 September 2010, if TDF cases are seized by the officer-in-charge MSU, he will exercise the right of assessing officer for levy of tax in addition to imposing penalty.

We test checked the records of 35 MSUs and found that in 12 MSUs[58] in 68 cases not covered under valid transit pass/TDF in which total value of goods was ` 3.22 crore were seized by the officer-in-charge of MSUs and only the penalty

[57] No. I.T.-*Bill Sangrahan* computerisation-2013-14/642 dated 30.08.2013.

[58] AC MS- 2 Agra, AC MS- 2 and 3 Gorakhpur, AC MS- 2 Jhansi, AC MS- 3 Kanpur, AC MS- 2 and 5 Meerut, AC MS- 5 and 6 Moradabad, AC MS- 3 and 4 Saharanpur AC MS- 2 Naubatpur situated at Varanasi.

of ` 1.41 crore was imposed. Tax of ` 17.55 lakh though leviable was not levied by the officer in charge of MSU.

During exit conference the Government accepted (September 2013) our observation and stated that action to levy tax is underway. Further report has not been received (December 2013).

2.8.8.8 Late deposit of cash

Under the provision of para 5(4) of chapter 11 of Enforcement Manual (EM), officers of MS units should deposit the cash into State Bank of India/Treasury daily or twice in a week. The deposit has to be verified from treasury once in a month, and a copy of the verified challans is to be submitted to JC (SIB).

We test checked the records of 35 MSUs and found that in 906 cases of 14 units[59], amount of ` 4.23 crore was not deposited in accordance with the provisions of the EM. The delay ranged from three to 33 days. The JC (SIB) concerned did not take action to ensure timely deposit despite details being available with them. In the remaining 21 units the deposit was in time. A good practice of timely verification of challans from treasury done by MSUs and Internal Audit Wing was also seen.

During exit conference the Government accepted (September 2013) our observation and stated that instructions have been issued for compliance.

2.8.8.9 Non-availability of Cash Chest

As per Rule 28 of Financial Hand book Volume 5 Part-I, Government money should be kept in a strong Cash Chest. Cash Chest should be fixed/fastened to earth or wall.

MSUs get seizure of valuable goods and security deposit/penalty in cash. During the test check of records of 25 units we noticed that only three MSUs[60] had cash chests to store the cash received. In absence of cash chest remaining 22 MSUs were storing seized valuables and cash received in shape of security/penalty in ordinary steel almirahs compromising the safety and security of revenue.

During exit conference the Government stated (September 2013) that instructions have been issued for compliance of codal provisions.

[59] AC MS-1 and 2 Bareilly, AC MS-2 and 3 Ghaziabad, AC MS-2 and 3 Gorakhpur, AC MS-1, 2 and 3 Kanpur, AC MS-1Lucknow, ACMS-2 and 5 Meerut, AC MS-Moghalsarai at Varanasi, AC MS-2, Naubatpur, Chandauli at Varanasi.

[60] MS-2 Bareilly, MS-1 and 2 Kanpur.

2.8.8.10 Non-maintenance of prescribed records

As per provision of Chapter 13 of Enforcement Manual MSUs are required to maintain Physical Verification Register (PVR). In Part A of the register date and category-wise entry is to be made, whereas in Part B date-wise payment and balance in head of *Palledari* is maintained.

As per provision of para 2 (6) of Chapter 10 of Enforcement Manual, MSU officers are required to collect copy of bills from vehicles owners and their endorsement to the AAs concerned and recording entry in the Bill *Preshan* Register. Road Checking Register was to be maintained in prescribed format.

We noticed in offices of 35 MSUs[61] that system of maintenance of records was not followed.

- In 14 units[62] it was seen that Part A of Physical Verification Register (PVR) was not maintained. In three MSUs[63], the part A of the register were not maintained and details such as *bility* number, quantity/ weight of goods declared and quantity/weight of goods actually seen in verification were not filled.
- In eight[64] MSUs *Bill Preshan Register* was not maintained in prescribed format and columns for date and time, place of checking, name of AAs, number and date of dispatch and signature of officer in-charge were not made in registers.
    - In six[65] MSUs Road Checking Register was not maintained in the prescribed format and details like place of checking, name of officer-in-charge, date and time , vehicle number were not filled.

Due to non-maintenance/incomplete records the validity of the physical verification, dispatch of bills and road checking of vehicles claimed by the MSU, could not be confirmed.

During exit conference the Government stated (September 2013) that orders for compliance have been issued on 2 September 2013 and further stated that on-line system regarding uploading of the details of invoices, details of dealers, quantity (details of goods etc.) caught by MSUs and that of entering details of *Panji-5* have been developed and MSUs have been ordered to implement the same vide[66] circulars of August 2013.

[61] AC MS-2 Agra, AC MS-1 & 2 Bareilly, AC MS Bulandshahar, AC MS 1, 2, 3 and 4 Ghaziabad, AC MS 1, 4, 5 and 6 G B Nagar, AC MS-2 & 3 Gorakhpur, AC MS-1 & 2 Jhansi, AC MS-1, 2 and 3 Kanpur, AC MS-1 Lucknow, AC MS-1 & 4 Mathura, AC MS-2, 4 and 5 Meerut, AC MS 3, 5 & 6 Moradabad, AC MS 1, 3 and 4 Saharanpur, AC MS 1 Chandauli at Varanasi, AC MS Moghalsarai at Varanasi, AC MS 2, Naubatpur at Varanasi, AC MS 4 Varanasi.

[62] AC MS 8 Agra, AC MS 1 and 2 Bareilly, AC MS 3 Gorakhpur, AC MS 2 Ghaziabad, AC MS 3 Kanpur, AC MS 4 GB Nagar, AC MS 2 Meerut, AC MS 5 and 6 Moradabad, AC MS 3 and 4 Saharanpur, AC MS Mughalsarai at Varanasi, AC MS 2, Naubatpur at Varanasi.

[63] AC MS-3 & 4 Ghaziabad, AC MS-6 Moradabad.

[64] AC MS 4 GB Nagar, AC MS 2, 3 & 4 Ghaziabad, AC MS-5 & 6 Moradabad, AC MS-3 & 4 Saharanpur.

[65] AC MS 4 GB Nagar, AC MS-2, 3 & 4 Ghaziabad, AC MS-1 & 3 Kanpur.

[66] No. IT *Bill Sangrahan* Computerization-2013-14/642 and No. IT *Bill Sangrahan* Computerisation-2013-14/IT *Panji-5 Sa. Da*. 2013-14/643 dated 30.08.2013.

2.8.9 Working of SIBs

Under the provisions of Para 2 (c) of Chapter 4 of Enforcement Manual, JC (SIB) is responsible for sending survey reports of dealers to the Assessing Authority concerned. AA will also review and monitor the position of provisional/final assessment order passed in respect of SIB reports sent to AAs. As per chapter 9 of Enforcement Manual, SIB units are required to maintain a twelve column Register of Reports dispatched to AAs, with complete details of surveys including the details of AOs passed by AAs in respect of survey reports. As per Para 1 a (vi and vii) of Chapter 5 of EM, the DC (SIB) and AC (SIB) should also analyse the assessment orders against the confidential reports sent by them. They are required to verify the SIB cases pending to the level of AAs quarterly. CTO (SIB) will examine the cases related to small traders with help of AC (SIB) and forward the SIB report to the concern AAs after approval of DC (SIB).

SIBs conduct surveys, search and seizure operations in premises of dealer's/transporter's godowns within the range/zone. The adverse search reports alongwith seized documents and other reports are forwarded to the concerned AA in the State for assessment and realisation of tax.

The working results of SIBs in the State are mentioned in the table no. 2.18:

Table No. 2.18

Year	No. of units	No. of adverse surveys	No. of seized records	Reports [67] forwarded to AAs	Amount involved in reports sent (` in crore)	*Per cent* of growth in reports forwarded to AAs over previous year	*Per cent* of growth in amount over previous year
2007-08	39	5,024	2,316	6,994	7,547.48	14.36	73.49
2008-09	46	6,133	2,638	8,170	7,916.57	16.81	04.89
2009-10	46	7,031	3,180	8,244	9,008.05	00.91	13.79
2010-11	46	4,625	2,421	7,357	11,513.00	(-)10.76	27.81
2011-12	46	4,513	02,505	6,979	13,015.00	(-) 05.14	13.04
Total		**27,326**	**13,060**	**37,744**	**49,000.1**	**32.08**	**133.02**

Source: Annual reports of the Department.

From the table no. 2.18 it is clear that there is 11 to five *per cent* decline in the number of adverse surveys between 2009-10 and 2011-12, and 10.76 to 5.14 *per cent* in the number of reports forwarded to AA. The money value involved in the reports sent to AA has increased to ` 13,015 crore in 2011-12 from ` 7,916.57 crore in 2008-09. The Department has been unable to report of the position of the amount actually realised in these cases as the details required in the register[68] were not found filled.

[67] Total reports sent, including reports of adverse surveys.
[68] twelve column Register of Reports dispatched to AAs

In our test check we noticed that in 11 SIB zones[69] the DC (SIBs) conducted 20,257 surveys, wherein estimated evaded turnover of ` 24,698.07 crore was reported to the AAs between 2007-08 and 2011-12. The details are given in the table no. 2.19:

Table No. 2.19

(` in crore)

Year	Number of Zones	Number of surveys	Number of reports sent to AA	Estimated amount of evaded turnover involved
2007-08	11	4,590	3,960	5,853.96
2008-09	11	4,845	4,268	4,378.36
2009-10	11	4,655	4,525	4,655.62
2010-11	11	3,188	3,278	4,481.95
2011-12	11	2,979	3,012	5,328.18
	Total	**20,257**	**19,043**	**24,698.07**

The details of tax assessed by AAs and tax realised which were required to be maintained by the DC (SIB) were found maintained only by DCs (SIB)[70] of Moradabad Zone and we noticed that the actual tax realised[71] was between 22 to 25 *per cent* of the tax assessed[72] on the evaded turnover in 2,395 cases of Moradabad zone.

We were able to cross check only the assessment orders related to 21 dealers of five zones[73] which were finalised by the AAs on the basis of adverse reports sent by the officers of the SIB wing and found that:

- Cases of three dealers[74] for the period 2007-08 to 2009-10 having tax effect of ` 1.34 crore were pending for reassessment under Section 32 of UPVAT Act and Section 21 of UPTT Act.
- In cases of nine dealers[75] for the period 2007-08 to 2011-12 of evaded turnover of ` 115.27crore with a tax effect of ` 6.18 crore, the tax, was reduced to ` 8.04 lakh by the first/second appellate authorities. All the cases were pending in appeal.
- In two cases[76] the dealers deposited the assessed tax of ` 1.5 lakh and in one case[77] the AA found no evasion. In the fourth case[78], Reverse Input Tax Credit (RITC) of ` 8,000 was done.
- In one case[79] of 2009-10, tax of ` 88.30 lakh has been assessed by AA in April 2012.
- In remaining three cases[80] related to 2007-08 to 2009-10 having tax effect ` 1.50 crore, recovery certificates were issued between June 2011 and September 2012.

In these 21 cases we noticed that the evasion intimated by the SIB could not be sustained at the level of Assessing/Appellate Authorities.

During exit conference the Government agreed (September 2013) that details of the action taken by AAs are to be noted by the SIB units and there are

[69] Agra, Aligarh, Bareilly, Gorakhpur, Jhansi, Kanpur I and II, Lucknow I, Moradabad, Saharanpur and Varanasi I.
[70] DC -SIB-A, SIB-B and SIB, Bijnore of Moradabad Zone.
[71] Tax realised ` 41.19 crore.
[72] Tax assessed ` 171.71 crore.
[73] Agra , Aligarh, Ghaziabad , Lucknow and Noida
[74] Bansal Ispat Ghaziabad, Chetna Steels Ghaziabad and Ghaziabad Iron and Steel Co. Ghaziabad
[75] Gail India Ltd. Agra, Ganesh Enterprises Agra, Girraj Kishore Agra, Balaji Food Products Mathura, Samay foods Pvt. Ltd. Noida, Maini Steel Works, Noida, Namita Agarwal Agra, Neelkanth Sweets Lucknow, Krishna Electric and Hardware Noida,
[76] Swadeshi Manufacturing (P) Ltd. Noida and Vally Health Products (P) Ltd. Noida.
[77] Babulal and Sons, Mathura.
[78] Khandelwal Steel Centre, Ghaziabad
[79] SG Steels, Ghaziabad.
[80] Raj Ganga Developers Lucknow, Suresh Chandra Rishi Kumar Mathura, Taj Steel Works, Noida.

orders to analyse the action taken by AAs as well as a laid down process of appeal against orders of AA by the DC (SIB). Due to non compliance of the above, strict instructions have again been issued vide circular[81] dated 13 September 2013.

2.8.10 Monitoring and supervision by Additional Commissioner (SIB)

Under Chapter 5 of EM, duties and responsibilities of officers of SIB wing have been defined. DCs (SIB) are assigned duties as such as collecting the information regarding transportation of goods through rail, *Mandi Samiti*, data related to sensitive commodities* power consumed by manufacturers etc. review the confidential reports sent to the AAs, correlate the pending cases at level of AAs quarterly.

Under the provision of Para 2(b) of Chapter 4 of EM, Additional Commissioners Grade-II, (SIB) are also assigned duties including fortnightly monitoring the work of JC (SIB), DC (SIB) and AC (MS) and inspecting their offices periodically, identifying transporters who are indulged in tax evading activities, checking atleast one godown of one transporter and checking the movement of all his vehicles during 24 hours of that day, identifying such manufacturing units which are involved in tax evading activities and inspecting their factories, godowns and branches, collecting the information of tax evasion from other Departments and sharing it with the AAs.

*Such as Iron and Steel, *Supari, Gutkha* and *Parchoon* etc.

We examined the details of work[82] performed by 14 SIB zones and our observations are as follows:

(i) 12 DCs SIB[83] of eight zones[84] did not maintain the details of work done. Information from other DCs[85] of remaining six zones[86] was not received.

(ii) No follow up action was carried out to ascertain details of tax assessed/realised on basis of records forwarded to AAs maintained by 10 zones[87]. Only Moradabad zone could provide data in respect of tax realised. Data from three zones[88] was not received.

Apart from the above, we noticed gaps in the working of the Additional Commissioners Grade II SIB also, as no details of guidelines issued by them to SIB units, minutes of meetings held, details of periodical inspections conducted, details of 24 hours checking of at least one godown of one transporter and checking the movement of all his vehicles during the 24 hours of that day, details of action taken with reference to transit of goods through railways, information sharing with other Government Departments such as

[81] No. *Jwa.Kami.(Vi.Anu.Sha.) Mu.*- 57/*Sa.pa.*/ *Vi.Anu.Sha.Vyavastha Parivartan*/2013-14/1047 dated 13.09.2013.
[82] Railway container depot, collection of information of tax evasion by investigation from railway/*mandi samiti*, preparation of traders profile with reference to important goods, collection of information in respect of power consumed by the manufacturers, information of transfer of right to use of goods and plants and machinery etc., information of tax evaders from other Government Departments *viz.* Income Tax, Central Excise, Food and Civil Supplies etc., collection of Permanent Account Number (PAN) of contractors, correlating tax assessed on seizure reports sent to AAs.
[83] Agra-A and B, Bareilly-A and B, Jhansi, Kanpur-A, C and D, Mathura, Meerut-A and B, Saharanpur A.
[84] Agra, Aligarh, Bareilly, Jhansi, Kanpur-I and II, Meerut and Saharanpur.
[85] Gorakhpur A and B, Moradabad A and B, Saharanpur B, Varanasi A and B.
[86] Gautam Buddha Nagar, Ghaziabad I, Gorakhpur, Lucknow I, Moradabad and Varanasi I
[87] Agra, Aligarh, Bareilly, Gorakhpur, Jhansi, Kanpur I and II, Lucknow I, Saharanpur and Varanasi I.
[88] Gautam Budh Nagar, Ghaziabad-1 and Meerut.

Income Tax, Central Excise and Food and Civil Supplies, big suppliers and contractors of various Government Departments on the basis of their PAN were available in five[89] zones.

The only details available are of search and seizure operations of manufacturing units in three[90] out of these five zones. Thus the supervisory and monitoring control lacked direction and was not purposeful. Data/information from remaining nine zones[91] was not made available.

During exit conference the Government accepted (September 2013) our observation and issued[92] instructions for strict compliance of provisions of the manual.

2.8.11 Internal Audit

Internal audit is a vital component of the internal control mechanism and is generally defined as the control of all controls to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. Internal control also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of tax and other irregularities.

We collected information from the office of the CCT regarding the MSU planned for Internal Audit for the years 2010-11 to 2012-13 and found that 129, 136 and 134 units of Mobile Squads were planned for audit respectively. Further, examination of the records of the Internal Audit Wing in the Office of the CCT revealed that only treasury verification of deposits by these units were being done and no other records were checked. This shows that the units of Mobile Squads are not being identified for detailed internal audit. No internal audit of SIB units was conducted. As the Enforcement Wing of the Commercial Tax Department is an integral wing of the Department, all aspects of the same should be covered by internal audit.

During exit conference Government accepted (September 2013) our observation and stated that Internal Audit Wing is being directed to check all the records of MSUs *viz.* Detention Memo, Show Cause Notice, Seizure Memo, Godown *Panji*, *Panji*-5, PV Register, Case Files, Daily Receipt Register, Cash Book etc. in future.

2.8.12 Conclusion

The review revealed that there were gaps in the issue and submission of the transit declaration forms and Form 38. The IT Audit of online system of issue of transit declaration forms revealed lack of input and validation controls and Disaster Management System. There is lack of co-ordination between the IT wing and Enforcement Wing and Enforcement Wing did not get the required data input in time. There is no module to detect repeated tax evading dealers/transporters. The MSUs working had operational gaps, the control rooms were non-functional and the MSU officers had no devices to verify or cross check information available on the IT system. There was lack of follow-up and monitoring in the seizure cases by MSUs and in adverse survey cases by SIB regarding final tax imposed/realised by AAs.

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[89] Agra, Ghaziabad I, Jhansi, Lucknow I and Varanasi I.
[90] Ghaziabad-1, Lucknow-1 and Varanasi-1.
[91] Aligarh, Bareilly, Gautam Buddha Nagar, Gorakhpur, Kanpur I and II, Meerut, Moradabad, and Saharanpur.
[92] Vide circular No. *Jwa.Kami.(Vi.Anu.Sha.) Mu.-* 57/*Sa.pa./ Vi.Anu.Sha.Vyavastha Parivartan*/2013-14/1047 dated 13.09.2013.

2.8.13 Recommendations

The Government may consider implementing the following recommendations to rectify the deficiencies:

- Provision of mandatory filling of transaction details before on-line downloading of Form-38.
- Establishing input and validation controls for TDF and a Disaster Management System.
- Developing a module to maintain database of repeated tax evading dealers/transporters.
- Provision for suitable devices to enforcement officers so that they may use the data available on the Commercial Tax website.
- Establishing system of follow-up of monitoring of seizure/survey cases by enforcement officers regarding final tax imposed/realised by AAs.

2.9 Audit observations

Our scrutiny of the assessment records of the Commercial Tax Department revealed several cases of non-observance of the provisions of the Acts/Rules, non/short levy of tax/penalty/interest, irregular exemption, incorrect application of rate of tax, etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on our test check. Such omissions on the part of Assessing Authorities (AAs) have been pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted.

2.10 Non/Short levy of tax

The Assessing Authorities (AAs) while finalising the assessments, did not apply the correct rate of tax given in the schedule of rates, in some cases lower rate tax was applied due to misclassification of goods and in some of the cases no tax was levied which resulted in non/short levy of tax of ` 16.92 crore as mentioned in the following paragraphs:

2.10.1 Non/Short levy of Trade Tax/Value Added Tax due to application of incorrect rate of tax

Under Section 3A of Uttar Pradesh Trade Tax (UPTT) Act, 1948, tax on classified goods is leviable as prescribed in the schedule of rates notified by the Government from time to time. The goods not classified in the prescribed schedule of rates, are taxable at the rate of 10 *per cent* with effect from 1 December 1998. Under Section 4(1) of Uttar Pradesh Value Added Tax (UPVAT) Act, 2008, goods mentioned in schedule I are tax free, goods mentioned in schedule II are taxable at the rate of four *per cent*, goods mentioned in schedule III are taxable at the rate of one *per cent* and those mentioned under schedule IV are taxable at the rate notified by the Government from time to time. Goods not mentioned in any of the above schedules are covered under schedule V and are taxable at the rate of 12.5 *per cent* with effect from 1 January 2008. Under Central Sales Tax Act, 1956 tax on Inter-State sale of goods not covered by declaration in Form 'C' or 'D' is leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher upto 31 March 2007. From 1 April 2007 it is leviable at the rate applicable inside the State.

We observed[93] between November 2008 and March 2013 in 75 Commercial Tax Offices (CTOs)[94] that for the period 2002-03 to 2009-10, the AAs concerned, while finalising the assessments of 95 dealers between July 2007 and March 2012, accepted the tax as submitted by the dealers in their returns instead of rates given in the schedule on sale of goods worth ` 33.79 crore. This resulted in non/short levy of trade tax (TT)/value added tax (VAT) of ` 2.36 crore**.**

After we pointed out the cases to the Department/ Government between December 2008 and May 2013, the Department accepted our observation (December 2013) and levied tax of ` 69.49 lakh in 25 cases out of which ` 8.91 lakh has been recovered so far. The Department has initiated action in six other cases.

[93] From the assessment files and returns filed by the assessees.

[94] DC Sec 3 & 5 AC Sec 11 Allahabad, DC Sec 8 & 10 AC 19 Agra, DC Sec 2 Amroha, DC Sec 2 Barabanki, DC Sec 5 Bareilly, DC Sec 3 Behraich, DC Sec 3 Etah, DC Sec 2 Etawah, DC Sec 1 Fatehgarh, JC(CC) Faizabad, JC (CC) A, DC Sec 8, 9, 10 & 17, AC 2, 3, 4, 7, 10 & 11 Ghaziabad, DC Sec 3 G.B. Nagar, AC Sec 1 G.B.Nagar, DC Sec 2 & 9, AC Sec 4 & 10 Gorakhpur, DC Sec 1 Hardoi, DC Sec 5, 10, 17, 24, 27 & 28, AC Sec 5, 6, 11, 16, 17, 19, 20, 27 & 29 Kanpur, AC Kaushambi, DC Sec 1, AC Sec 1 Lakhimpur Khiri, DC Sec 2 ,5, 13, 14, 16, 17 & 20, AC Sec 16 & 20 Lucknow, DC Sec 7 Moradabad, DC Sec 6, AC Sec 6 & 8 Meerut, DC Sec 4, 5, 12 & 14, AC Sec 6 & 14 Noida, AC Sec 3 Orai, AC Sec 2 Shahjahanpur, AC Sec 4 Sitapur, AC Sec 11 Saharanpur, DC Sec 3 & 15 Varanasi.

2.10.2 Non-levy of tax on sale of goods for use in RGGVY

Under Section 3A of the UPTT Act 1948, tax on classified goods is leviable as prescribed in the schedule of rates notified by the Government from time to time. The goods not classified in the prescribed schedule of rates, are taxable at the rate of 10 *per cent* with effect from 1 December 1998. Under Section 3 H of the UPTT Act, State Development Tax at the rate of one *per cent* of the taxable turnover shall be levied on a dealer whose annual aggregate turnover exceeds ` 50 lakh with effect from 1 May 2005. Further, Government of Uttar Pradesh, vide notification dated 13 July 2006, granted exemption from payment of tax under the said Act on the sale of electrical goods imported from outside the State, for exclusive use in *Rajiv Gandhi Grameen Vidyutikaran Yojana* (RGGVY) in the State of Uttar Pradesh with effect from the date of publication of the notification till the completion of the Scheme.

We observed from the records[95] of DC Sector 3 Sitapur in March 2012, that during the year 2005-06 and 2006-07 (till 12 July 2006), a dealer[96] sold electrical goods worth ` 43.33 crore upto 12 July 2006 to the contractors working for *Rajiv Gandhi Grameen Vidyutikaran Yojana* (RGGVY). The AA, while finalising the assessment in July 2010, wrongly gave the benefit of exemption of trade tax on the sale of electrical goods used for RGGVY scheme in 2005-06 and upto 12 July in 2006, whereas the exemption[97] was effective from 13 July 2006. This wrong exemption resulted in non levy of tax[98] including State Development Tax of ` 4.77 crore.

After we pointed out this case to the Department/Government in May 2012, the Department accepted (January 2014) our observation and levied the tax of ` 4.64 crore. Report on recovery has not been received.

2.10.3 Short levy of tax on rent received from transfer of right to use of goods

Under Section 3F of UPTT Act read with notification dated 14 November 2000, tax on transfer of the right to use of any goods is leviable at the rate of five *per cent* with effect from 15 November 2000.

We observed[99] in the office of the DC Sector 13, Allahabad in June 2012 that while finalising the assessment of a dealer in December 2011 for the years 2002-03 and 2003-04 the AA, incorrectly applied rate of tax of four *per cent* instead of five *per cent* on rent from transfer of the right to use of machinery and equipment amounting to ` 23.64 crore. This resulted in short levy of tax of ` 23.64 lakh.

After we reported the matter to the Department/Government in August 2012, the Department accepted our observation (September 2013) and stated that the

[95] Assessment order and files related to the dealer.
[96] Executive Engineer, *Vidyut-Vitaran Khand*-1st, Vatsganj, Sitapur.
[97] KA.NI.-2-1283/XI-9(24)/2006-UP Act 15-48-order-(12)-2006 dated July 13, 2006.
[98] TT ` 4.33crore, SDT ` 43.33 lakh.
[99] Assessment order and files related to the dealer.

tax of ` 23.64 lakh has been levied. Report of recovery is awaited (December 2013).

2.10.4 Short levy of tax on toffee and confectionary goods

Under Section 4(1) of UPVAT Act, 2008, goods mentioned in schedule I are tax free, goods mentioned in schedule II are taxable at the rate of four *per cent*, goods mentioned in Schedule III are taxable at the rate of one *per cent* and those mentioned under Schedule IV are taxable at the rate notified by the Government from time to time. Goods not mentioned in any of the above schedules are covered under schedule V and are taxable at the rate of 12.5 *per cent* with effect from 1 January 2008. Toffee and confectionary items are not covered under Schedule I to IV.

We observed[100] in 11 CTOs that for the period 2007-08 (from 1 January 2008 to 31 March 2008) and 2008-09, the AAs concerned, while finalising the assessments of 12 dealers between March 2011 and March 2012, applied incorrect rate of tax on sale of branded[101] toffee and confectionary items of ` 8.01 crore. This resulted in short levy of VAT of ` 68.05 lakh as shown in the table no. 2.20:

Table No. 2.20

(` in lakh)

Sl. No.	Name of the office	No. of dealer	Assessment Year (Month and year of Assessment)	Name of goods (Schedule)	Taxable Turnover	Rate of tax leviable/ levied (*per cent*)	Tax short levied
1.	DC Sec-8, CT Agra	1	2008-09 (March 2012)	Toffee (V)	14.00	12.5/4	1.19
2.	DC Sec-11, CT Aligarh	1	2007-08(VAT) (March 2011)	Confectionary Products (V)	10.74	12.5/4	0.91
			2008-09 (January 2012)		33.91	12.5/4	2.88
3.	CTO Sec-9, CT Aligarh	1	2008-09 (February 2012)	Toffee Confectionary (V)	10.81	12.5/4	0.92
4.	AC Sec 1 CT Chatrapati Shahuji Maharaj Nagar (Gauriganj)	1	2008-09 (February 2012)	Confectionary (Toffee and Chewing Gum) (V)	1.27	12.5/4	0.11
5.	AC Sec-8, CT Ghaziabad	1	2008-09 (January 2012)	Confectionary Item (V)	53.04	12.5/4	4.51
		1	2008-09 (January 2012)	Confectionary (V)	53.13	12.5/4	4.52
6.	DC Sec-1, CT Gonda	1	2008-09 (March 2012)	Toffee and Toffee Gum (Confectionary Product) (V)	22.16	12.5/4	1.88
7.	DC Sec-2 CT, Gonda	1	2008-09 (October 2011)	Confectionary (V)	13.32	12.5/4	1.13
8.	DC Sec- 10, CT Gorakhpur	1	2008-09 (September 2011)	Toffee (V)	7.68	12.5/4	0.65
9.	DC Sec- 3, CT Kanpur	1	2008-09 (November 2011)	Confectionary (Toffee) (V)	60.06	12.5/4	5.10
10.	AC Sec 10, CT Noida	1	2008-09 (March 2012)	Confectionary Item (V)	101.82	12.5/4	8.65
11.	DC Sec 4, CT Saharanpur	1	2008-09 (March 2012)	Confectionary (V)	418.85	12.5/4	35.60
Total		**12**			**800.79**		**68.05**

[100] From the assessment files and returns filed by the assessee.

[101] Alpenliebe, Center Fresh, Chlormint, Filly Folly, Fruittella and Mentos etc.

After we reported the matter to the Department/Government between August 2012 and May 2013; in reply the Department (September 2013) has accepted our observation and levied tax of ` 53.66 lakh in cases mentioned at Sl. No. 3, 5, 6, 7, 9 and 11 of the above table. In remaining cases action has been initiated for levy of tax.

2.10.5 Non-levy of tax on irregular stock transfer

Under Section 4 of the CST Act, 1956 read with Section 3, a sale or purchase of goods is determined to take place inside a State, shall be deemed to have taken place outside all other States, in the case of specific or ascertained goods, at the time the contract of sale is made and in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation. Further, in case of Bharat Carbon Ribbon Mfg. Co. Ltd. vs. State of Haryana 2005 NTN, transfer to depot/branch outside the State was not considered as Branch transfer where goods were manufactured of certain specification under a contract with a customer for their ultimate sale and delivery to that customer.

We observed from the records[102] of Joint Commissioner (Corporate) Noida between October 2011 and December 2012 that one dealer supplied goods (CTV/DVD component/Printed Circuit Board) worth ` 67.67 crore during the years 2007-08 and 2008-09 to its branches at Dehradun and Mohali as per specifications mentioned in the purchase orders. The AA while finalising the assessment between March 2011 and March 2012 did not examine the fact that these were not to be considered as stock transfer as they were manufactured under a pre existing purchase order for delivery to specific customers. The AA wrongly treating the same as stock transfer, did not levy the tax despite the provisions of Act and judicial pronouncement. This resulted in non levy of tax of ` 2.71 crore.

We reported the matter to the Department/Government between December 2011 and March 2012. Their replies have not been received (December 2013) despite several reminders.

[102] Assessment files and returns filed by the assessee.

2.10.6 Non-levy of tax on purchase of Paddy Husk

Under Section 7 of UPVAT Act, goods classified in schedule-1 of the Act are not taxable at any point and goods not classified in Schedule II to IV of the UPVAT Act are taxable at the rate of 12.5 *per cent*. Further, under the provision of Section 5 of the UPVAT Act, if the goods are purchased from an unregistered dealer, tax shall be levied at the same rate applicable on the turnover of sale of that commodity.

Cattle feed and cattle fodder which includes green fodder, *chuni*, *bhusi*, *chhilka*, *choker*, *javi*, *gower*, de-oiled rice polish, de-oiled rice bran, de-oiled rice husk, de-oiled paddy husk or outer covering of paddy are exempted from tax at Serial number 4 of Schedule I. Outer covering of paddy known as Paddy husk, which has not been de-oiled or used for purpose other than cattle fodder is not covered under this entry and falls under schedule V of the Act, and is taxable at the rate of 12.5 *per cent*.

We observed[103] in four CTOs between October 2012 and March 2013 that four dealers had purchased paddy husk or outer covering of paddy valued at ` 34.42 crore, during the period 2007-08 (1 January 2008 to 31 March 2008) and 2008-09 from unregistered sellers and used it as fuel to run their manufacturing plants. The paddy husk was used as fuel whereas use of de-oiled paddy husk as cattle fodder only is exempted from VAT. The AAs while finalising the assessments between November 2010 and December 2012 did not levy the tax on this purchase of paddy husk or outer covering of paddy used as fuel resulting in non-levy of tax of ` 4.30 crore, as shown in the table no. 2.21:

Table No. 2.21

(` in lakh)

Sl. No.	Name of the office	Number of dealer	Assessment Year (Month and year of Assessment)	Name of commodity	Value of goods	Rate of tax leviable/ levied (*per cent*)	Tax not levied
1.	JC(CC) CT Etawah at Firozabad	1	2008-09 (February 2012)	Paddy husk used as fuel (Schedule V)	94.30	12.5/0	11.79
2.	DC Sec-16, CT Kanpur	1	2008-09 (December 2011)		149.28	12.5/0	18.66
3.	DC Sec-2, CT Sambhal	1	2007-08 VAT (November 2010)		331.32	12.5/0	41.41
			2008-09 (November 2010)		2697.10	12.5/0	337.14
4.	DC CT Sikandrabad	1	2008-09 (February 2011)		170.37	12.5/0	21.30
Total		**4**			**3442.37**		**430.30**

After we reported the matter to the Department/Government between August 2012 and May 2013, the Department stated in August 2013 that outer covering of paddy does not contain oil and is covered under Entry No.4 of Schedule-I . We do not agree as de-oiled paddy husk used as cattle fodder is exempted from tax. In these cases the paddy husk was used as fuel and not cattle feed. Hence tax of ` 4.30 crore was leviable on this purchase/sale.

[103] From the assessment files and returns filed by the assessees.

2.10.7 Short levy of tax on transformer and transformer parts

Goods not mentioned in Schedules I to IV are covered under schedule V and are taxable at the rate of 12.5 *per cent* with effect from 1 January 2008. Transformer was classified in schedule II and was taxed at the rate of four *per cent* till 29 September 2008. After this date transformer was omitted from schedule II and was taxable at the rate of 12.5 *per cent.* Transformer parts and transformer oil is not mentioned in Schedules I to IV.

We observed from the records[104] of five CTOs between December 2011 and November 2012 that in case of five dealers for the period 2007-08 (VAT) to 2008-09, the AAs while finalising the assessments between March 2011 and March 2012, applied incorrect rate of tax on sale of transformer, its parts and transformer oil of ` 5.20 crore during January 2008 to September 2008. This incorrect taxation resulted in short levy of tax of ` 44.22 lakh, as shown in the table no. 2.22:

Table No. 2.22

(` in lakh)

Sl. No.	Name of the unit	Number of dealer	Assessment year (month & year of assessment)	Name of commodity (Schedule)	Value of goods	Rate of Tax leviable/ levied *(per cent)*	Tax short levied
1.	DC Sec -5 CT, Kanpur	1	2008-09 (March 2012)	Transformer parts and oil (V)	112.91	12.5/4	9.60
2.	DC Sec-6 CT, Jhansi	1	2007-08(VAT) (March 2011)	Transformer parts (V)	30.66	12.5/4	2.61
3.	DC Sec 16, CT Lucknow	1	2007-08(VAT) (March 2011)	Transformer oil (V)	13.42	12.5/4	1.14
4.	DC Sec -6 CT, Meerut	1	2008-09 (February 2012)	Transformer (V)	186.03	12.5/4	15.81
5.	DC Sec -12 CT, Meerut	1	2008-09 (November 2011)	Transformer parts (V)	177.18	12.5/4	15.06
	Total	**5**			**520.20**		**44.22**

We reported the matter to the Department/Government between September 2012 and November 2012. In reply (December 2013) the Department accepted our observation in one case mentioned at Sl. No. 3 of the above table and levied the tax of ` 1.14 lakh. Report of recovery and reply in remaining cases has not been received despite several reminders (December 2013).

2.10.8 Short levy of tax on tractor accessories

Goods not mentioned in Schedules I to IV are covered under schedule V and are taxable at the rate of 12.5 *per cent* with effect from 1 January 2008. Tractor and attachments are classified under Schedule II and taxed at the rate of four *per cent*. Tractor accessories are not covered in Schedule I to IV.

We observed from the records of three CTOs between September 2012 and October 2012 that in cases of five dealers for the period 2008-09, the AAs while finalising the assessments between July 2011 and March 2012,

[104] Assessment files and returns filed by the assessee.

applied incorrect rate of tax on sale of tractor accessories of ` 3 crore. As tractor accessories are not covered in Schedule I to IV, they are to be taxed at the rate of 12.5 *per cent.* We noticed that in the returns/tax invoices submitted by the dealer, the sale/purchase of tractor accessories was clearly mentioned, but the AAs did not take the fact in cognizance. This incorrect application of rate of tax resulted in short levy of tax of ` 25.52 lakh as detailed in the table no. 2.23:

Table No. 2.23

(` in lakh)

Sl. No.	Name of the office	Number of dealer	Assessment Year (Month and year of Assessment)	Name of commodity (Schedule)	Value of goods	Rate of tax leviable/ levied (*per cent*)	Tax short levied
1.	DC Sec 14, CT Agra	1	2008-09 (July 2011)	Tractor Accessories (V)	15.11	12.5/4	1.28
2.	DC Sec 6, CT Meerut	1	2008-09 (February 2012)		46.71(S)	12.5/4	3.97
					99.93(C)	12.5/4	8.49
		1	2008-09 (January 2012)		84.92	12.5/4	7.22
		1	2008-09 (February 2012)		3.69(S)	12.5/4	0.31
					36.02(C)	12.5/4	3.06
3.	AC Sec 8, CT Meerut	1	2008-09 (March 2012)		13.98	12.5/4	1.19
Total		**5**			**300.36**		**25.52**

We reported the matter to the Department/Government between November 2012 and December 2012, their reply has not been received (December 2013) despite several reminders.

2.10.9 Short levy of tax on paint

Goods not mentioned in Schedules I to IV are covered under schedule V and are taxable at the rate of 12.5 *per cent* with effect from 1 January 2008. Paint is not covered in schedule I to IV. It has judicially been* held that if any goods is used for any specific purpose it is taxable under the specific entry where such goods are classified.

* Hon'ble SC's decision in case of M/s Pyuma Ayurvedic Herbal (P) Ltd.Vs Commissioner, Central Excise.

We observed in two CTOs between February 2013 and March 2013 that in cases of two dealers for the year 2008-09 the AAs while finalising the assessments between October 2011 and February 2012, applied incorrect rate of tax on sale of paint (powder coating) and paint drier treating them as epoxy resin and mixture of chemicals valued at ` 13.78 crore instead of classifying these under Schedule V. This resulted in non/short levy of tax of ` 1.17 crore. As powder coating and paint drier are all utilised in paint work and paint is not classified in Schedule I to IV, these items were to be taxed at 12.5 *per cent* and not at four *per cent*. This wrong treatment of powder coating and paint drier resulted in short levy of tax of ` 1.17 crore. Details are shown in the table no. 2.24:

Table No. 2.24

(` in lakh)

Sl. No.	Name of the office	Number of dealer	Assessment Year (Month and year of Assessment)	Name of commodity (Schedule)	Value of goods	Rate of tax leviable/ levied (*per cent*)	Tax short levied
1.	DC Sec 5, CT Moradabad	1	2008-09 (February 2012)	Paint (Powder coating) (V)	142.57	12.5/4	12.12
2.	JC(CC) 1 Varanasi	1	2008-09 (October 2011)	Paint Drier (V)	1235.25	12.5/4	104.99
Total		**2**			**1,377.82**		**117.11**

We reported the matter to the Department/Government between April 2013 and June 2013. In reply the Department stated in August 2013 that these items are polishing material/mixture of chemicals which is covered under entry 29 of Schedule II A. We do not agree with the reply as entry 29 does not include these items. As paint drier and paint (powder coating) were specifically sold to paint companies[105] used for specific purpose, in light of the aforementioned judicial pronouncement they are unclassified and to be taxed at the rate of 12.5 *per cent.*

2.11 Non-levy of purchase tax

Under Section 3AAAA of the UPTT Act, every dealer who purchases any goods liable to tax under this Act from any person other than a registered dealer whether or not tax is payable by such person, shall be liable to pay tax on purchase price of such goods at the same rate at which tax is payable on the sale of such goods.

We observed from the records[106] of two CTOs between June 2009 to May 2011 that in the cases of two dealers for the period 2006-07 to 2007-08 (till December 2007), the AAs did not scrutinise the returns while finalising the assessments between November 2008 and January 2011 and levy tax on purchase of goods from unregistered dealers worth ` 1.89 crore. This resulted in non levy of tax of ` 8.13 lakh. The details are shown in the table no. 2.25:

Table No. 2.25

(` in lakh)

Sl. No.	Name of the unit	No. of dealer	Assessment year (Month & year of assessment)	Name of Commodity	Taxable Turnover	Rate of tax leviable (*per cent*)	Rate of tax levied (*per cent*)	Non levy of Tax
1.	DC Sec CT Debai, Bulandshahr	1	2006-07 (November 2008)	Timber	52.79	2.5	0	1.32
2.	DC Sec 8 CT Kanpur	1	2006-07 (October 2010)	Tin Container	96.47	5	0	4.82
			2007-08 (upto December 2007) (January 2011)		39.79	5	0	1.99
Total		**2**			**189.05**			**8.13**

[105] Sold to paint manufacturing co. namely Asian Paints Ltd. (various units), Berger Paints India Ltd. Rajdoot Division Jammu, Kamdhenu Paints (Division of Kamdhenu Ispat Ltd.) Alwar Rajasthan, Monarch Paints, Punjab Paints Colour (P) Ltd.Kanpur, Nerolac Paints Ltd. Kanpur etc.

[106] Assessment order and files related to the dealer.

We reported the matter to the Department/Government between July 2009 and June 2011. The Department accepted (August 2013) our observation fully and levied the tax of ` 8.13 lakh. The detail of recovery is awaited (December 2013).

2.12 Non-imposition of Penalty/Interest

The AAs while finalising the assessments, did not notice the offences committed by the dealers i.e. irregular transactions, transactions out of accounts books, transactions against the provisions of the UPTT Act and UPVAT Act and Rules made thereunder etc. Though there are clear cut provisions for imposition of penalties and charging of interest in the Act. The AAs concerned did not initiate action in this regard, resulting in non-imposition of penalty and non-charging of interest amounting to ` 11.10 crore as mentioned in the following paragraphs:

2.12.1 Non-imposition of penalty for delayed deposit of tax

Under Section 15 (A) (1) (a) of the UPTT Act and Section 54 (1) (1) of UPVAT Act, if the AA is satisfied that any dealer or other person has, without reasonable cause, failed to furnish the return of his turnover or fails to deposit the tax under the provision of these Acts, he may direct the dealer to pay by way of penalty in addition to tax, if any payable by him, a sum which shall not be less than 10 *per cent* but not exceeding 25 *per cent* of tax due, if the tax due is up to ` 10,000 and 50 *per cent* if it is above ` 10,000 under UPTT Act and a sum equal to 20 *per cent* of tax due under UPVAT Act.

In 22 CTOs[107] between October 2009 and December 2012, we observed[108] that 27 dealers had not deposited their admitted tax of ` 5.49 crore for the period 2006-07 to 2009-10 in time. The delay ranged between four and 844 days. The AAs while finalising the assessment between March 2009 and March 2012 did not impose penalty of ` 99.47 lakh in addition to the tax levied.

After we reported these cases to the Department/Government between November 2009 and February 2013, the Department accepted (August 2013) our observations and imposed the penalty of ` 79.61 lakh in 12 cases and initiated action in the remaining cases. The details of recovery are awaited (December 2013).

2.12.2 Non-imposition of penalty on concealed turnover/evaded liable tax

Under Section 15 A (1) (c) of the UPTT Act, if the AA is satisfied that a dealer has concealed his turnover or has deliberately furnished incorrect particulars of his turnover, he may direct such dealer to pay by way of penalty, in addition to tax, a sum not less than 50 *per cent* but not exceeding 200 *per cent* of the amount of tax.

2.12.2.1 We observed[109] in seven CTOs between July 2009 to June 2012, that during the year 2000-01 to 2007-08 (up to December 2007), seven dealers had concealed sales turnover of ` 4.21 crore on which tax amounting to ` 37.26

[107] DC Sec 2 Allahabad, JC(CC) Bareilly, DC Sec 3 Bulandshahar, DC Sec 1 Basti, DC Sec 4 Barabanki, DC Sec 3 Etah, JC(CC-A), JC(CC) Range-B, DC Sec 18 Ghaziabad, JC(CC) G. B. Nagar, DC Sec 6 Jhansi, DC Sec 25 Kanpur, JC(CC) Zone-1, DC Sec 5, 14, 15 & 22 Lucknow, DC Sec 2 Maharajganj, DC Sec 3 & 11, AC Sec 9 Noida and DC Sec 12 Saharanpur.

[108] Assessment order and files related to the dealer.

[109] Assessment order and files related to the dealer.

lakh was levied by the AAs between February 2007 and January 2012 but the AAs did not impose even the minimum penalty of ` 18.63 lakh. The details are given in the table no. 2.26:

Table No. 2.26

(` in lakh)

Sl. No.	Name of Unit	Number of Dealer	Assessment year/ Month and year of Assessment	Concealed Turnover	Tax levied on Concealed Turnover	Minimum Penalty
1.	DC Sec. 1, CT Chandauli	1	2007-08 (upto December 2007) (January2012)	55.46	2.22	1.11
2.	AC Sec 4, CT Ghaziabad	1	2007-08 (upto December 2007) (August 2011)	32.89	2.63	1.32
3.	AC Sec 29, CT Kanpur	1	2005-06 (July 2010)	207.35	22.81	11.40
4.	DC Sec1, CT Mau	1	2000-01 (February 2007)	5.23	0.57	0.28
			2001-02 (February 2007)	22.14	1.56	0.78
			2002-03 (February 2007)	12.24	1.28	0.64
5.	AC Sec 8 ,CT Moradabad	1	2000-01 (August 2002)	19.16	1.67	0.84
6.	AC Sec 8, CT Noida	1	2005-06 (April 2010)	31.00	3.10	1.55
7.	DC Sec13,CT Varanasi	1	2000-01 (December 2010)	35.44	1.42	0.71
Total		**7**		**420.91**	**37.26**	**18.63**

We reported the matter to the Department/Government between September 2009 and July 2012. The Department accepted our observation (December 2013) and imposed penalty of ` 25.22 lakh in three cases[110] out of which ` 1.55 lakh was recovered so far. The Department also initiated action of penalty in two other cases. Reply in the remaining two cases has not been received (December 2013) despite several reminders.

Under Section 54(1) (2) of UPVAT Act, where a dealer has concealed particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover; or submits a false tax return under this Act or evades payments of tax which he is liable to pay under this Act, the AA may direct that such dealer shall, in addition to the tax, if any, payable by him, pay by way of penalty, a sum three times of amount of tax concealed or avoided.

2.12.2.2 We observed from the records[111] of 44 CTOs[112] between August 2011 and March 2013, that 55 dealers concealed purchase and sales turnover of ` 23.57 crore during the year 2007-08 (from 1 January 2008 to 31 March 2008) to 2010-11. The AAs while finalising the assessments between December 2009 and March 2012 levied tax of ` 1.09 crore on this concealed turnover. Though the Appellate Authorities had

[110] Sl. No. 3, 4 and 7 of the table no. 2.26

[111] Final assessment orders of dealers, accepted tax deposited by dealers and order of CT appellate authorities.

[112] DC Sec 12, AC Sec 16 Agra, DC Sec 5 Aligarh, DC Sec 2 Badaun, DC Sec 4 Barabanki, DC Sec 3 Bareilly, DC Sec 4 Bulandshahar, DC Sec 1, AC Sec 1 Chandauli, DC Sec 1 Faizabad, DC Sec 7, 8 & 18 Ghaziabad, AC Sec 4 Gonda, DC Sec 12 Gorakhpur, DC Sec 1, 12, 16, 17, 18, 28 & 29 AC Sec 1 & 2 Kanpur, AC(Incharge) Kaushambi, AC Sec 16 Lucknow, DC Sec 2 Mahrajganj, AC Sec 5 Mathura, DC Sec 2 Mirzapur, AC Sec 7 & 8 Moradabad, AC Sec 4 Muzaffarnagar, JC(CC) 1, DC Sec 1 Nazibabad, DC Sec 6, 8, 9 & 10, AC Sec 2 &Noida, DC Sec 1 Pratabgarh, DC Sec 6 Saharanpur, DC Sec 1 Sonebhadra, DC Sec 8 Varanasi.

confirmed (between December 2010 and September 2012) that the dealers had concealed the turnover/evaded payment of liable tax or the dealers had themselves accepted[113] the same and deposited the tax due on the concealed turnover, the AAs concerned did not impose penalty of ` 3.27 crore .

We reported the matter to the Department/Government between September 2011 and May 2013. In reply the Department has accepted (September 2013) our observation and imposed penalty of ` 48.58 lakh in 20 cases. Report on recovery in these cases and reply in the remaining cases has not been received (December 2013) despite several reminders.

2.12.3 Non-imposition of penalty on issuance of false declaration

Under Section 15 A (1) (l) of the UPTT Act, any dealer who issues or furnishes a false certificate or declaration, by reason of which tax ceases to be leviable, shall pay by way of penalty in addition to tax, a sum not less than 50 *per cent* but not exceeding 200 *per cent* of the amount of tax, which would thereby have been avoided.

We observed[114] between November 2009 and July 2011 that two dealers had issued or furnished false declarations by which tax on sale or purchase of ` 11.43 lakh was not levied during the years 2002-03 and 2004-05. However, the AAs while finalising the assessment of these dealers between April 2008 and March 2011, did not impose the minimum penalty of ` 5.72 lakh. Details are as shown in the table no. 2.27:

Table No. 2.27

(` in lakh)

Sl. No.	Name of the unit	Assessment year (month & year of assessment)	Name of Goods	Turnover	Tax avoided by furnishing false certificate/ Declaration	Minimum penalty leviable
1.	DC Sec 5, CT Mathura	2002-03 (April 2008)	*Rodi, Gitti, Badarpur* & Sand	42.13	1.88	0.94
2.	JC (CC), CT Robertsganj Sonebhadra	2004-05 (March 2011)	Aluminium Ingots & Ridda Rods	159.25	9.55	4.78
Total				**201.38**	**11.43**	**5.72**

After we reported the matter between December 2009 and September 2011 the Department accepted (August 2013) our point and stated that action on imposition of penalty has been started; ` 46,000 has been recovered so far.

[113] In one case of DC Sec3 Bareilly dealer has not appealed the order of AA.
[114] From the assessment order and files related to the dealer.

2.12.4 Non-imposition of penalty on delayed deposit and short deduction of works contract tax

Under Section 8D (6) of the UPTT Act and 34(8) of UPVAT Act, a person responsible for making payment to a contractor, for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of works contract, shall deduct an amount equal to four *per cent* of such sum, payable under the Act, on account of such works contract. In case of failure to deduct the amount or deposit the amount so deducted into the Government treasury before the expiry of the month following the month that in which deduction is made and before the expiry of 20th day of the month following the month that in which the deduction was made, the AAs may direct that such person shall pay by way of penalty a sum not exceeding twice the amount so deducted.

2.12.4.1 We observed from the assessment orders between September 2011 and August 2012 in 13 CTOs that 13 dealers while making payment to the contractors, deducted works contract tax (WCT) of ` 1.44 crore at source, during the years 2005-06 and 2008-09 but did not deposit the same into the Government treasury within the prescribed time. The delay ranged between three and 1285 days. The AAs while finalising the assessments between March 2009 and April 2012 did not impose the penalty of ` 2.88 crore as mentioned in the table no. 2.28:

Table No. 2.28

(` in lakh)

Sl. No.	Name of the office	Number of dealers	Assessment year (Month and year of Assessment)	Amount of tax	Period of delay (in days)	Penalty leviable
1.	DC Sec 2, CT Azamgarh	1	2007-08 (VAT) (March 2011)	4.81	26 to 78	9.61
2.	AC Sec 2, CT Amroha	1	2008-09 (April 2012)	4.17	120 to 181	8.34
3.	DC Sec 12, CT Ghaziabad	1	2007-08 (UPTT) (March 2010)	3.67	117 to 362	7.34
			2007-08 (VAT) (March 2010)	1.88	38 to 98	3.77
4.	AC Sec 16, CT Ghaziabad	1	2008-09 (January 2012)	3.43	7 to 38	6.86
5.	AC Sec 3 ,CT G.B.Nagar	1	2007-08 (UPTT) (December 2010)	30.68	6 to 421	61.36
			2007-08 (VAT) (December 2010)	11.28	16 to 690	22.56
6.	AC Sec 4 CT Gonda	1	2008-09 (March 2012)	28.18	13 to 115	56.35
7.	JC(CC)-2, CT Kanpur	1	2008-09 (March 2012)	2.32	63 to 275	4.64
8.	DC Sec 12, CT Lucknow	1	2007-08 (VAT) (March 2011)	8.34	13 to 26	16.68
9.	DC Sec 7, CT Lucknow	1	2008-09 (February 2012)	30.83	24 to 94	61.66
10.	AC Sec 8, CT Moradabad	1	2007-08(VAT) (March 2011)	3.49	19 to 1182	6.98
11.	DC Sec 11, CT Noida	1	2007-08(UPTT) (July 2010)	1.10	12 to 23	2.20
12.	AC Sec 3, CT Noida	1	2005-06(UPTT) (March 2009)	1.34	3 to 1285	2.68
13.	AC Sec 1, CT Rampur	1	2008-09 (August 2011)	8.52	17 to 53	17.04
	Total	**13**		**144.04**		**288.07**

After we reported the matter to the Department/Government between November 2010 and November 2012, the Department replied (September 2013) that the penalty of ` 1.08 crore has been imposed in seven cases[115]and action in the remaining cases has been initiated.

2.12.4.2 We observed from the records [116] of DC Sector 8 CT, Lucknow in August 2012 that during the year 2008-09, a dealer[117] deducted only ` 1.39 crore tax at source while making the payment of ` 57.29 crore to contractors. As per the provisions of the Act, the tax of ` 2.29 crore at the rate of four *per cent* was required to be deducted at source and deposited. The AA while finalising the assessment in March 2012 failed to notice this short deduction of tax at source of ` 90.52 lakh. This resulted in short levy of tax of ` 90.52 lakh besides penalty.

We reported the matter to the Department/Government in December 2012. The Department has accepted (September 2013) our observation and imposed the penalty of ` 1.81 crore, however, details regarding recovery of the short levied tax of ` 90.52 lakh has not been furnished. Recovery of penalty and levy of short deposited tax is awaited (December 2013).

2.12.5 Non-imposition of penalty under CST

Under Section 10 and 10 A of the CST Act, a registered dealer may purchase any goods from outside the State at concessional rate of tax against declaration form 'C'. If such goods are not covered by his Registration Certificate (RC) under the Central Sales Tax Act or the goods purchased from outside the state at concessional rate of tax are used for a purpose other than that for which the registration certificate is granted, the dealer is liable to be prosecuted. However, in lieu of prosecution, if the AA deems it fit, he may impose a penalty up to one and half times of the tax payable on the sale of such goods.

We observed[118] in 10 CTOs between August 2009 and September 2012, that during the year 2005-06 to 2009-10, 10 dealers purchased goods valued at ` 6.83 crore at concessional rate of tax against declaration in Form 'C' which were not covered by their certificates of registration. The AAs while finalising the assessments between March 2009 and March 2012 did not scrutinise the Registration Certificate and utilisation details of Form 'C'. As no such deterrent action was taken , penalty of ` 99.86 lakh was not imposed. The details are mentioned in the table no. 2.29:

[115] At Sl. No. 1, 3, 4 ,6, 7, 8 & 12
[116] Assessment order and file related to the dealer.
[117] Executive Engineer Lucknow Division, Sharda Nahar Lucknow.
[118] From the assessment order and files related to the dealer.

Table No. 2.29

(` in lakh)

Sl. No.	Name of Unit	No. of dealer	Assessment year/ Month and year of Assessment	Name of the commodity not covered by registration certificate	Amount of purchase	Rate of tax (*per cent*)	Rate of penalty imposable (*per cent*)	Penalty imposable
1.	DC Sec 2, CT, Barabanki	1	2006-07 (March 2009)	Yarn	13.30	8	12	1.60
2.	DC Sec 5, CT, Gorakhpur.	1	2007-08 (01.01.08 to 31.03.08) (March 2011)	D.G. Set, Truck[119] Mountec, Batching Plant Bentonite Powder & Tata Tripper(UPTT)Battery	397.02	10	15	56.85
3.	DC Sec 1,CT, Greater Noida	1	2008-09 (March 2012)	Engine and Shuttering Material	7.92	10	15	1.19
				U Jack	3.71	12	18	0.67
				Tiles and Shuttering Material	11.55	12.5	18.75	2.16
4.	D.C.Sec 18,CT, Kanpur	1	2008-09 (March 2012)	Rent on D.G. Set (UPTT)	29.20	10	15	4.38
				Rent on D.G. Set (VAT)	20.86	4	6	1.25
5.	AC Sec 1, CT, Lakhimpur Kheri	1	2008-09 (February 2012)	D.G. Set	11.99	4	6	0.72
6.	DC Sec 19,CT, Lucknow	1	2006-07 (March 2009)	D.G. Set	88.02	10	15	13.20
7.	DC Sec 4,CT, Meerut	1	2008-09 (March 2012)	Hot Mix Plant	23.72	12.50	18.75	4.45
				Air Compressor, Generator JCBBDX Vibrator and Weight Mix Plant	53.63	12.50	18.75	10.05
8.	AC Sec 9,CT,Nodia	1	2007-08 (March 2011)	Transformer Parts and Accessories	4.66	12.50	18.75	0.87
				Diesel Engine Spare Parts and Chemical	0.62	4	6	0.04
9.	DC Sec 9,CT, Saharanpur	1	2007-08 (01.01.08 to 31.03.08) (August 2011)	BOPP Tape (VAT)	0.24	4	6	0.01
				Adhesive/Gum & Shrink Sleeves (VAT)	0.61	12.50	18.75	0.11
				BOPP Tape (UPTT)	0.24	5	7.50	0.02
				Adhesive (UPTT)	0.18	12	18	0.03
				Shrink Sleeves & Plastic Bag (UPTT)	2.29	10	15	0.34
10.	DC Sec 17,CT, Varanasi	1	2005-06 (March 2009)	D.G. Set and Hot Crane Geared Trolley Grinder Base Plate	12.81	10	15	1.92
	Total	**10**			**682.57**			**99.86**

After we pointed out these cases to the Department/Government between December 2009 and December 2012, the Department accepted our observation (September 2013) and imposed penalty of ` 22.18 lakh in six cases[120] and stated that action has been initiated in remaining cases.

[119] The concession has been claimed for period prior to the period covered under the certificate of registration.
[120] At Sl. No. 1, 5, 6, 8, 9 and 10.

2.13 Non-levy of entry tax

Under Section 4 of the UP Tax on Entry of Goods Act, 2007, entry tax on value of goods is leviable as per schedule of rates notified by the Government from time to time.

We observed from the records[121] of 22 CTOs[122] between April 2011 and March 2013 that during 2005-06 to 2009-10, 23 dealers purchased goods worth ` 31.17 crore from outside local area. The AAs, while finalising the assessments between March 2010 and May 2012, did not examine the issue that the goods were purchased out of local area on which entry tax was leviable, resulting in non levy of entry tax of ` 61.46 lakh.

After we reported the matter to the Department/ Government between May 2011 and May 2013, the Department in his reply[123] accepted (September 2013) our observation and stated that entry tax of ` 44.30 lakh has been levied in six cases[124] of seven dealers out of which ` 12.05 lakh has been recovered and action has been initiated in one case. Reply in remaining CTOs has not been received (December 2013) despite several reminders.

2.14 Incorrect exemption/concession in CST

2.14.1 Incorrect exemption against Form 'F'

Under Rule 12(5) of CST (Registration & Turnover) Rules, 1957, a single declaration in form 'F' may cover transfer of goods, by a dealer, to any other place of his business or to his agent or principal as the case may be, effected during a period of one calendar month.

From the assessment orders and assessment files of three CTOs we observed between October 2007 and August 2012 that three dealers transferred goods out of State worth ` 5.59 crore during the years 2004-05 and 2008-09 against 23 Form 'F.' In contravention of the Rules, the AAs while finalising the assessments between January 2007 and February 2012 allowed transaction of more than one calendar month on a single Form 'F'. Whereas the transactions covered beyond one month and claimed for concession in same Form 'F' were not eligible for concession. This resulted in incorrect exemption of CST of ` 12.53 lakh on transactions of ` 1.61 crore as detailed in the table no. 2.30:

Table No. 2.30

(` in lakh)

Sl. No.	Name of the unit	Number of dealers	Assessment year (Month & year of assessment)	Name of commodity	Total Value of goods covered by objected Forms	Transaction covered after allowing benefit of month's transaction beneficial to dealer	Rate of tax leviable (*per cent*)	Irregular exemption allowed to the dealers
1.	DC CT Lalitpur	1	2004-05 (January 2007)	Wheat	14.10	3.60	8	0.29
				Jwar		1.94	4	0.08
2.	DC Sec 5, CT Noida	1	2008-09 (December 2011)	Readymade Garment	169.02	85.57	4	3.42
3.	DC Sec 1, CT Raebareli	1	2008-09 (February 2012)	Asbestos Sheet	375.38	69.90	12.5	8.74
	Total	**3**			**558.50**	**161.01**		**12.53**

[121] Assessment order and files related to the dealer.

[122] JC(CC) Etawah, JC(CC), DC Sec 2 G. B. Nagar, JC(CC) A, Range-B, DC Sec 9, 10, 12 & 14 Ghaziabad, DC Sec 2 Gonda, AC Sec 4 Gorakhpur, JC(CC) Jhansi, DC Sec 17 Kanpur, AC Kaushambi, DC Sec 2 Lakhimpurkhiri, DC Sec 4 Mathura, DC Sec 4 Meerut, DC Sec 1 Muzaffarnagar, JC(CC) 1, DC Sec 6 Noida, DC Sec 1 Raebareli, DC Sec 2 Sambhal.

[123] In seven CTOs-JC(CC) and DC Sec 2 G. B. Nagar, JC(CC) 1 and DC 9 Ghaziabad, DC Sec 2 Gonda, DC Sec 1 Muzaffarnagar and DC Sec 1 Raebareli involving eight dealers only.

[124] Sl. No. 2, 3, 4, 6, 18 & 21.

After we pointed out these cases, the Department (August 2013) accepted our observation and stated that action is being taken, and in one case[125] CST has been levied and recovered. Recovery in other cases is awaited (December 2013).

2.14.2 Incorrect exemption of tax on consignment sale

Under section 6A of the Central Sales Tax Act, read with Rule 12(5) of CST (Registration and Turnover) Rules, a dealer is entitled to exemption on stock transfer of goods to other States, if he furnishes a declaration in form 'F' obtained from the transferee containing complete particulars i.e. central registration number, date of validity, number and date of purchase order etc., at the time of assessment. One Form 'F' may cover transactions of one calendar month only. In case the transaction is not covered by form 'F', tax is leviable at the rate applicable to the sale or purchase of such goods inside the State. Under Rule 45(2) of the UPVAT Act, a dealer has to furnish separate information about consignment sale in monthly return in Form-XXIV. Craft paper is taxable at the rate of four *per cent* under schedule II of the UPVAT Act.

We observed from the records of DC Sector-1, CT, Nazibabad, in March 2013, that during the year 2007-08 (01 January 2008 to 31 March 2008) a dealer had declared consignment sale of craft paper of ` 2.97 crore in his monthly return in Form XXIV. At the time of assessment the dealer furnished Form 'F' covering transaction of ` 1.99 crore for year 2007-08 (January 2007 to March 2008). Thus, Form 'F' for the transactions of ` 98 lakh was not submitted by the dealer. The AA, rather levying tax[126] of ` 3.93 lakh and the interest thereof ` 2.95 lakh, allowed the incorrect exemption on the turnover not covered by Form 'F'. This resulted in incorrect exemption of tax and interest of ` 6.88 lakh.

We pointed out the matter to the Department/Government in May 2013. Their reply has not been received (December 2013) despite several reminders.

[125] ` 37,000 at Sl. No. 1
[126] at the rate of four *per cent*

2.14.3 Incorrect exemption on inter-State sale of molasses

Under Section 8(1) of Central Sales Tax (CST) Act, tax on inter-State sale of goods (other than declared goods) covered with Form 'C' is leviable at the rate of three *per cent* from 1 April 2007. Under Section 8(2) of CST Act, tax on sale of goods not covered by declaration in Form 'C' is leviable at the rate applicable on sale or purchase of such goods inside the appropriate State from 1 April 2007. Further, vide notification dated 15.1.2000 tax on sale of molasses is leviable at the rate of 20 *per cent* from 17 January 2000 to 31December 2007. It has judicially* been held that if the administrative charges are paid, sales under the UPTT Act will be exempted from payment of tax but this exemption is not allowed in case of inter State sale. Further, it has also judicially# been held that provisions of Section 8 (2A) of the CST Act, would be applicable only where the goods are exempt from tax generally and not under some specified condition.

* Hon`ble High Court's decision in the case of M/s Dhampur Sugar Mills Ltd. Dhampur v/s CST Uttar Pradesh.

\# Hon`ble High Court's decision in the case of CST v/s Mohkampur Tea Garden, STI 2001 All. HC 97

We observed from the assessment files of DC Sector 1, Nazibabad in March 2013 that in case of a dealer for the period 2007-08 (01 April 2007 to 31 December 2007) while finalising the assessment in March 2011 the AA incorrectly granted exemption of tax of ` 11.88 lakh on inter-State sale of molasses of ` 3.96 crore covered by Form 'C' and ` 70 lakh on concealed turnover of ` 3.50 crore. This incorrect exemption was allowed by the AA on the basis that administrative charges had been paid by the assesse on it. As exemption on sale of molasses was not general but conditional[127], central sale of this does not qualify for exemption in the light of aforesaid decision of Hon'ble High Court. Hence the AA allowed incorrect exemption of ` 81.88 lakh.

We reported the matter to the Department/Government in May 2013. The Department has accepted (December 2013) our observation and levied the tax of ` 81.88 lakh. Report on recovery has not been received (December 2013).

[127] That administrative charges have been paid on such molasses.

2.14.4 Incorrect exemption against Form 'H'

Under the provision of Section 5 of CST Act read with Rule 12(10) of CST(R&T) Rules 1957, a sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such exports or is effected by a transfer of documents of title to the goods after the goods have crossed the custom frontier of India with the condition that the declaration shall be in Form 'H' and shall be furnished to the prescribed authority at the time of assessment. Form 'H' is a certificate of export which is issued by the exporter (purchasing dealer) to the selling dealer that goods purchased from him is exported out of India. Further, the terms and conditions for submission of forms only for one quarter applicable to Form 'C' will apply to certificate in Form 'H' also.

We observed from the records[128] of two CTOs between December 2010 and March 2012 that two dealers for the period 2007-08 (1 April 2007 to 31 December 2007) exported goods valued at ` 7.02 crore and each has submitted one Form 'H' for the entire transaction made during the year 2007-08, rather than submit separate form 'H' for each quarter. Out of the total transactions, the transaction of ` 1.06 crore pertained to more than one quarter. The AAs while finalising the assessment between July 2009 and February 2010 incorrectly allowed exemption of tax of ` 10.47 lakh as shown in the table no. 2.31:

Table No. 2.31

(` in lakh)

Sl. No.	Name of the unit	Number of dealer	Assessment year (month & year of assessment)	Name of commodity	Value of goods covered with form H	Transactions covering more than a quarter	Rate of Tax leviable *(per cent)*	Tax not levied
1.	DC CT, Kosikala	1	2007-08 (February-2010)	Acid Casin, Lactose, Grade powder	652.19	81.20	8	6.50
2.	AC Sec 4 CT, Moradabad	1	2007-08 (July-2009)	Glass ware	50.20	24.84	16	3.97
Total		**2**			**702.39**	**106.04**		**10.47**

After we reported the matter to the Department/Government between January 2011 and May 2012, the Department stated (September2013) that tax of ` 10.47 lakh has been levied in both the cases. Report on recovery has not been received (December 2013).

2.15 Non levy of State Development Tax

Under Section 3H of the UPTT Act 1948 read with Commissioner's circular dated 3 May 2005 as applicable from 1 May 2005, State Development Tax (SDT) at the rate of one *per cent* of taxable turnover shall be levied on a dealer whose annual aggregate turnover exceeds ` 50 lakh. The SDT shall be realised in addition to the tax payable under any other provision of this Act.

We observed between October 2008 to July 2012 from the assessment files of 9 CTOs that in cases of 10 dealers whose annual aggregate turnover exceeded ` 50 lakh the AAs while finalising the assessments[129] for the

[128] From the assessment order and files related to the dealer.

[129] Between February 2008 and December 2011.

year 2005-06 to 2007-08 (till December 2007), did not levy the SDT on taxable turnover of ` 81.21 crore. This omission resulted in non levy of SDT of ` 81.21 lakh as mentioned in the table no. 2.32:

Table No. 2.32

(` in lakh)

Sl. No.	Name of the unit	Number of dealers	Assessment year (Month and year of assessment)	Taxable turnover	SDT leviable
1.	DC Sec 12, CT, Agra	1	2006-07 (October 2011)	635.35	6.35
2.	AC Sec 5, CT, Ghaziabad	1	2007-08 (March 2010)	111.00	1.11
		1	2007-08 (March 2010)	87.00	0.87
3.	DC Sec 15, CT, Ghaziabad	1	2005-06 (February 2010)	62.89	0.63
4.	DC Sec 9, CT, Gorakhpur	1	2006-07 (September 2011)	96.76	0.97
5.	DC Sec 28, CT, Kanpur	1	2006-07 (December 2010)	143.97	1.44
6.	DC Sec 1, CT, Kanpur	1	2005-06 (February 2008)	6,377.87	63.78
7.	DC Sec 2, CT, Noida	1	2006-07 (December 2011)	170.08	1.70
8.	AC Sec 2, CT, Rampur	1	2006-07 (December 2010)	184.23	1.84
9.	AC, CT, Shikohabad	1	2005-06 (June 2008)	252.08	2.52
	Total	**10**		**8,121.23**	**81.21**

After we pointed these cases to the Department/Government between January 2009 and August 2012, the Department accepted our observation and stated that in six cases (at Sl. No. 1, 2, 3, 5, 6 and 9 of the above table), SDT of ` 73.74 lakh has been levied. Report on recovery and reply in the remaining cases has not been received (December 2013) despite several reminders.

2.16 Cases without complete information were deemed assessed

Under Section 24 of the UP Value Added Tax (UPVAT) Act 2008, every taxable dealer shall submit tax return of his self assessed turnover of tax within the prescribed time, form and manner. Under Section 27 of the Act, every dealer who has submitted annual return of turnover and tax, in the prescribed time, form and manner, shall be deemed to have been assessed to an amount of tax admittedly payable him. Rule 45 of the UPVAT Rules 2008 provides that a tax return shall contain the detailed information regarding sale and purchase, search and seizure, tally of goods in trading, computation of taxable purchase/sale and tax payable on purchase/sale, penalty/provisional assessment etc. and result in appeal/writ, input tax credit and reverse input tax credit (ITC/RITC), tax deposited in Treasury/banks etc.

In 88 CTOs[130], out of 3,718 deemed assessed cases, we test checked 1693 cases in 2012-13 and found that in 12 *per cent* of these cases for the year 2007-08 to 2011-12, incomplete/ inaccurate information[131] was given in the prescribed forms of tax returns submitted by the dealers. Lack of complete information on the turnover of sales or purchases or both does not remain worthy of credence and the amount of tax payable and amount of input tax credit claimed, both no longer remain credible. Hence, these cases were required to be assessed after proper hearing and examination of books of accounts of the dealer. We noticed that in all these cases the AAs overlooked the missing information in the returns while declaring the cases deemed assessed. Thus, allowance of irregular ITC and short levy of tax could not be ruled out.

We reported the matter to the Department/Government between June 2012 and March 2013 The Department accepted (September 2013) our observation and stated that tax, penalty and interest of ` 1.29 lakh has been levied in eight cases[132] and ` 31,096 has been recovered so far. Action has been initiated in 12 cases[133] and corrective measures have been taken in the remaining cases.

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[130] AC Sec 11 Agra, DC Sec 11 Aligarh, DC Sec 3 Allahabad, DC Sec 7 CT Allahabad , DC Sec 12 Allahabad, AC Sec 12 Allahabad, DC Sec 2 Amroha, DC Sec 2 Bareilly, AC Sec 1 Bareilly, AC Sec 5 Bareilly, DC Sec 2 Budaun, AC Sec 2 Budaun, AC Sec 1 CSM Nagar Gauriganj, DC Sec 2 CT Etawah, DC Sec 4 Faizabad, AC Sec 5 Faizabad, AC Sec 2 G.B. Nagar, AC Sec 3 G.B. Nagar, DC Sec 5 CT Ghaziabad, DC Sec 6 CT Ghaziabad, DC Sec 7 Ghaziabad, DC Sec 10 Ghaziabad, DC Sec 14 Ghaziabad, AC Sec 5 CT Ghaziabad, AC Sec 6 Ghaziabad, AC Sec 7 Ghaziabad, AC Sec 8 Ghaziabad, AC Sec 10 Ghaziabad, AC Sec 18 Ghaziabad, DC Sec 4Gonda, DC Sec 1 Gorakhpur, DC Sec 2 Gorakhpur, DC Sec 10 Gorakhpur, DC Sec 12Gorakhpur, AC Sec 10 Gorakhpur, DC Sec 4 Hapur, DC Sec 2 Hathras, AC Sec 2 Hasanpur, DC Sec 6 Jhansi, DC Sec 15 Kanpur, DC Sec 16 Kanpur, DC Sec 19 Kanpur, DC Sec 28 Kanpur, AC Sec 10 CT Kanpur, AC Sec 15 Kanpur, AC Sec 16 Kanpur, AC Sec 18 Kanpur, AC Sec 27 CT Kanpur, AC Sec 29 Kanpur, AC Sec 30 Kanpur, JC(CC) Lucknow, DC Sec 8 Lucknow, AC Sec 3 Lucknow AC Sec 15 Lucknow, DC Sec 15 Lucknow, DC Sec 16 Lucknow, DC Sec 17 Lucknow, AC Sec 18 Lucknow, DC Sec 4 CT Meerut, DC Sec 6 Meerut, DC Sec 8 Meerut, DC Sec 9 Meerut, AC Sec 10 Meerut, DC Sec 10 Meerut, AC Sec 8 Meerut, DC Sec 2 Mirzapur, DC Sec 7 Muzaffar Nagar, AC Sec 5 Muzaffar Nagar, CTO Sec 7 Muzaffar Nagar, DC Sec 3 Noida, DC Sec 4 CT Noida, AC Sec 4 CT Noida, AC Sec 6 CT Noida, AC Sec 8 CT Noida, AC Sec 9 Noida, AC Sec 13 Noida, CTO Sec 4 Noida, DC CT Paliakalan, DC Sec 1 Rampur, AC Sec 1 Rampur, DC Sec 4 CT Saharanpur, DC Sec 5 CT Saharanpur, DC Sec 6 CT Saharanpur, DC Sec 1 Sonebhadra, DC Sec 8 CT Varanasi, DC Sec 14 CT Varanasi, DC Sec 15 CT Varanasi, AC Sec 8 Varanasi.

[131] Name, quantity and code of the commodity according to applicable rate of tax, improper calculation of ITC/RITC, improper computation of tax, prescribed columns and annexure of the prescribe forms are incomplete or inaccurate, separate information reg. opening and closing balance etc.

[132] DC Sector 12 Allahabad, AC Sector 5 Ghaziabad, AC Sector 18 Ghaziabad DC Sector 4 Gonda, DC Sector 1 Gorakhpur, DC Sector 15 Lucknow DC Sector 3 and AC Sector 13 Noida.

[133] AC Sector 1 Amethi (Gauriganj), DC Sector 4 and 6 Ghaziabad, AC Sector 5 and 7 Ghaziabad, DC Sector 2 Hathras, DC Sector 28 Kanpur, AC Sector 29 Kanpur, AC Sector 8 Meerut, AC Sector 4 Noida, DC Sector 4 and 5 Saharanpur.

2.17 Non- charging of interest

Under section 33(2) of the UPVAT Act 2008, every dealer liable to pay tax is required to deposit the amount of tax into the Government treasury before the expiry of due date. The tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of one and quarter *per cent* per month on the unpaid amount with effect from the day immediately following the last date prescribed till the date of deposit.

2.17.1 We observed from the records[134] of 14 CTOs between December 2011 and June 2013 that 19 dealers deposited admitted tax of ` 1.68 crore during the years 2007-08 (1 January 2008 to 31 March 2008) to 2009-10 with delays ranging between 434 and 1,763 days. Belated payment of admitted tax attracted interest of ` 59.65 lakh upto date of deposit of tax. This was not charged by the AAs at the time of passing the assessment order. The details are mentioned in table no. 2.33:

Table No. 2.33

(` in lakh)

Sl. No.	Name of the unit	No. of dealers	Year and Month of assessment	Admitted tax	Period of delay (in days)	Rate of interest per annum	Interest leviable
1.	DC Sec-1 CT, Badaun	1	2008-09 (September 2011)	1.18	1267	15	0.61
				1.88	1185	15	0.91
2.	DC Sec-3 CT, Etah	1	2008-09 (March 2012)	3.50	761	15	1.09
				0.73	844	15	0.25
				1.53	844	15	0.53
3.	DC Sec-4 CT, Faizabad	1	2007-08(VAT) (September 2011)	1.43	1229	15	0.72
4.	DC Sec-4 CT, Firozabad	1	2008-09 (September 2011)	5.28	1338	15	2.47
5.	JC(CC) Zone B, CT Ghaziabad	1	2008-09 (March 2012)	1.81	606	15	0.45
		1	2008-09 (May 2012)	4.85	1241	15	2.47
6.	AC Sec-4 CT, Ghaziabad	1	2007-08 (UPTT) (June 2012)	0.94	92	14	0.03
			2008-09) (June 2011)		1763	15	0.68
7.	JC(CC) CT, Gorakhpur	1	2007-08(VAT) (March 2011)	3.50	435	15	0.63
8.	DC Sec- 6 CT, Jhansi	1	2008-09 (February 2012)	38.75	966	15	15.39
			2009-10 (March 2013)	75.58	601	15	18.67
9.	DC Sec-2 CT, Kanpur	1	2007-08(UPTT) (March 2010)	3.30	92	14	0.12
			2008-09) (March 2010)		1180	15	1.39
10.	DC Sec-5 CT, Kanpur	1	2007-08(VAT) (September 2011)	11.12	1368	15	6.25
11.	DC Sec-16 CT, Kanpur	1	2008-09 (September 2011)	2.71	1340	15	1.49
12.	DC Sec-14 CT, Lucknow	1	2008-09 (March 2012)	0.43	1360	15	0.24
		1	2008-09 (March 2012)	0.51	1403	15	0.29
		1	2008-09 (February 2012)	0.25	1336	15	0.14
		1	2008-09 (March 2012)	1.12	1426	15	0.64
		1	2008-09 (March 2012)	3.68	1428	15	2.16
13.	DC Sec-6 CT, Noida	1	2008-09 (February 2012)	2.74	1407	15	1.53
14.	DC Sec-4 CT, Saharanpur	1	2008-09 (February 2011)	1.36	897	15	0.50
Total		**19**		**168.18**			**59.65**

We reported the matter to the Department/Government between January 2012 and March 2013. The Department accepted (December 2013) our observation

[134] Assessment files and returns filed by the dealers.

and recovered interest of ` 18.42 lakh in five cases[135] raised demand of ` 3.76 lakh and action for recovery of interest in seven cases[136] has been initiated.

2.17.2 Encashment of Bank Guarantee/FDR

2.17.2.1 Non-charging of Interest on encashment of Bank Guarantee/FDR

Under Section 4 of the UP Tax on Entry of Goods Act 2007, amended in 2008 and 2009, entry tax on value of goods is leviable as per schedule of rates notified by the Government from time to time. As per Section of 13 of the said Act provisions of Section 33 of UPVAT Act and Section 8 of the UPTT Act, are applicable on all proceedings under UP Tax on Entry of Goods Act 2007. Under Section 33(2) of UPVAT Act and Section 8(1) of UPTT Act every dealer liable to pay tax is required to deposit the amount of tax into the Government treasury before the expiry of due date failing which simple interest at the rate of one and quarter *per cent* per month (14 *per cent* per annum in UPTT period) shall become due and be payable on unpaid amount with effect from the day immediately following the last date prescribed till the date of payment. Order under Section 9(4) of UP Tax on Entry of Goods Act, is separately passed by AA in case of items on which entry tax is leviable.

Legislative competence of Government of UP to levy Entry tax on entry of scheduled goods into local area was challenged in the Hon'ble High Court. The Hon'ble High Court on initial hearing of the matter between October 2007 and May 2010 ordered the dealers to deposit the impugned entry tax in form of Bank Guarantee (BG)/Fixed Deposit Receipts (FDR). The final orders of Hon'ble High Court (December 2011) upheld the competence of Government of UP to levy the said entry tax. As a consequence of the above orders of the Hon'ble High Court entry tax became leviable/payable and the AAs were required to pass assessment order under Section 9(4) of UP Tax on Entry of Goods Act in cases where impugned entry tax as BG/FDR was deposited.

From the records[137] of 17 CTOs[138] between July 2012 and July 2013, we noticed that in cases of 30 dealers, the BG/FDR were encashed by the AAs after the final orders of the Hon'ble High Court.

We noticed that only in five cases,[139] the AAs concerned levied the interest due ` 46.40 lakh, on the belated deposit of entry tax after encashment of the BGs/FDRs. In the remaining 25 cases though the BGs/FDRs were encashed, the interest leviable on the belated deposit of entry tax was not charged by the AAs.

Since the BGs/FDRs were for the entry tax due in the year in question, only the entry tax due was deposited once the BGs/FDRs were encashed. Though the admitted entry tax of ` 52.02 crore was deposited in Government treasury after a delay ranging from 20 months 28 days to 55 months seven days, the

[135] Mentioned at Sl. No. 1,3,6,7 and 8 of the table no. 2.33.
[136] Mentioned at Sl. No. 2,4,9,10,12,13 and 14 of the table no. 2.33
[137] Assessment files, demand register
[138] JC(CC) and DC Sector 10 Aligarh, J C(CC) 1 and 2, DC Sector 6, 7, 9 and 15 Ghaziabad, JC (CC) 1 and 2, DC Sector 6, 14 and 22 Kanpur, JC (CC) 1 Lucknow, DC Sector 1 and 6 Muzaffarnagar, DC Sector 8 Varanasi.
[139] M/s Whirlpool of India Ltd. and M/s Varun Breweries Ltd. of JC(CC) 1 Ghaziabad, M/s Harsho Steels (P) Ltd of JC (CC) 2 Ghaziabad, M/s International Tobacco Company Ltd. of DC Sector 6 and M/s Mangalam Wires (P) Ltd. of 15 Ghaziabad.

AAs failed to charge interest of ` 26.71 crore, on the delayed credit to the Government account as shown in **Appendix-II**.

After we reported the matter to the Department/Government between October 2012 and March 2013, the Department accepted our observation and stated (September 2013) that demand of ` 5.90 crore has been raised in 10 cases in seven CTOs[140] and interest of ` 34.09 lakh has been recovered in five cases.

2.17.2.2 Non-encashment of bank guarantee/FDR

In records[141] of three CTOs between December 2012 and May 2013 that in cases of three dealers; during the year 2008-09 to 2009-10, the BG/FDR deposited by the dealers were to be enchased by the AAs in compliance to orders of Hon'ble High Court while passing the order under Section 9(4) of UP Tax on Entry of goods Act. We noticed that while finalising the cases between March 2011 and January 2012, the AAs gave the benefit of deposit of tax to the dealers but did not encash the BGs and FDRs of ` 1.27 crore as well as interest of ` 68.46 lakh (as on date of audit). Details are mentioned in table no. 2.34:

Table No. 2.34

(` in lakh)

Sl. No.	Name of the unit	No. of dealers	Assessment year (month & year of assessment)	Name of Commodity	Type of document	Value of Goods	Entry Tax Levied	Entry Tax deposited by Challan	Entry tax in the form of BG/FDR	Interest charge able
1.	JC(CC)1 Kanpur	1	2008-09 (January 2012)	Motor vehicle	FDR	1,623.21	16.23	6.62	9.56	6.45
			2009-10 (March 2012)	Motor vehicle	FDR	3,405.85	34.06	0.00	34.09	17.89
2.	JC(CC) Lucknow	1	2009-10 (June 2012)	Cement and High Speed Diesel	BG	3,451.22	77.46	0.00	75.69	39.08
3.	DC Sec 19 Varanasi	1	2008-09 (March 2011)	Soft Coke	BG	526.31	10.52	3.06	7.47	5.04
Total		**3**				**9,006.59**	**138.27**	**9.68**	**126.81**	**68.46**

We reported the matter to the Department/Government between March 2013 and July 2013. The Department accepted (December 2013) our observation and issued recovery certificates for recovery of interest of ` 41.82 lakh.

[140] Sl. No. 3, 5, 6, 7, 9, 11 & 13
[141] Assessment files and demand register.

2.18 Incorrect allowance of rate of tax

As per entry no. 4(b) the Schedule IV issued under the provisions of Section 4(1) (c) of UPVAT Act 2008, tax on diesel is leviable at the rate of 21 *per cent* with effect from 1 April 2008 to 7 June 2008, at the rate of 16.16 *per cent* from 8 June 2008 to 28 January 2009 and 17.23 *percent* from 29 January 2009 to 31 March 2009. Under entry no. 7(b) of the same Schedule, tax on furnace oil or residue furnace oil is leviable at the rate of 20 *per cent* upto 29 September 2008 and at the rate of 21 *per cent* thereafter. Under entry no. 4(a) and 7(a) respectively Manufacturers of only taxable goods are entitled to purchase diesel and furnace oil including residue furnace oil at the concessional rate of tax at four *per cent* upto 29 September 2008 and 5 *per cent* thereafter against certificate in Form D, which is prescribed by the Commissioner.

It has judicially* been held that alteration of stone grits or dust from big stones is not the process of manufacturing. Further, as per circular dated 30 March 2007 of Commissioner, processing of *til* (Sesamum) is also not a process of manufacturing.

Further, under Section 54 (1) (11)(i) of the Act, if the AA is satisfied that any dealer issues or furnishes a false or wrong certificate prescribed under the Act, by reason of which a tax on sale or purchase, ceases to be leviable, he may direct that such dealer shall, pay by way of penalty, a sum equal to 50 *per cent* of value of goods.

* STI 2000 S.C. 53, Uttar Pradesh Vs. M/s Lal Kuwan Stone Crusher Pvt. Ltd.

We observed between June 2012 and March 2013 from the assessment orders and files of respective dealers of three CTOs mentioned below for the assessment year 2008-09 and 2009-10, that the AAs while finalising the assessments of three dealers between February 2011 and March 2012, incorrectly allowed purchases of furnace oil and diesel at concessional rate of tax against form 'D'. This resulted in incorrect allowance of concessional rate of tax of ` 41.45 lakh besides penalty.

The concessions in rate of tax were incorrect as the dealer at Sl. No. 1 manufactured tax exempted goods, whereas only manufacturers of taxable goods are entitled for the concessional rate of tax. In the remaining two cases, the products[142] made by the dealer do not come under the definition of manufacturing.

Details are mentioned in table no. 2.35:

[142] *Til* sand Stone grits respectively.

Table No. 2.35

(` in lakh)

Sl. No.	Name of the unit	Number of dealer	Assessment year (month & year of assessment)	Period of purchase	Name of commodity	Value of diesel/FO	Rate of Tax payable/ paid *(per cent)*	Irregular concession of tax availed	Penalty imposable
1.	DC Sec 12 CT, Ghaziabad	1	2008-09 (March 2012)	01.04.2008 to 07.06.2008	Furnace Oil	17.41	20/4	2.78	8.71
				01.04.2008 to 07.06.2008	Diesel	51.88	21/4	8.82	25.94
				08.06.2008 to 29.09.2008		66.94	16.16/4	8.14	33.49
				30.09.2008 to 28.01.2009		23.31	16.16/5	2.60	11.66
				29.01.2009 to 31.03.2009		12.74	17.23/5	1.59	6.37
2.	DC Sec 2 CT, Muzaffarnagar	1	2008-09 (March 2012) .	01.04.2008 to 07.06.2008.	Diesel	15.32	21/4	2.60	7.66
				08.06.2008 to 29.9.2008		3.62	16.16/4	0.44	1.81
				30.9.2008 to 28.1.2009		24.41	16.16/5	2.71	12.21
				29.1.2009 to 31-3-2009		12.69	17.23/5	1.55	6.35
3.	DC Sec 1 CT, Nazibabad	1	2008-09 (March 2012)	2008-09	Diesel	44.09	16.16/4	5.36	22.05
			2009-10 (February 2011)	2009-10		39.72	17.23/5	4.86	19.86
Total		**3**				**312.13**		**41.45**	**156.11**

We reported the matter to the Department/Government between March 2013 and May 2013. The Department has accepted (September 2013) our observation and levied ` 7.32 lakh tax and ` 28.02 lakh as penalty in the case mentioned at Sl. No. 2 of the above table. Report of recovery and reply in the remaining cases has not been received (December 2013) despite several reminders.

2.19 Turnover escaping assessment

Under Section 4(1) of UPVAT Act, goods mentioned in schedule I are tax free, goods mentioned in Schedule-II are taxable at the rate of four *per cent*, goods mentioned in schedule-III are taxable at the rate of one *per cent* and those mentioned under schedule-IV are taxable at the rate notified by the Government from time to time. Goods not mentioned in any of the above schedules are covered under schedule-V and are taxable at the rate of 12.5 *per cent* with effect from 1 January 2008. Under Section 28 of UPVAT Act the AA has to finalise the assessment after examining the books, accounts and documents kept by the dealer in relation to his business and other relevant records.

We observed from the records of eight CTOs between December 2011 and March 2013 that in case of nine dealers for the period 2006-07 to 2008-09, turnover of sale of ` 8.20 crore was disclosed by the dealers in the records submitted to the AAs. The details of turnover which escaped assessment were clear from details[143] available in the

[143] Trading and profit and loss account, annual balance sheet, current and previous year's assessment orders etc.

respective assessment files of the dealers and these details were to be examined by AAs at the time of assessment. The AAs failed to detect the same while finalising the assessments between March 2011 and March 2012. This resulted in non-levy of tax of ` 79.90 lakh as shown in the table no. 2.36:

Table No. 2.36

(` in lakh)

Sl. No.	Name of the unit	Number of dealer	Assessment year (month & year of assessment)	Name of commodity (Schedule)	Value of goods	Rate of Tax leviable/levied *(per cent)*	Tax not levied
1.	JC(CC) CT, Agra	1	2008-09 (March 2012)	Used Car (II)	12.54	4/0	0.50
2.	DC Sec -7 CT, Agra	1	2007-08 (01.01.08 to 31.03.08) (June 2010)	Automatic Filter and Lubricant Oil (V)	84.65	12.5/0	10.58
3.	DC Sec- 10 CT, Bareilly	1	2007-08 (01.01.08 to 31.03.08) (March 2011)	Car, Truck and Tyre tube of Auto Vehicle (V)	23.25	12.5/0	2.91
4.	DC Sec 4 Firozabad	1	2008-09 (March 2012)	Paint (V)	7.89	12.5/0	0.99
5.	DC Sec -7 CT, Jhansi	1	2007-08 (01.01.08 to 31.03.08) (March 2011)	Battery and Motor Parts (V)	3.39	12.5/0	0.42
				Machinery Parts (II)	5.52	4/0	0.22
		1	2007-08 (01.01.08 to 31.03.08) (March 2011)	Battery and Machinery Parts (V)	10.53	12.5/0	1.32
				Tractor Parts (II)	8.31	4/0	0.33
6.	JC(CC) CT, Lucknow	1	2008-09 (September 2011)	Spare Parts and Lubricants (V)	327.67	12.5/0	40.96
7.	DC Sec -1 CT, Mau	1	2008-09 (September 2011)	Nylon Filament Yarn (II)	198.67	4/0	7.95
8.	DC CT, Modinagar	1	2006-07 & 2007-08 (UPTT) (April 2011)	Dish Antenna & other Electronics Goods	137.16	10/0	13.72
Total		**9**			**819.58**		**79.90**

We reported the matter to the Department/Government between January 2012 and April 2013. The Department has accepted (September 2013) our observation and stated that the tax of ` 8.53 lakh has been levied in two cases (Sl. No. 4 and 7) of above table. Report of recovery and reply in the remaining cases has not been received (December 2013) despite several reminders.

2.20 Undue monetary benefit by refund of Tax

Under the provisions of Section 29 of UP TT Act and Section 40 of UP VAT Act an amount of tax, fee, or other dues paid in excess of the amount due from the dealer are refundable to him. Further, it has been judicially held*that if any dealer or any person claiming refund of tax has passed on the burden of tax on other persons, then granting him refund is to enrich him unjustly. The burden of proof is on the dealer.

*Hon'ble Supreme Court's decision in case of M/s Mafatlal Industries Ltd. V. Union of India etc. (1996).

Between August 2011 and December 2012 we examined the assessment orders related to 35 contractors in 20 CTOs[144], and noticed that during the year 2006-07 to 2009-10, in case of 20 dealers the AAs while finalising the assessments between February 2010 and March 2012, adjusted the levied tax against the

[144] AC Sec 14 Allahabad, AC Sec 5 Bareilly, DC Sec 1 Basti, DC Sec 1 Dhampur, AC Sec 8 Ghaziabad, DC Sec 5 Ghaziabad, DC Sec 11, 13, 14 and 22 Kanpur, DC Sec 2, 8, 14, 17, 19, 22 and AC Sec 1 of Lucknow, DC Sec 4 Meerut, DC Sec 2 Muzaffarnagar, AC Sec 2 Saharanpur.

amount of TDS[145] and granted refund of the excess tax of ` 71.62 lakh to the dealers. In the light of the judicial pronouncement the AAs were required to ensure before granting tax refund to any dealer that the burden of such tax was not passed on to the other persons and they did not receive undue monetary benefit by such a refund. Only in eight cases[146] the AAs correctly examined the cases and withheld the refund. The details of irregular refund in the remaining 21 cases are mentioned in table no. 2.37:

Table No. 2.37

(` in lakh)

Sl. No.	Name of the unit	No. of dealer	Assessment year (month and year of assessment)	Refund of Tax
1.	AC Sec 14 Allahabad	1	2008-09 (February 2012)	1.13
		1	2008-09 (February 2012)	3.98
		1	2008-09 (March 2012)	1.47
2.	AC Sec 5 Bareilly	1	2006-07 (February 2010)	1.05
3.	DC Sec 1 Basti	1	2008-09 (October 2011)	1.64
		1	2008-09 (October 2011)	2.49
		1	2008-09 (August 2011)	1.24
		1	2009-10 (August 2011)	1.21
4.	DC Sec 1 Dhampur	1	2008-09 (January 2012)	2.91
5.	AC Sec 8 Ghaziabad	1	2009-10 (December 2011)	1.46
6.	DC Sec 5 Ghaziabad	1	2008-09 (November 2011)	2.36
7.	DC Sec 13 Kanpur	1	2008-09 (July 2010)	22.63
8.	DC Sec 14 Kanpur	1	2008-09 (March 2012)	9.25
9.	DC Sec 17 Lucknow	1	2008-09 (March 2012)	1.86
10.	DC Sec 19 Lucknow	1	2008-09 (September 2011)	3.45
11.	DC Sec 4 Meerut	1	2007-08 (December 2010)	0.51
12.	DC Sec 2 Muzaffarnagar	1	2008-09 (October 2011)	5.27
			2009-10 (February 2012)	4.10
13.	AC Sec 2 Saharanpur	1	2008-09 (March 2012)	1.91
		1	2008-09 (May 2011)	0.61
		1	2008-09 (April 2011)	0.47
		1	2008-09 (April 2011)	0.62
	Total	**21**		**71.62**

We cross examined from the records[147] of Government Departments / PSUs[148] who gave the contract and found that these contractors had realised tax from the respective Government Departments / PSUs as rates of materials[149] quoted

[145] In one case of DC 14 Kanpur the dealer deposited tax by cash but not showed it in his Profit & loss account as expenditure.
[146] DC Sec 2, 8, 14, 22 and AC Sec 1 of Lucknow, DC Sec 11, 14 and 22 Kanpur.
[147] Extract of contracts/Agreements bond, bills of quantities, letters of intents, running bills etc.
[148] Various divisions of Public Works Department, Rural Engineering Services, Uttar Pradesh Project Corporation Ltd., UP State Industrial Corporation Ltd, Uttar Pradesh Jal Nigam, etc.
[149] Stone ballast, grit, sand, bitumen, cement, bricks, iron and steel etc.

in contracts were inclusive of taxes. Thus, TDS deducted by the respective Government Departments / PSUs was already realised by the contractors from the respective Government Departments / PSUs by including the tax element on price quotations. Hence, as excess tax paid to contractors pertained to the respective Government Departments / PSUs and was not refundable to the contractors as the contractors had passed on the burden of the tax to the respective clients from whom they received the contract. Thus it is construed as undue monetary benefit.

We reported the matter to the Department/Government between October 2011 and March 2013. The Department accepted (December 2013) our observation and reversed the refund order in two cases[150]. The Department did not furnish any reply in eight cases[151] and stated that action is in progress in other five cases[152]. In remaining six cases[153] the Department stated that after re-examining the cases refund was allowed on the basis of letters received from the clients, affidavits filed by the contractors, and TDS certificates issued by the clients of the contractors. We do not agree with the reply as prior to refund, the terms and conditions of work orders/contracts given to the contractors was not examined by the AAs who relied only on affidavits and letters. Refunds should not been allowed to these contractors as they had not paid the tax from their own accounts, but it was realised from their respective clients.

2.21 Cases of wrong/false claim of ITC

Between August 2011 and March 2013 we examined the assessment orders passed between October 2010 and March 2012 in 56 CTOs focusing on ITC claims. We noticed that in 82 cases the dealers had falsely/wrongly claimed ITC on basis of purchases from non-existing dealers, irregular invoices, rebate and discount received on purchases on which tax was not paid, showing lesser rate of tax commodities as higher rate, tax exempted goods, capital goods, sale to Special Economic Zone (SEZ), etc.

We further noticed that in 27 CTOs[154] the ITC verification as ordered vide VAT Circular Part-2 (08-09)-774/080977/CT dated 31 October 2008 and letter No. JC (SIB/*Mu./Sa.Pa.*/2009 and 10/1593/*vanijyakar* dated 18 September 2009 was being carried out and as a consequence false/wrong/fraud ITC claims were detected by the AAs and reversal of ITC falsely claimed was done by the AAs. In 41 cases the fake/wrong ITC claimed was not detected by the CTOs concerned. The details of our examination are as follows:

[150] Mentioned at Sl. No. 5 and 10 of the table no. 2.37

[151] DC Sector 14 Allahabad (1 dealer), DC Sec 1 Basti (4 dealers), DC Sec 14 Kanpur (1 dealer) DC Sec 17 Lucknow (1 dealer), DC Sec 4 Meerut (1 dealer).

[152] DC Sec 13 Kanpur (1 dealer), AC Sec 2 Saharanpur (4 dealers).

[153] Of DC Sec 14 Allahabad (2 dealers), AC Sec 5 Bareilly (1 dealer), DC Sec 1 Dhampur (1 dealer), DC Sec 5 Ghaziabad (1 dealer) DC Sec 2 Muzaffarnagar (1 dealer)

[154] JC(CC) CT Agra, DC Sec 12 CT Agra, DC Sec 2 CT Etawah, DC Sec 5, 7, 10 & 19, AC Sec 4 & 11 CT Ghaziabad, DC Sec 29, 20, 14, 18 & 1 CT Kanpur, DC Sec 2 CT, Kanshi Ram Nagar (Kasganj), DC Sec 1 CT, Kasganj, DC Sec 20, 11 & 3, AC Sec 13 CT Lucknow, DC Sec 2 CT, Maharajganj, DC Sec 1 CT, Mathura DC Sec 12 CT Meerut, DC Sec 7 CT Muzaffanagar, DC Sec 8 CT Noida, DC Sec 3 CT Pilibhit and JC (CC) 2 CT Varanasi.

2.21.1 Cases not detected by the AAs

Under Section 13 of UPVAT Act, 2008 read with Rule 24 of UPVAT Rules, 2008 tax paid on purchase of goods from registered dealers against tax invoice or deposited cash on purchase of goods from the unregistered dealers, Input Tax Credit (ITC) is allowed to the extent of the tax paid or payable by the dealer on such sale or purchase. Section 14 of the said Act read with Rules 21, 22, 23 and 25 of UPVAT Rules provide the reversal of the ITC in cases where ITC has been claimed in contravention of the provisions of the Act. Under the provisions of section 54(1) (19) of the VAT Act if the AA is satisfied that any dealer or any other person, as the case may be, falsely or fraudulently claims an amount as ITC, he may direct that such dealer or person shall, in addition to the tax, if any, payable by him, pay by way of penalty, a sum equal to five times of amount of ITC. Further under Section 14(2) of Act if any dealer has wrongly claimed ITC in respect of any goods, benefit of ITC to the extent it is not admissible, shall stand reversed. Where event, giving rise to reverse ITC the dealer shall be liable to pay such amount of Reverse Input Tax Credit (RITC) alongwith simple interest at a rate of 15 *per cent* per annum for the period ending on the date on which amount has been deposited. Under rule 21(4) of UP VAT Act no credit of amount of input tax in respect of which purchasing dealer has received credit note from the selling dealer, shall be claimed ITC against the provisions of this Act or the rules framed there under or has wrongly claimed input tax credit in respect of any goods, benefit of input tax credit to the extent it is not admissible, shall stand reversed and such amount of RITC shall be deducted from the amount of ITC already claimed by the dealer.

We observed[155] in 35 CTOs[156] that 41 dealers had claimed ITC of ` 1.23 crore during the year 2007-08 to 2010-11. The AAs while finalising the assessments between February 2011 and March 2012 did not cross verify the ITC claims of the dealers and allowed falsely and fraudulently claimed ITC of ` 1.23 crore. The ITC was claimed on false/ fraudulent grounds such as purchase from non existing dealers, irregular invoices, on capital goods, on tax exempted goods on which ITC was not admissible as these claims were in contravention of the provisions of the Act and Rules. Thus false claim attracts reversal of ITC, penalty and interest of ` 8.24 crore as shown in **Appendix-III.**

After we reported the matter to the Department/Government between August 2011 and April 2013, the Department replied (December 2013) that in six cases[157], ITC of ` 5.88 lakh had been reversed and the penalty of ` 16.11 lakh was also imposed, out of which, ` 7.20 lakh has been

155 From the assessment order and files related to the dealers.

156 DC Sec 12 Agra, JC (CC) Agra, DC Sec 2 Azamgarh, JC (CC) A Bareilly, DC Sec 1 Basti, DC Sec 1 Chhatrapati Sahuji Maharaj Nagar (Gauriganj), DC Sec 2 Gautam Buddha Nagar, DC Sec 9, 7, 6 & 4 Ghaziabad, AC Sec 6 Ghaziabad, DC Sec 1 Gonda, DC Sec 5 Gorakhpur, DC Sec 4 Hapur, DC Sec 1 Hardoi, DC Sec 1 Hasanpur, DC Sec 2 Hathras, DC Sec 2 Kannauj, DC Sec 18 Kanpur, DC Sec 12 Kanpur, AC Sec 9 Kanpur, DC Sec 20 Lucknow, DC Sec 18 Lucknow, DC Sec 17 Lucknow, AC Sec 21 Lucknow, AC Sec 18 Lucknow, AC Sec 15 Lucknow, AC Sec 8 Lucknow, DC Sec 8 Meerut, DC Sec 4 Meerut, DC Sec 1 Padrauna (Kushinagar), DC Sec 1 Raebareli, DC Sec 4 & 1 Varanasi.

157 DC Sec 1 Amethi, DC Sec 2 Gautam Budh Nagar, DC Sec 6 & 7 Ghaziabad, DC Sec 4 Hapur and DC Sec 1 Hardoi.

recovered so far. Reply in remaining cases has not been received (December 2013) despite several reminders.

2.21.2 Non-levy of interest/penalty

We observed[158] in 27 CTOs[159] that in cases of 32 dealers AAs while finalising the assessments between October 2010 and June 2012, cross verified the ITC claims of the dealers and found that the dealers had fraudulently claimed ITC of ` 71.70 lakh. While the AAs reversed the ITC we noticed that they neither charged interest of ` 47.79 lakh nor imposed penalty of ` 3.59 crore as shown in **Appendix-IV.**

We reported the matters to the Department/Government between August 2011 and April 2013. Reply has not been received (December 2013) despite several reminders.

2.21.3 Incorrect claim of ITC on goods purchased showing wrong rate of tax

Under Section 13 of UPVAT Act, 2008 read with Rule 24 of UP VAT Rules, 2008 ITC to the extent provided under the relevant clauses of the said Act and Rules, is allowed on tax paid or payable by a registered dealer on purchase of taxable goods from within the State subject to certain conditions and restrictions for resale or use in manufacture of goods intended to resale. Rate of tax applicable to each commodity is prescribed under Schedule I to V of the Act.

In eight CTOs 10 dealers falsely claimed ITC on purchases of ` 4.76 crore at the rate of 12.5 *per cent.* These items are mentioned in Schedule II of the UPVAT Act and rate of tax applicable is four *per cent*. The AAs while finalising the assessments between March 2011 and March 2012 did not notice this fact and without any cross verification and thorough examination that dealers were claiming ITC at the rate of 12.5 *per cent* on the goods taxable at the rate of four *per cent* allowed the excess inadmissible ITC to the dealers. This false claim attracts reversal of ITC, penalty and interest of ` 2.69 crore as detailed in the table no. 2.38:

Table No. 2.38

(` in lakh)

Sl. No.	Name of Units	No. of dealer	Assessment year (month and year of assessment)	Name of goods (Schedule)	Value of goods	Rate of tax applicable/ wrongly applied	Amount of ITC not reversed	Penalty imposable	Interest chargeable
1	JC(CC) CT, Etawah	1	2008-09 (March 2012)	Aluminium Wire and Copper Wire (II)	45.37	4/12.5	3.86	19.28	2.03
2	DC Sec 4 CT Ghaziabad	1	2008-09 (November 2011)	Pump (II)	7.84	4/12.5	0.67	3.33	0.45
3	DC Sec 7 CT Ghaziabad	1	2008-09 (March 2012)	Duplex Paper (II)	31.32	4/12.5	2.66	13.30	1.80
		1	2008-09 (March 2012)	Copper cable scrap (II)	4.72	4/12.5	0.40	2.00	0.27

[158] From the assessment order and files related to the dealer.

[159] JC(CC) Agra, DC Sec 12 Agra, DC Sec 2 Etawah, DC Sec 5, 7, 10 and 19, AC Sec 4&11Ghaziabad, DC Sec 1, 14, 18, 20 & 29, Kanpur, DC Sec 2,Kanshi Ram Nagar (Kasganj), DC Sec 1,Kasganj, DC Sec 3, 11 & 20, AC Sec 13 Lucknow, DC Sec 2, Maharajganj, DC Sec 1,Mathura, DC Sec 12 Meerut, DC Sec 7 Muzaffanagar, DC Sec 8 Noida, DC Sec 3 Pilibhit and JC (CC) 2 Varanasi.

Sl. No.	Name of Units	No. of dealer	Assessment year (month and year of assessment)	Name of goods (Schedule)	Value of goods	Rate of tax applicable/ wrongly applied	Amount of ITC not reversed	Penalty imposable	Interest chargeable
4	DC Sec 1 Gautam Buddha Nagar	1	2008-09 (March 2012)	Packing boxes, chemical (II)	6.05	4/12.5	0.51	2.57	0.34
		1	2008-09 (March 2012)	Chemical and hose pipe (II)	6.18	4/12.5	0.52	2.62	0.35
5	DC Sec 2 Gautam Buddha Nagar	1	2008-09 (March 2012)	Copper, packing material (II)	337.09	4/12.5	28.66	143.30	19.34
6	DC Sec 3 Gautam Buddha Nagar	1	2008-09 (December 2011)	PU foam (II)	32.55	4/12.5	2.77	13.83	1.87
7	DC Sec 4 Moradabad	1	2007-08 (March 2011)	Iron ware (II)	2.64	4/12.5	0.22	1.12	0.16
8	DC Sec 2 Hasanpur	1	2008-09 (March 2012)	Ice cream (II)	2.14	4/12.5	0.18	0.91	0.12
	Total	**10**			**475.90**		**40.45**	**202.26**	**26.73**

We reported the matter to the Department/ Government between May 2012 and July 2013. The Department has accepted (September 2013) our observation and stated that penalty of ` 18.64 lakh has been imposed and ITC of ` 3.73 lakh has been reversed in two cases (Sl. No. 2 and 3). Reply in the remaining cases has not been received despite several reminders (December 2013).

2.22 Non-confirmation of deposit of tax

Under the provision of Section 3(1) of UPTT Act and Section 3(1) of UPVAT Act, every dealer shall be liable to pay tax, for each assessment year, on his taxable turnover of sale or purchase or both, as the case may be, at prescribed rates. But in both the Acts, no provision is there for ascertaining the deposit of tax in Government treasury, realised on sale of goods, bearing Maximum Retail Price (MRP) received under any scheme as free of cost.

During audit of five CTOs between March 2011 February 2013 we noticed from the assessment files of the dealers that 17 dealers had received ` 110.56 crore of medicines from outside UP, free of cost as a part of a scheme[160] of the manufacturers for selling their medicines. These dealers had paid no tax on these free medicines as they came under category of discounts in kind[161]. These dealers then passed on the free medicines valued at ` 110.61 crore to their retail/wholesale dealers alongwith taxable medicines.

We also cross checked details and examined the assessment files of these purchasing retail/wholesale dealers and noticed that they did not disclose this free medicine received in their respective tax returns[162] pertaining to receipt/purchases. Moreover, we noticed that the orders of the CCT dated 25 September 2012[163] to ascertain the realisation and deposit of tax on such

[160] Scheme of the drug manufacturers under which certain quantity of medicines is given free of cost to the distributors/retailers on purchase of medicines.

[161] As decided by Hon'ble High Court Allahabad in 2003.

[162] Annexure A as part of the monthly/annual return submitted to their CTO's.

[163] Audit-*Mahalekhakar*-2012-13/1551/*Vanijyakar*.

transactions were not followed by the CTOs, only in the case of DC Sector 5 Noida, letters were issued to various CTOs to ascertain the same. Due to non-verification of these transactions, the remittance of tax of ` 4.42 crore could not be ascertained and levied alongwith due interest and penalty on non disclosure of turnover under Section 33(2)[164] and 54 (1)(2)[165] of U.P. VAT Act.

The details are mentioned in the table no. 2.39:

Table No. 2.39

(` in lakh)

Sl. No.	Name of the unit	Name of dealer	Assessment year (Month & year of assessment)	Name of Commodity	Taxable Turnover	Cost of medicines distributed as free Bonus	Tax effect on free bonus (at the rate of four *per cent*)
1	JC (CC) 1, Lucknow	M/s Elcame Laboratories Ltd. C-31 Transport Nagar Lucknow	2008-09 (February 2012)	Medicines	12,379.77	788.11	31.50
		M/s Lupin Ltd. E-207 Transport Nagar Lucknow	2008-09 (February 2012)	Medicines	16,080.13	937.00	37.48
		M/s Cipla Ltd. C-27 Transport Nagar Lucknow	2008-09 (September 2011)	Medicines	20,986.84	3797.12	151.88
		M/s Ranbaxy Laboratories Ltd. Gagan Palace Bagh No. 2 Lucknow	2008-09 (November 2011)	Medicines	12,384.27	4019.82	160.79
		M/s Allembic Ltd. 35 Havelak Road Lucknow	2008-09 (March 2012)	Medicines	6,838.64	634.20	25.37
2	DC Sec 9 Lucknow	M/s Sind Drug Distributers 67 Vijay nagar Krisna Nagar Lucknow	2008-09 (May 2011)	Medicines	690.02	41.99	1.68
		M/s Punjab Formulation Ltd. E-104 Transport Nagar Lucknow	2008-09 (August 2011)	Medicines	618.13	29.08	1.16
		M/s Sentoor Pharmaceuticals Ltd. E-323 Transport Nagar Lucknow	2008-09 (November 2011)	Medicines	604.56	77.08	3.08
		M/s Panasia Biotec Ltd. Bagh No. 2 Lucknow	2008-09 (November 2011)	Medicines	1,275.63	25.64	1.03
		M/s Indico Remedies Ltd. E-132 Transport Nagar Lucknow	2008-09 (October 2011)	Medicines	1,332.10	159.49	6.38
		M/s Almet Health Care Pvt. Ltd. C-516 Transport Nagar Lucknow	2009-10 (December 2011)	Medicines	159.68	60.07	2.40
		M/s S.S. Biotech 565-566 Vishwamitra Complex Lucknow	2008-09 (January 2012)	Medicines	174.61	32.99	1.32
		M/s Mapra. Laboratories Pvt. Ltd. E-3/10 Transport Nagar Lucknow	2008-09 (May 2011)	Medicines	443.63	56.33	2.25
		M/s Pfizer Products (E) Pvt. Ltd. C-43 Transport Nagar Lucknow	2008-09 (January 2012)	Medicines	1,080.94	12.59	0.50

[164] Under Section 33(2) of the UPVAT Act 2008, every dealer liable to pay tax is required to deposit the amount of tax into the Government treasury before the expiry of due date. The tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of one and quarter *per cent* per month on the unpaid amount with effect from the day immediately following the last date prescribed till the date of deposit.

[165] Under Section 54(1)(2) of UPVAT Act, where a dealer has concealed particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover; or submits a false tax return under this Act or evades payments of tax which he is liable to pay under this Act, the AA may direct that such dealer shall, in addition to the tax, if any, payable by him, pay by way of penalty, a sum three times of amount of tax concealed or avoided.

Sl. No.	Name of the unit	Name of dealer	Assessment year (Month & year of assessment)	Name of Commodity	Taxable Turnover	Cost of medicines distributed as free Bonus	Tax effect on free bonus (at the rate of four *per cent*)
3	DC Sec 2 Lucknow	M/s Concept Pharmaceuticals Ltd. 35 Havlak Road Lucknow	2007-08(UPVAT) (March 2011)	Medicines	163.56	18.70	0.75
4	DC Sec 5 Noida	M/s Martin And Harris Pvt. Ltd. ShriJi Complex Sharma Market C-5 Noida	2008-09 (February 2012)	Medicines	2,290.97	217.31	8.69
5	DC Sec 5 Meerut	M/s Blue Cross Laboratories Ltd. 38-A Papple Street, Meerut	2008-09 (September 2010)	Medicines	1,558.07	153.97	6.16
Total		**17**			**79,061.55**	**11,061.49**	**442.42**

As these free medicines were also marked with maximum retail price inclusive of tax, the distribution of free medicines to wholesale/retail dealers is a disguised sale while being kept out of the tax net, as they are not shown in the Annexure 'A' filed with the monthly and annual tax returns by the wholesale/retail dealers.

As a case study we would like to indicate the dealer[166] at Sl. No. 4 of the table above assessed by JC (CC)1 Lucknow who had shown giving of free medicines of ` 13.52 crore to a subsequent dealer[167] registered in DC Sector 9 Lucknow. This subsequent dealer had however shown a total turnover of only ` 12.50 crore in his returns, which clearly indicates that the free medicines of ` 13.52 crore were not taken in the account.

Despite this being pointed out in the Reports of the Comptroller and Auditor General of India for the year ending 31 March 2010 and 31 March 2012, the Department has not made a workable mechanism to ascertain the realisation and deposit of tax on such transactions. Only in one case of JC (CC) 1, Lucknow we found that the AA disallowed the issue of medicine as free bonus and levied the tax.

We reported the matter to the Department/ Government between December 2011 and April 2013. In reply Department stated in August 2013 that medicines given by selling dealers to purchasing dealers as free bonus do not come in the ambit of sale, turnover, sale price as per definitions under Section 2 of UPTT Act and UPVAT Act. Further under various judicial pronouncements quantity discounts and supply of free medicines is not covered under definition of sale. As no valuable consideration was received in supply of medicines, no tax was leviable on this transaction.

The Department has not replied to our observation which was on not developing a workable mechanism to ascertain the realisation and deposit of tax on such transactions. In our cross checking and examination of assessment files[168] of subsequent purchasers from these 17 dealers, we found that in 86 cases the subsequent purchasers did not disclose, in their VAT returns, the free medicines received by them hence no further tracking of the free medicines was possible.

[166] Ranbaxy Laboratories Ltd., Gagan Palace Bagh No. 2, Kanpur Road, Lucknow.
[167] M/s Soar Pharmacia Pvt Ltd., Kanpur Road, Lucknow.
[168] In 22 CTOs.

We recommend that Government may consider developing a mechanism to ascertain the realisation and deposit of tax on such transactions on the lines of the orders of CCT, Karnataka.[169]

2.23 Irregular Grant of Central Registration Certificate

Under Section 7(3) of CST Act, any person intended to purchase goods on concessional rate of tax from another State shall apply for registration under this Act. The registering authority shall register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods for being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power.

Further, CCT issued (1992) instructions to all the AAs vide circular No. 17 dated 04 December 1992 that the facility of Form 'C' for purchase of cement and other building materials will not be given to the manufacturers/dealers for construction of buildings.

While checking the records of the office of the JC(CC) CT, Zone 2 Varanasi with headquarters at Sonebhadra (September 2012) we observed that a dealer[170] was granted Central Registration Certificate (CRC) in March 1985 (amended in March 1998), for purchase of material for use in generation or distribution of electrical energy. The CRC also included purchase of cement and batteries which are not used for generation or distribution of electrical energy. The dealer purchased cement and batteries of ` 61.93 lakh during the year 2007-08 and 2008-09 and claimed CST at concessional rate (three *per cent* for 2007-08 and 2008-09 up to 31 May 2008) on this purchase.

Since the dealer was engaged in business of generation and distribution of electrical energy, and cement and batteries are not a raw material/processing material used in generation of the said electricity. The facility of Form 'C' to a manufacturer is only for purchase of those goods which are used by him in the manufacture or processing of goods intended for sale. The authorisation to purchase cement given by AA under the CRC was in contravention of the provisions of the Act as well as orders of the CCT. The AA did not detect the error while passing the assessment orders for the year 2008-09 in March 2012. This omission of AA resulted in undue benefit to the dealer to the extent of ` 5.78 lakh.

We reported the matter to the Department/Government in November 2012. The Department accepted (August 2013) our observation regarding cement but on purchase of batteries stated that these are used in generators which are integral parts of plant and machinery. We do not agree with the reply as the

[169] In Karnataka the CCT has issued a circular No. CLR.CR.149/05-06 dated 28 June 2006 clarifying that in case a dealer who supplies free samples of medicines to the purchasers alongwith other medicines that are sold such a manufacturer/importer/wholesaler may opt to pay tax on MRP of free samples supplied to retailers who are permitted to sell them for a consideration, even though no consideration is received by him from the retailer, and such tax charged on free samples supplied will be eligible for input tax credit at the hands of retailer.

[170] M/s Central Finance Account and Budget Organisation, ATPS, Anpara, Sonbhadra.

batteries were not categorized as part of plant and machinery in the list attached to CRC of the dealer which is a Thermal Power Plant.

2.24 Non-verification of Input Tax Credit despite orders

Section 13 of the UPVAT Act prescribes certain conditions to claim input tax credit by the dealers and its adjustment against the payable tax. Commissioner, Commercial Tax, UP also issued between October 2008 and September 2009 instructions in the larger interest of revenue regarding verification of Input Tax Credit by AAs and maintenance of a database regarding the same. All the Deputy Commissioners were required to ensure that hundred *per cent* verification of the Annexure-A (purchase list) with the Annexure-B (Sale list) was done for top 20 dealers who claimed the highest ITC and a database created[1] by feeding the above details using either an outsourced agency or Departmental employees. Apart from this *cent per cent* checking and verification was also to be done of cases covered by a random statistical method.

The Commercial Tax Department utilised ` 45 crore for the computerisation project by providing WEB based Citizen Centric Services to enhance the efficiency of the Department. All the information with respect to Department is available on the website, (www. comtax.up.nic) for the public and VYAS (*Vanijyakar* Automation System) for the Department's use.

During the test check (2012-13) for the period 2007-08[171] to 2010-11, we observed that:

- For 122 dealers of 38[172] CTOs, AAs passed the assessment orders where ITC of ` 13.07 crore was adjusted with their payable tax without any attempt to verify the ITC claims.

- For 122 dealers pertaining to 39[173] CTOs, AAs passed the assessment orders where ITC of ` 23.33 crore was adjusted with their payable tax but the instructions given for verification were not followed.

AAs passed the orders for the adjustment of ITC worth ` 36.40 crore without getting the same verified.

We reported the matter to the Department/Government between May 2012 and January 2013. The Department stated in August 2013 that due to huge volume of returns, in-sufficient infrastructure, shortage of fund and other constrains,

[171] 1 January 2008 to 31 March 2008.

[172] DC: Sec 7 Allahabad, Sec 12 Agra, Sec 2 Ambedkar Nagar, Sec 2 Amroha, Sec 1 Auraiya, Sec 1 Basti, Sec 1 & 2 Chandauli, Sec 1 Deoria, Sec 1 Dhampur, Sec 1 Fatehgarh, Sec 4 Firozabad, Sec 6, 7 & 8 Ghaziabad, Sec 2, 4, 8, 10 & 13 Lucknow, DC Mahoba, Sec 2 Moradabad, Sec 3 Orai, Sec 8 & 10 Varanasi.
AC: Sec 12 Allahabad, Sec 1 Aligarh, Sec 5 Bareilly, Sec 1 Chandauli, Sec 1 C.S.M. Nagar, Sec 2 & 3 G. B. Nagar, Sec 5, 6 & 7 Ghaziabad, Sec 10 Kanpur, Sec 4 & 20 Lucknow.

[173] JC (CC) II Varanasi.
DC: Sec 22 Agra, Sec 1 & 2 Chandauli, Sec 1 Dhampur, Sec 2 Etawah, Sec 4 Faizabad, Sec 1 Fatehgarh, Sec 4 Firozabad, Sec 6 Ghaziabad, Sec 12 Gorakhpur, Sec 4 Gonda, Sec 15, 21, 24 & 25 Kanpur, Sec 2, 8, 10, 11, 12 & 22 Lucknow, Sec 9 Meerut, Sec 3 Orai, Sec 5 Saharanpur, Sec 1 Unnao, Sec 15 Varanasi,
AC: Sec 18 & 19 Agra, Sec 1 Aligarh, Sec 5 Bareilly, Sec 2 Budaun, Sec 12 Gorakhpur, Sec 22 Kanpur, Sec 1, 2, 4 & 22 Lucknow, Sec 10 Meerut.

cross verification of ITC claims cannot be done in the desired way. However, the Department is cross checking the ITC claims on the basis of random numbers and several cases of incorrect/false claims have been detected.

2.25 No provision for tax on sale of textiles

The Central Act 58 of 1957 was enacted to provide for the levy and collection of additional duties of Excise on certain goods like sugar, tobacco, mill made textiles, etc. The States get their share from duties so collected and hence they do not levy Sales Tax on it.

Vide Notification No. 11/2006-Central Excise dated 1 March 2006 had withdrawn the additional duties of excise (goods of special importance) Act, 1957. Consequently, vide notification No.KA.NI.-993/XI-9 (94)/07-UP, Act-15-48-Order-(04)-2007 Lucknow dated 30 May 2007 all types of un-manufactured tobacco, tobacco refuse etc. was made taxable at the rate of 32.5 *per cent* under the Uttar Pradesh Trade Tax Act, 1948 and subsequently in UPVAT Act, at the rate of four *per cent*.

No provision for levy of UPTT/VAT was made in sale/purchase of textiles, while Government has been authorised to levy the tax but till date no such notification has been issued.

We examined the revenue implication of non levy of UPTT/VAT on sale/purchase of mill made textiles after the withdrawal of the additional duties of excise on goods of special importance. We examined (between April 2012 and March 2013) assessment orders of 27 dealers of textiles from 13 CTOs[174], pertaining to the year 2006-07 to 2009-10 and found that sale turnover of the textiles of ` 369.73 crore no VAT was levied by Government.

Levy of tax at the rate of 4 *per cent* would have led to realisation of ` 14.79 crore, only in case of these 27 dealers which would help recoup the shortfall towards the sharable revenues caused by the withdrawal of the levy of additional excise duty on the same. This would be much higher if worked out for all such dealers of the State. Since the additional excise duty on textile was withdrawn from 01 March 2006, it is evident that there has been a shortfall in sharable revenue of State and the Government should consider levy of tax on sale of mill made textiles.

After we reported the matter to the Department/Government in February 2013; the Department replied in August 2013 that this is the privilege of State Government to decide rate and taxability of any commodity. The reply of Government is awaited (December 2013) despite several reminders.

We recommend that Government may consider levy of tax on sale of textiles in view of the withdrawal of the additional duties of excise of the same, on lines of other States like Andhra Pradesh, Odisha, Rajasthan and Tamil Nadu.

[174] DC Sec 11 Agra, DC Sec 12 Ghaziabad, DC Sec 2 Kanpur, AC Sec 6 &10 Lucknow, CTO Sec 8, AC Sec 8, AC Sardhana *Mandal*, AC Sec 10, 13 Meerut, DC Sec 1, 4 and AC Sec 2 Noida.

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ` 192 crore selected from observations noticed during our test check of records relating to low recovery of alcohol from molasses, non-imposition of penalty, short levy of licence fee on shops of foreign liquor short levy of interest, other irregularities and a paragraph on "New Excise policy and its effect on revenue".
Trend of receipts	Total collection from State Excise Department during the year 2012-13 was ` 9,782.49 crore, which increased by 20.19 *per cent* as compared to the previous year, however, it decreased by ` 285.79 crore from budget estimates which is (-) 2.84 *per cent.*
Internal Audit Wing/Internal control	During the year 2012-13, 140 units were planned for audit by the Department of which only 119 units were audited.
Status of compliance to Inspection Reports (2012-13)	Our test check of the records of 148 units relating to State Excise receipts during 2012-13 revealed under assessments of tax and other irregularities involving ` 238.03 crore in 317 cases relating to low recovery of alcohol from molasses, non-imposition of penalty, short levy of licence fee on shops of foreign liquor short levy of interest and other irregularities  The Department accepted and recovered underassessment and other deficiencies of ` 6.55 lakh involved in 34 cases of which five cases involving ` 2 lakh had been pointed out during 2012-13 and the remaining in the earlier years.
Our conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover non-realisation, short levy of tax, penalties etc. pointed out by us, more so in those cases where it has accepted our observation.

CHAPTER-III
STATE EXCISE

3.1 Tax administration

Excise duty on liquor for human consumption, fees in case of other intoxicants such as *charas, bhang* and *ganja* etc. and confiscation imposed or ordered is levied under the UP Excise Act, 1910 and rules made thereunder. These rules have been made in order to have a proper check over leakages of revenue in the Department by enforcing control over illicit production, import and export of alcohol, illegal purchase and sale of liquor and other intoxicants.

Alcohol is produced in distilleries mainly from molasses obtained as a byproduct during manufacturing of sugar. Various kinds of liquor, such as country liquor (CL) and Indian made foreign liquor (IMFL) like whisky, brandy, rum and gin are manufactured from alcohol. Excise duty on production of alcohol and liquor in distilleries forms a major part of excise revenue. Liquor for human consumption is issued from distilleries either under bond without excise duty or on pre-payment thereof at the prescribed rates. Apart from excise duty, licence fee also forms part of excise revenue. The District Collector (DC) with the assistance of the District Excise Officer (DEO) is responsible for settlement of liquor shops in the district.

3.2 Trend of receipts

Actual receipts from State Excise during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the table no. 3.1:

Table No. 3.1

(` in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	5,040.00	4,720.01	(-) 319.99	(-) 6.35	28,658.97	16.47
2009-10	5,176.45	5,666.06	(+) 489.61	9.46	33,877.60	16.73
2010-11	6,763.23	6,723.49	(-) 39.74	(-) 0.59	41,355.00	16.26
2011-12	8,124.08	8,139.20	(+) 15.12	0.19	52,613.43	15.47
2012-13	10068.28	9782.49	(-) 285.79	(-) 2.84	58098.36	16.84

Source: Finance Accounts of the Government of Uttar Pradesh.

Total collection from State Excise Department during the year 2012-13 was ` 9,782.49 crore, which increased by 20.19 *per cent* as compared to the previous year, however, it decreased by ` 285.79 crore from budget estimate which is (-) 2.84 *per cent.*

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ` 54.06 crore of which ` 48.51 crore were outstanding for more than five years. The table no. 3.2 depicts the position of arrears of revenue during the period 2008-09 to 2012-13:

Table No. 3.2

(` in crore)

Year	Opening balance of arrears	Addition during the year	Amount collected during the year	Closing balance of arrears
2008-09	61.39	0.59	0.03	61.95
2009-10	61.95	1.35	0.07	63.23
2010-11	63.23	0.45	6.96	56.72
2011-12	56.72	0.03	1.93	54.82
2012-13	54.82	0.02	0.78	54.06

Source: Information provided by the Department.

We recommend that the Government may consider taking appropriate steps for early recovery of the arrears.

3.4 Cost of collection

The gross collection from State Excise, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all India average percentage of cost of collection to gross collection for the previous years are mentioned in the table no. 3.3:

Table No. 3.3

(` in crore)

Year	Gross collection	Cost of collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
2010-11	6,723.49	95.72	1.42	3.64
2011-12	8,139.20	101.26	1.24	3.05
2012-13	9,782.49	116.88	1.19	2.98

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

We noted that the cost of collection for the State Excise Department is well below the all India average.

3.5 Internal Audit

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

IAW in the Department was working with strength of one Senior Finance Accounts Officer, one Finance Accounts Officer, two Assistant Accounts officer, two Senior Auditors and three Auditors posted against sanctioned strength of one Finance Controller, one Senior Finance Accounts Officer, one Finance Accounts Officer, two Assistant Accounts officers, six Senior Auditors and six Auditors. During the year 2012-13, 140 units were planned for audit but only 119 units was audited by the IAW. However, number of observations raised and money value involved therein, follow-up/compliance thereof was not intimated by the Department by December 2013.

3.6 Impact of Audit

3.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, through our Audit Reports we had pointed out the cases of under assessments of tax and other irregularities

involving ` 1360.37 crore. The Department has accepted the observations of ` 8.53 crore of which ` 4.83 crore was recovered till March 2013 as shown in the table no. 3.4:

Table No. 3.4

(` in crore)

Sl. No.	Year of Audit Report	Money value of the paragraphs	Money value of accepted paragraphs	Amount recovered during the year
1	2007-08	1.26	0.76	0.26
2	2008-09	1,344.56	4.24	3.93
3	2009-10	1.44	0	0
4	2010-11	1.03	3.04	0.52
5	2011-12	12.08	0.49	0.12
	Total	**1,360.37**	**8.53**	**4.83**

The analysis of the above table shows that the percentage of the paragraphs accepted and their money value is very low. The amount of recovery in relation to the money value of accepted paragraph is 57 *per cent.*

3.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, we had pointed out through our Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ` 1786.46 crore in 1240 cases. Of these, the Department/Government had accepted audit observations in 108 cases involving ` 2.65 crore and had since recovered the amount. The details are shown in the table no. 3.5:

Table No. 3.5

(` in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	82	93	18.80	12	0.06	12	0.06
2008-09	118	189	1,372.36	9	0.20	9	0.20
2009-10	119	140	66.93	20	0.95	20	0.95
2010-11	190	435	231.03	46	1.33	46	1.33
2011-12	200	383	97.34	21	0.11	21	0.11
Total	**709**	**1240**	**1,786.46**	**108**	**2.65**	**108**	**2.65**

The analysis of the above table shows that the percentage of amount of the accepted paragraphs is very low. However, the amount of recovery in relation to accepted paragraphs is *cent per cent.*

3.6.3 Status of compliance to Inspection Reports (2012-13)

Our test check of the records of 148 units relating to State Excise receipts during 2012-13 revealed under assessments of tax and other irregularities involving ` 238.03 crore in 317 cases which fall under the following categories as mentioned in the table no. 3.6:

Table No. 3.6

(` in crore)

Sl. No.	Categories	Number of cases	Amount
1.	**New Excise Policy and its impact on revenue**	1	188.80
2.	Low recovery of alcohol from molasses	10	24.60
3.	Non-lifting of MGQ of country liquor	04	3.00
4.	Non/short levy of licence fee	101	11.75
5.	Non-levy of interest	07	0.25
6.	Other irregularities	194	9.63
Total		**317**	**238.03**

During the year 2012-13, the Department accepted and recovered underassessment and other deficiencies of ` 6.55 lakh involved in 34 cases of which five cases involving ` 2 lakh had been pointed out during 2012-13 and the remaining in the earlier years.

A paragraph on "**New Excise Policy and its impact on revenue**" and a few other illustrative cases involving ` 192 crore are mentioned in the succeeding paragraphs.

3.7 Audit Observation

Our scrutiny of records in the offices of the State Excise Department revealed cases of low yield of alcohol, non-imposition of penalty/interest, etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

3.8 New Excise Policy and its impact on revenue

3.8.1 Introduction

State Excise Department is the second largest revenue collecting Department of the State. The United Provinces Excise Act, 1910 and the Uttar Pradesh *Sheera Niyantran Adhiniyam*, 1964 and Rules made there under and New Excise Policy of 2001, as amended[1] from time to time gives the power to the State Government to levy fee and excise duty on production, possession, transportation, sale and purchase of alcohol.

An excise policy called the "New Excise Policy" promulgated with effect from 1 April 2001 provides for the entry of new liquor professionals by reducing/ending the monopoly of liquor syndicates. The main feature of the policy was the allotment of shops through public lottery in place of auction through bids or tender. The policy also ensures availability of better quality liquor at reasonable price to the customers. From a consumption-based levy of excise duty, the new policy was geared to

- fix the maximum wholesale price (MWP) and maximum retail price (MRP) of liquor and limit the profit margin of wholesale and retail liquor licensees.
- lay down a process for granting licences of liquor shops and fixing the licence fee.
- fix the excise duty payable on different types of liquor.
- make it mandatory to fix holograms to reduce leakage of excise revenue and to ensure quality liquor to the consumers.
- establish model shops.

3.8.2 Organisational structure

The Principal Secretary, State Excise is the administrative head at Government level. The overall control and responsibility of the State Excise Department is with the State Excise Commissioner (EC), Uttar Pradesh with headquarters at Allahabad, who is assisted by two Additional Excise Commissioners, three Joint Excise Commissioners, ten Deputy Excise Commissioners and six Assistant Excise Commissioners at headquarters. In financial matters, the Excise Commissioner is assisted by Finance Officer and Chief Accounts

[1] Dated 10 January 2007, 4 March 2008, 11 February 2009, 26 February 2010 and 12 March 2011.

Officer. The EC is also responsible for keeping watch over different units through the Internal Audit Wing. For the purpose of effective administration the State is divided in five Zones and 18 charges, each under the charge of a Joint Excise Commissioner and a Deputy Excise Commissioner respectively, who are assisted by an Assistant Excise Commissioner in each district. In case of excise receipts the collector of the district is the head of the excise administration within the district.

3.8.3 Audit objective

The audit was conducted with a view to ascertain

- whether adequate and sufficient procedure existed in the Department for assessment and collection of excise duty and licence fees etc. and their credit to Government account;
- the provisions of New Excise policy are adequate and effectively implemented; and
- an internal control mechanism exists in the Department and is adequate and effective.

3.8.4 Audit criteria

The audit examination of New Excise Policy and its impact on revenue was conducted with reference to the provisions made under following Acts, Rules and orders:

- The United Provinces Excise Act, 1910
- The *Uttar Pradesh Sheera Niyantran Adhiniyam*, 1964
- The *Uttar Pradesh Sheera Niyantran Niyamawali*, 1974
- New Excise Policy as amended from time to time
- Government/Departmental orders/circulars and Acts[2] etc.

Specific provisions have been quoted in the related paragraphs.

3.8.5 Audit scope and methodology

For the purpose of this audit we segregated the units into high, medium and low risk areas[3] on the basis of revenue realized by the DEOs covering the period from 2007-08 to 2011-12. We examined the records of all the fourteen district[4] offices identified as high risk, seven district[5] offices out of 27 districts identified as medium risk and 3 district[6] offices out of the remaining 30 district offices identified as low risk areas. The units of medium and low risk category were selected on random sampling basis. The records of the EC were examined whereas Government records[7] were not made available to us despite several attempts. The audit was conducted during the period from September 2012 to April 2013.

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[2] Indian Stamp Act, 1899, Registration Act 1908 and The U.P. Stamp (Valuation of Property) Rules 1997.

[3] High Risk: where the revenue collection was above ` 100 crore annually.
Medium Risk: where the revenue collection ranged between more than ` 10 crore and less than ` 100 crore annually.
Low Risk: where the revenue collection was less than ` 10 crore.

[4] Aligarh, Bareilly, GB Nagar, Ghaziabad, Ghazipur, Gorakhpur, Khiri, Lucknow, Meerut, Muzaffar Nagar, Rampur, Sarahanpur, Shahjahanpur and Unnao.

[5] Allahabad, Bijnore, Firozabad, Jaunpur, Kanpur Nagar, Moradabad and Varanasi.

[6] Badaun, Bagpat and Kaushambi.

[7] Policy related documents for the year 2007-08 to 2012-13.

The objectives of this audit were discussed in an entry conference held on 20 November 2012 with the EC and exit conference held on 31 July 2013 with Principal Secretary/EC and other Departmental officers. The replies of the Department/Government to our observations have been incorporated appropriately.

3.8.6 Acknowledgement

We acknowledge the co-operation of Excise Commissioner (EC) Uttar Pradesh in providing necessary information and records for audit.

Audit findings

3.8.7 Pricing of country liquor

Section 41 of United Provinces Excise Act, 1910 and Rule 13 of the Uttar Pradesh Excise (Settlement of licences for wholesale of country liquor) Rules 2002 provides that the Excise Commissioner (EC), with prior sanction of the State Government, may fix the strengthwise (25 *per cent*, 36 *per cent* and 42.8 *per cent* v/v) price or quantity in excess of or below which any intoxicant shall not be sold or supplied.

The Excise Commissioner constitutes a committee[8] for fixation of maximum wholesale and retail price of country liquor. The pricing committee fixes the maximum wholesale price (MWP) and maximum retail price (MRP) by taking the following into account:

- fixed price of molasses[9].
- conversion cost of molasses to rectified sprit and Extra Neutral Alcohol (ENA)
- adding: labour costs and wastage on dilution of alcohol,
  - caramelisation and essence costs,
  - bottling, labeling, capsuling and packaging costs,
  - transportation cost from distillery to warehouse,
  - incidence of wholesale licence fees and godown expenses,
  - hologram fixation costs,
  - incidence of retailers basic licence fees,
  - expenses and profit of retailers.

to arrive at MWP and MRP of country liquor (CL).

Since pricing is critical to the levy of excise duty, we examined the pricing process for assurance that due diligence was performed by Department when recommending the pricing to the Government. Our findings are detailed in subsequent sub-paragraphs:

[8] The Additional Excise Commissioner (Administration), Deputy Excise Commissioner (Licencing), Deputy Excise Commissioner (Production), Finance Controller, Senior Technical Officer and Senior Statistics Officer are the members of this committee.

[9] Including cost of molasses, central excise paid, administrative charges and its transportation costs.

3.8.7.1 Inconsistency in fixation of Maximum Retail Price in treatment of rounding off amount of IMFL and country liquor

As per price list of Foreign liquor (FL) the MRP of FL shall be rounded off to next stage in terms of ` 5 and this amount shall be incorporated in excise revenue as additional licence fees. However, in case of Country Liquor (CL) the rounded off amount is not credited to Government account as additional licence fees. The pricing committee of country liquor in their recommendation fixed the retailer's profit and expenses at the rate of ` 15 per BL (36% v/v) for 2007-08, ` 20 for 2008-09 to 2010-11 and ` 21.50 for the year 2011-12 to 2012-13, and the same was included in calculation of maximum retail price (MRP) of CL.

The MRP of IMFL is calculated by adding the excise duty to the ex-factory price, then adding the retailer margins to the total. The same is then rounded off to the next ` 5 and is incorporated in excise revenue as additional licence fees.

Scrutiny of records[10] of Excise Commissioner Uttar Pradesh and 18 Distilleries[11] for the period April 2007 and March 2013, showed that a similar procedure is followed while fixing the MRP of Country Liquor (CL). But, the rounded off amount is not credited to Government account as additional licence fees, rather this rounded off amount is added to the optimum retailer margin to increase the margin for retailer. Thus due to this difference in the treatment of rounded off amount while fixing the MRP of CL, the Government was deprived of revenue of ` 481.20 crore by way of additional licence fees and this amount was passed on to the retailers of country liquor. Details are shown **Appendix-V**.

We reported the matter to the Government (June 2013). The Government replied (July 2013), the price fixing committee had taken a view that the benefit of the rounded off amount is traditionally given to the retailer. We do not agree with the reply as the objective of the policy was to limit the profit margin of retailers is defeated by giving more[12] benefit to retailers against the margins fixed by the Committee. By adding the rounding off figure to the margin, the margin fixed by the committee gets exceeded resulting in loss to the state exchequer.

We recommend that similar principle may be followed in CL for crediting the rounded off amount to Government revenue as additional licence fee as is followed in the case of IMFL.

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[10] Price list, sales return and excise policy etc.

[11] Wave Distillery (Aligarh),Kesar Enterprises, Superior Distillery (Bareilly), Simbholi Distillery, Modi Distillery (Ghaziabad), Lords Distillery (Ghazipur), Saraya Distillery, IGL Distillery (Gorakhpur), Pallia Distillery (LakhimpurKheri),Daurala Distillery (Meerut), NICL Distillery (Moradabad), Shamli Distillery, Sir Shadilal Distillery (Muzaffarnagar), Rampur Distillery (Rampur),Pilkhani distillery, Shakumbhari Distillery, Cooperative Distillery, Tapari (Saharanpur) and Unnao Distillery (Unnao).

[12] Example : for 2010-11, total number of bottles (750 ml of 36% v/v) sold = 3978180
Optimum Retail Price(ORP) = MWP + Incidence of retailers BLF + Retailers profit and expenses = (123.61 + 15.75 + 15) = ` 154.36
However MRP was ` 158
MRP – ORP = ` 158 - ` 154.36 = ` 3.64 the rounded off amount is added to retailers margin, which increases to ` 18.64 per bottle (750ml) instead of ` 15 ( @ ` 20 per BL) for 750 ml as fixed by the Pricing Committee.

3.8.7.2 Undue advantage to the wholesalers of country liquor

Under Rule 11 of the Uttar Pradesh Excise (Settlement of licences for country liquor bonded warehouse) Rules 2003, grant for licenced warehouses for the storage of bottled CL, no transit loss allowance shall be given for the destruction, loss or damage by fire, accident, theft or by any other cause whatsoever during its transit or storage into the bonded warehouse. Under Rule 4 of above Rules the licensee shall procure supplies of country liquor from the distillery in bottles of the prescribed capacity and strength having security holograms, approved by the EC.

During the audit of records[13] of EC Uttar Pradesh for the period April 2007 and March 2012, we found that the pricing committee for CL incorrectly permitted 0.5 *per cent* wastage on ex-factory price (including excise duty) to the wholesalers while fixing the maximum wholesale and retail prices. Rule 4 and 11 of Uttar Pradesh Excise (Settlement of licences for country liquor bonded ware house) Rules 2003 do not permit wastage in bottled CL. Further, three and one *per cent*[14] inadmissible profit[15] was also allowed thereon. These allowances gave an undue advantage of ` 111.57 crore to wholesalers. Details of the undue advantage given to the wholesalers of CL are shown in **Appendix – VI**.

The Government replied (July 2013) that 0.5 *per cent* transit wastage is allowed in bulk transportation[16] of liquor. We do not agree as these were not cases of bulk transport of liquor in tankers and bottled CL on which holograms fixed were transported. Moreover, the excise rules do not provide for any wastage in bottled liquor.

3.8.7.3 Absence of provision to deposit excess collection of wholesale licence fees by wholesalers of country liquor

As per Uttar Pradesh Excise (Settlement of licences for wholesale of country liquor) Rules, 2002 the licence fee is defined as the consideration of grant of licence for exclusive privilege of wholesale of country liquor under Section 24 of the Act, payable by the licensee before the licence is granted to the wholesaler on such rates notified by the excise policy. As per pricing formula and for fixing of the maximum wholesale price (MWP) of CL, this licence fee is adjusted in the MWP of CL fixed by EC.

The wholesale licence fee is calculated on the estimated sale of CL for an excise year and collected in advance from the wholesaler at the time of grant of licence. While fixing the MWP, the licence fee paid by the wholesalers is adjusted. The wholesaler recovers the excess licence fee

[13] Price list, sales return and excise policy etc.
[14] Three *per cent* in 2007-08 & 2008-09 and one *per cent* in 2009-10, 2010-11 and 2011-12.
[15] Example: Number of bottles (750 ml of 36% v/v) sold during 2010-11= 3978180
wastage @ 0.5% + 1% profit on wastage =(0.59 + 0.0059) = ` 0.5959
Total profit given on wastage = 3978180 x 0.5959 = ` 2370597
[16] Transportation of liquor in bulk in tankers etc.

from the retailers on actual sale of CL which is higher than the estimated sale. Our scrutiny of the records of the office of EC Uttar Pradesh showed that for two years[17] the adjusted licence fee recovered from retailers of CL, by the wholesalers was higher than the licence fee paid by the wholesalers to the Government. The details of excess licence fees recovered and retained by the wholesalers of CL are as mentioned in the table no. 3.7:

Table No. 3.7

(In `)

Year	Consumption of CL in BL (36% v/v)	Rate of incidence licence fee of wholesaler's per BL in the form of (36% v/v)	Wholesale licence fee (WLF) paid by wholesaler	WLF collected by wholesaler from retailer	Excess collection of WLF over WLF paid to Government
2009-10	229260962	1.46	327100000	334721005	7621005
2010-11	234546651	1.56	359810000	365892776	6082776
Total					**13703781 or ` 1.37 crore**

Source: Information provided by the Department.

The excess adjusted licence fees recovered from the retailers of CL is retained by the wholesalers as there is no provision in the rules and policy to enable deposit of the same to Government as licence fees.

The Government replied (July 2013) that the difference arises because the licence fee is assessed on the basis of presumptive data. But it was silent on the issue of adjustment of excess licence fee.

We recommend that the Government may consider making a provision to recover the differential wholesale licence fees at the end of the year or the adjust this differential amount from the security deposit of wholesalers at the end of the year. This procedure is as per excise policy and is followed in recovery of bottling fees of Foreign Liqour bottled on the estimate, where the differential renewal fees of FL3 and FL3A[18] are deposited accordingly before the end of April of the subsequent financial year.

3.8.8 Non compliance of UP Excise (Settlement of Licences of Retail Sale of Country Liquor) Rules 2002

Compliance of provisions of excise policy from 2007-08 to 2012-13 was also examined and we observed non compliance on issues such as non-forfeiture of basic licence fees (BLF) and security deposit (SD), short lifting of MGQ, enhancement of MGQ at lower base, low recovery of alcohol from molasses, short levy of licence fees and non levy of interest etc. Our observations are enumerated below.

[17] 2009-10 and 2010-11

[18] FL3- A bottling licence to a distiller to bottle IMFL and FL3A- a bottling licence to a outside distiller, brewer or vintner to put his own brand name on the labels of IMFL.

3.8.8.1 Non-forfeiture of Basic Licence Fee and security deposits

Rule 12 of the Uttar Pradesh Excise (Settlement of Licences of Retail Sale of Country Liquor) Rules 2002 provides that amount of Basic Licence Fee (BLF) shall be deposited in full within three working days, half of the security amount within 10 working days and rest of the amount within 20 working days, of receipt of the intimation of the selection of shops. In case of default, the selection of shop would be cancelled and amounts of BLF and security deposits, if any, would be forfeited in favour of the Government and the shops would be resettled forthwith.

We examined the records[19] of six District Excise Offices[20] and observed that during the year 2011-12 though the licences of the 639 country liquor shops were settled or renewed, these licensees, however, did not deposit the entire amount of BLF and security deposit as required under the Rules. The delay ranged from 01 to 105 days. For this default no action was initiated as envisaged in the Rules.

As no relaxation is allowed under the provisions/rules, the inaction of the Department deprived the Government to the tune of ` 53.68 crore by way of depositing BLF and security deposit.

We reported the matter to the Government (June 2013). The Government accepted (July 2013) our observation. The Government also stated that perhaps due to operational difficulties, no action was taken under Rule 12 by the district officials.

The reply of the Government established that action under Rule 12 was not taken.

3.8.8.2 Non–realisation of excise duty due to short lifting of annual minimum guaranteed quota of country liquor

Under the provisions of Rule 14 of the Uttar Pradesh Excise (Settlement of license for the retail sale of country liquor), Rules 2002, a licencee is liable to lift the entire Minimum Guaranteed Quota (MGQ) fixed for him during the year. In case of failure, the licensing authority has to adjust the outstanding balance amount of license fee from the security deposit of the licensee and also issue a notice to the licensee by the third day of the next month to replenish the deficit in the security amount either by lifting such quantity of country liquor involving duty equivalent to the adjusted amount or by depositing cash or a combination of both. In case the licensee fails to replenish the deficit in security amount by the tenth day of the next month, his licence shall stand cancelled.

We observed from the records of DEO, Mainpuri in May 2012 that four licensees lifted 29381.70 BL against MGQ of 42560 BL during the period 2011-12. As the full quantity of MGQ of country liquor was not lifted during the year, the differential amount of licence fee of ` 20.69 lakh[21] on the short lifted quantity of 13178.30 BL of liquor was to be recovered from the licencees.

[19] G-12 – Details of settled shops.
[20] DEO – Aligarh, Allahabad, Ghazipur, Gorakhpur, Kanpur and Kaushambi.
[21] Short lifted quantity (13178.30) multiplied by ` 157 per BL.

We reported the matter to the Government (June 2012), Government accepted the audit observation and stated that recovery is under process.

3.8.8.3 Short-realisation of excise duty due to short-lifting of Minimum Guaranteed Quota (MGQ) of Country Liquor in March

As per the Excise Commissioner's circular dated 9 March 2009, under the UP Excise (Settlement of licences for retail sale of country liquor) Rules 2002, the licensee has to lift at least 80 *per cent* of the Minimum Guaranteed Quota (MGQ) in the month of March. If a licensee fails to do this, the licence fee will be adjusted from the security deposit of the licensee.

We observed from the records of 15 DEOs[22] between August 2012 and March 2013, that during the year 2007-08, 2008-09 and 2009-10, 902 licensees lifted 1140947.58 BL country liquor against the quota of 1724353.05 BL fixed for the month of March 2008, March 2009 and March 2010. The differential amount of licence fee amounting to ` 5.51 crore due to this short lifting had not been adjusted by the Department from the security deposit of the licensees.

We reported the matter to the Government (June 2013). The Government accepted (July 2013) our observation and stated that an amount of ` 54.27 lakh has been recovered and recovery of the balance amount is under process.

3.8.9 Enhancement of MGQ at lower base MGQ for country liquor

As per the excise policy of the relevant years the MGQ of 2008-09 was to be fixed by enhancing the MGQ of the previous year. The rate of enhancement was 7 *per cent* in 2008-09, 7 *per cent* (8 *per cent* in special Zone Meerut) for 2009-10, 3 *per cent* for 2010-11 and 1 *per cent* for 2011-12. The settlement of shops was for the years to be made as per the above enhancement.

We scrutinised the consumption register, G-12[23] and other records of 13 DEOs[24] and noticed that the enhancement of MGQ was done on the fixed MGQ of previous years, whereas the actual consumption in the previous years ranged 0.001 to 6.69 per cent above the MGQ. Taking the previous years MGQ as base rather than actual lifting led to short fixation of MGQ of 24.99 lakh BL in the years and Government was deprived of revenue in the form of BLF of ` 4.13 crore. Details are shown in **Appendix – VII**.

We reported the matter to the Government (June 2013). The Government replied (July 2013) that MGQ of CL was assessed according to the provision of excise policy by Government. It is not possible to assess the MGQ on the basis of actual lifting.

We recommend that the Government may consider making a provision to recover the differential Basic licence fees at the end of the year or the adjust this differential amount from the security deposit of retailers at the end of the year. This procedure would be in line with the excise policy (for

[22] DEO - Aligarh, Allahabad, Bareilly, Badaun, Bijnore, Ghazipur, Gorakhpur, Jaunpur, Kanpur, Kaushambi, Lakhimpur Kheri, Lucknow, Saharanpur, Unnao and Varanasi.
[23] G-12 – Details of settled shops.
[24] DEO - Allahabad, Badaun, Baghpat, Bareilly, Bijnore, Ghaziabad, Ghazipur, Gorakhpur, Kaushambi, Meerut, Moradabad, Muzaffarnagar and Rampur.

the year 2012-13) for recovery of bottling fees of Foreign Liqour bottled on the estimate, wherein the differential renewal fees based on actual bottling are deposited before the end of April of the subsequent financial year.

3.8.10 Loss of revenue due to low recovery of alcohol from molasses

As per Government order No 192/thirteen-18-91 dated 5 April 1991, the national standard and prescribed norms for recovery of alcohol from per quintal of molasses is 22.5 A.L. (94% v/v). The cost of country liquor is calculated on the basis of the above norms* by the EC at the time of fixation of MRP of CL. The EC as Controller of molasses under section 8 (1) of the UP *Sheera Niyantran Adhiniyam* 1964 allots the reserved molasses to distillers who manufacture the CL. Under rule 21 of Uttar Pradesh *Sheera Niyantran Niyamawali* 1974, no molasses supplied to an allottee shall be used for a purpose other than that for which it has been allotted, except with the prior permission of Controller. The norms of recovery of 22.5 AL (94% v/v) per quintal of molasses forms the basis of fixation of MRP of CL as well as that of the excise duty levied.

The norms of recovery of 22.5 AL (94% v/v) from per quintal of molasses forms the basis of fixation of MRP of CL as well as that of the excise duty levied. Hence we examined the adherence to norms by the distilleries and action taken by the Department in cases of non adherence.

We examined records like continuous out turn (COT)[25] registers of 19 Distilleries[26] and observed that between August 2012 and May 2013, these Distilleries[27] did not maintain the minimum recovery of alcohol[28] from molasses as per norms. During April 2007 to March 2013, 5071.49 lakh AL of alcohol should have been produced from 239.79 lakh quintal of molasses consumed by these distilleries against which actual production of alcohol was 4781.07 lakh AL. This resulted in short production of 290.42 lakh AL alcohol. After bifurcating this in the same ratio as that of the total production of potable and industrial alcohol by these distilleries, we found 174.85 lakh AL of potable alcohol involving excise revenue of ` 736.49 crore as shown in **Appendix-VIII** was short produced.

We also noticed that distilleries did not maintain separate inventory of alcohol produced from reserved[29] molasses. As a result Department could not assess

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[25] COT – The officer Incharge of then Distillery shall draw composite sample of molasses consumed in three successive out turns and divide it into three equal parts which shall be sealed by the Officer In charge with his seal.

[26] Wave Distillery (Aligarh), Kesar Enterprises and Superior Distillery (Bareilly), Simbholi Distillery, Mohan Meakins Distillery and Modi Distillery (Ghaziabad), Lords Distillery (Ghazipur),Saraya Distillery and IGL Distillery (Gorakhpur),Pallia Distillery (LakhimpurKheri),Daurala Distillery (Meerut), NICL Distillery (Moradabad), Shamli Distillery and Sir Shadilal Distillery (Muzaffarnagar), Rampur Distillery (Rampur), Shakumbhari Distillery and cooperative Distillery, Tapari (Saharanpur), Rosa Distillery (Shahjehanpur) and Unnao Distillery (Unnao).

[27] Distilleries having PD-2 licence granted by EC for manufacturer of potable and non potable liquor.

[28] Rectified spirit (RS) or Extra neutral alcohol (ENA).

* Formula adapted for calculation of manufacturing cost of 94% v/v alcohol

$$= \frac{\text{cost of reserved molasses (in quintals)}}{22.5} = \text{cost of one litre alcohol of 94\% v/v}$$

conversion costs, labour costs, wastage etc. are added to this cost to arrive at the cost of alcohol of the required strength i.e. 25%, 36% or 42.8% . To this bottling, labeling, capsuling, packing costs, hologram costs are added. Then the ED is added. Further components like freight, godown exp., wastage (0.5%), incidence of licence fee at whole sellers profit of wholesales, incidence of retailers licence fee, retailers profit and expenses etc. are added to calculate the final fixed MRP of CL.

[29] As per Sheera Policy of Uttar Pradesh certain percentage of molasses for year to year produced by Sugar Mill are reserved for production of country liquor and the price of this reserve molasses is fixed by the Excise Commissioner/Molasses Controller.

the actual production of alcohol from reserve molasses, issued at a fixed price, which are to be used only for production of country liquor.

We reported the matter to the Government (June 2013). The Government replied (July 2013) that the Department fixed the norms for recovery of alcohol from every quintal of fermentable sugar content present in molasses to yield 52.5 AL alcohol. Action as per rules had been taken against distillers when they fail to maintain the minimum yield of alcohol in batch. The Government reply shows that it is ignoring its own GO of 1991, regarding norms of recovery of 22.5 AL (94 *per cent* v/v) per quintal of molasses based on which the cost of one litre of (94 *per cent* v/v) alcohol is calculated by the pricing committee. This cost is the basis of fixation of MWP and MRP of alcohol. Moreover the adjustment of reserved molasses in case of purchase of ENA by a distillery is also done on the same norms. Hence it follows that these are the norms which the distillers are required to adhere to in production of alcohol. Failure to maintain the minimum yield of alcohol from molasses consumed entails cancellation of licence and forfeiture of security deposit besides other penalties which was not done in the instant cases.

3.8.11 Short-levy of licence fee

We examined the implementation of the excise policy with respect to levy of licence fees on the sale of all kinds of liquor and noticed cases of non/short levy of licence fees of wholesale and retail shops of all three kinds of liquor[30]. Our observations are enumerated below:

3.8.11.1 Non/Short-levy of licence fee of wholesale supply of beer

As per Rule 4(c) of Uttar Pradesh Excise (Settlement of licences for wholesale supply of foreign liquor) Rule, 2002 (as amended) the settlement of wholesale supply of foreign liquor, beer and wine can be made by the FL-2 licensees.

As per Excise Policy 2011-12 and 2012-13, the licence fee for FL-2 licence was to be fixed on the basis of estimated number of bottles sold by retail shops during previous year as detailed below:

Sl. No.	Estimated number of bottles sold by retailers during previous years in district	Licence fee (` in lakh)
1	Up to 7 lakh bottles	05.00
2	Between 7 lakh to 15 lakh bottles	10.00
3	Between 15 lakh to 25 lakh bottles	20.00
4	Between 25 lakh to 30 lakh bottles	30.00
5	More than 30 lakh bottles	40.00

The wholesale sale of beer was also governed by the same rules. Further as per Rule 4 (E) of the Rules ibid, for the wholesale supply of beer only, licences in form FL-2B shall be granted on payment of ` 5 lakh as licence fee.

During test check (August 2012 to May 2013) of records[31] in the offices of 20 DEOs[32] and information collected from office of the Excise Commissioner, we observed that during the year 2011-12 and 2012-13, in 17 and 20 districts respectively, FL-2 licensees were also permitted to supply beer along with IMFL to retail shops. The licence fees for FL-2 licensees were recovered on the basis of estimated number of bottles of

[30] Country liquor, IMFL and beer.
[31] Files of settlement of licences, sale, consumption statement, and G-6.
[32] DEO –Badaun, Baghpat, Bareilly, Bijnore, Etawah, Faizabad, Fatehpur, Firozabad, Ghazipur, Gorakhpur, Jaunpur, Kaushambi, Lakhimpur Kheri, Mainpuri, Moradabad, Muzaffarnagar, Rampur, Saharanpur, Shahjahanpur and Unnao.

IMFL alone sold during previous year, without taking into account the total number of beer bottles sold by the licensees. Also no separate FL-2B licences were granted in these districts. This resulted in short realization of revenue of ` 5.35 crore as detailed in **Appendix – IX**.

We reported the matter to the Government (June 2013). The Government in its reply (July 2013) stated that only numbers of bottles of IMFL sold were to be taken as basis of fixing the licence fee. The Government further stated that from 2013-14 the sale of beer will be regulated through FL 2B licence. The reply of Government is silent on the lapse of DEOs to take in the account the para 4(5)(6) of the policy of 2011-12 and 2012-13, that determination of licence fees for wholesale sale of beer is to be governed by the same rules as per sale of IMFL. Since the shops mentioned by us were selling both beer and IMFL, as per the policy the total number of bottles of IMFL and beer sold, were to be taken as basis of fixing the licence fee. This lapse has led to short realisation of revenue.

Similar issue was pointed out in Paragraph No. 3.15 of Audit Report (Revenue Sector) for the year ending 31 March 2012. The Government/Department has not taken total number of bottles of IMFL and beer actually sold as base of fixing the licence fees.

3.8.11.2 Retail licence shops of beer

Under the provisions of the Uttar Pradesh Excise (Settlement of Licences of Retail Sale of Beer) Rule 2001 (as amended) annual licence fee in respect of the retail shops of beer is leviable on the basis of number of bottles sold out in the current year. As per the new excise policy 2009-10 and 2010-11 the number of bottles was to be calculated on the basis of actual sale of 10 months i.e. from April to January and calculated sale of February and March by 1/5 of April to January. Similarly as per the State Excise Policy notified on 12 March 2011 for the year 2011-12, the number of bottles was to be calculated on the basis of actual sale of 11 months i.e. from April to February and calculated sale of March by 1/11 of April to February.

We observed (between August 2012 and April 2013) from the records of 20 DEOs[33] that annual licence fee of all the retail shops of beer of the State was fixed on the basis of actual sale of bottles of 10 months i.e. April to January of preceding year plus the calculated sale of February and March of that year, for the years 2009-10 and 2010-11. Similarly for 2011-12, the licence fee was based on actual sale of April 2010 to February 2011 plus calculated sale of March 2011.

The licence fee based on the number of bottles actually sold during previous 12 calendar months (which included sale in month of previous March) at the time of settlement of beer shops, worked out to ` 1.03 crore, ` 2.11 crore and ` 11.70 crore for the year 2009-10, 2010-11 and 2011-12 respectively as against the ` 0.81 crore, ` 2.02 crore and ` 11.16 crore for the respective years

[33] DEO – Aligarh, Allahabad, Badaun, Bijnore, Firozabad, GB Nagar, Ghazipur, Gorakhpur, Jaunpur, Kanpur, Kaushambi, Lakhimpur Kheri, Lucknow, Meerut, Moradabad, Muzaffarnagar, Rampur, Shahjahanpur, Unnao and Varanasi.

licence fee fixed by Department. We noticed that the information regarding actual sale of bottles for previous calendar year was available with the Department at the time of fixing the basis of the calculation. Though the sale in month of March of the previous year was 51.73 to 75.39 *per cent* higher[34] than average sale of other 11 months, this higher sale (of 0.71 lakh bottles , 2.05 lakh bottles , 8.10 lakh bottles respectively) was ignored while fixing the license fee by Department and calculated sale for the month for 2009-10, 2010-11 and 2011-12 was taken as a basis for calculation. By excluding the March sale from calculations, Government was deprived of revenue ` 85 lakh (` 22 lakh + ` 9 lakh + ` 54 lakh) by way of licence fee during 2009-10 to 2011-12 as shown in **Appendix-X**.

3.8.11.3 Retail licence shops of foreign liquor

Under the provisions of the Uttar Pradesh Excise (Settlement of Licences of Retail Sale of Foreign Liquor) Rule 2001 (as amended) annual licence fee in respect of the retail shops of foreign liquor is leviable on the basis of number of bottles sold out in the current year. As per the new excise policy 2011-12, the number of bottles was to be calculated on the basis of actual sale of 11 months i.e. from April to February and calculated sale of March by 1/11 of April to February.

We observed the records of 24 DEOs[35] that annual licence fees of all the retail shops of foreign liquor was fixed on the basis of actual sale of bottles of 11 months i.e. April to February of the preceding year plus the calculated sale[36] of March of that year for the year 2012-13. The licence fees based on the number of bottles actually sold during previous 12 calendar months at the time of settlement of liquor shops, worked out to ` 97.12 crore for the year 2012-13. The information regarding actual sale of bottles for a calendar year was available with the Department at the time of fixing the basis of calculation. Though the sale in month of previous March was 47.87 *per cent* higher[37] than average sale of other 11 months, this higher sale (of 11.64 lakh bottles) was ignored while fixing the license fee by Department and calculated sale for one month for 2011-12 was taken as a basis for calculation. Due to this, Government was deprived of revenue of ` 5.24 crore by way of licence fee during 2012-13 as shown in **Appendix-XI.**

We reported the matter of fixing of licence fee of retail licence shops of beer and foreign liquor to the Government (June 2013). The Government replied (July 2013) that the allotment and licence fee was fixed as per the policy and they had considered the issue in 2013-14, in which they settled the shops by increasing 15 *per cent* on the licence fee of 2012-13. The reply is silent on the issue of non inclusion of higher March figures in the licence fee of the earlier year, which will impact on the new method also.

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[34] Sale in March 2008 was 1.66 lakh bottles when compared to 0.95 lakh bottles being the average sale of 11 months taken in calculation for policy of 2009-10. Similarly for policy of 2010-11, sale in March 2009 was 5.47 lakh bottles compared to monthly average of 3.42 lakhbottles , and for policy of 2011-12 sale in March 2010 was 23.76 lakh bottles compared to monthly average of 15.66 lakh bottles (For the DEOs mentioned in Appendix X)

[35] DEO –Aligarh, Allahabad, Badaun, Baghpat, Bareilly, Bijnore, Firozabad, GB Nagar, Ghaziabad, Ghazipur, Gorakhpur, Jaunpur, Kanpur, Kaushambi, LakhimpurKheri, Lucknow, Meerut, Moradabad, Muzaffarnagar, Rampur Saharanpur, Shahjahanpur, Unnao and Varanasi.

[36] Calculated sale for 2012-13 fixed on the basis of formula: Actual sale of 11 months (April to February) + Average monthly sale calculated on actual sale of 11 months.

[37] Sale in March 2011 was 35.96 lakh bottles when compared to 24.32 lakh bottles being the average sale of 11 months taken in calculation for policy of 2012-13. (For the DEOs mentioned in Appendix XI)

3.8.11.4 Sale of beer without depositing the beer bar licence fees

Foreign liquor as defined in UP Excise settlement of licences for retail sale of foreign liquor (Excluding beer and wines) (Third Amendment) Rules 2002 includes Malt sprit, Whisky, Rum, Brandy, Gin, Vodka and Liquor. Beer is not included in the definition. As per Rules 647 and 648 of the United Provinces Excise Act, 1910 and Rules made there under the UP Excise (Wholesale and retail vend of Foreign Liquor) (Thirteenth Amendment) Rules 2002 state that Beer bar licence in form FL 7B is required for retail sale of beer on premises of hotels, dak bunglows or restaurants. Rule 10 provides for issue of licence of FL 6A composite for retail sale of foreign liquor by four and five star hotels and issue of FL 6 licence for hotel other than the above. FL 7 licence is required for retail sale of foreign liquor by Restaurants. FL 6A composite and FL 7 will also cover sale of draft beer only and not bottled beer.

We observed from records of bar licences and G-6 register between August 2012 and May 2013 that 19 DEOs[38] settled or renewed 1370 licences of the hotels/restaurant bars under FL 6, FL 6A (composite) and FL 7 category between the period April 2007 to March 2013 where consumption of bottled beer was also shown. These hotels/restaurant bars were not issued the FL 7B licence required for retail sale of bottled beer. We noticed that only 11 hotels/restaurant bars[39] were issued FL 7B licences and licence fees of ` 15.50 lakh collected during 2011-12. As a result of non levy of FL 7B licence fees, the Government was deprived of revenue ` 16.80 crore shown in **Appendix – XII**.

We reported the matter to the Government (June 2013). The Government replied (July 2013), the Notification[40] dated 20 December 1980 is to be considered for definition of foreign liquor, where beer is included in definition of foreign liquor. Government reply is not as per UP Excise Settlement of Retail Sale of Foreign Liquor (excluding beer and wine) (third amendment) Rules 2002 where beer is not covered in definition of foreign liquor. Further, the U P Excise (Wholesale and Retail vend of Foreign Liquor) Rules 2002[41] also specify the licences required for the retail sale of beer.

[38] DEO-Aligarh, Allahabad, Badaun, Bareilly, Bijnore, Firozabad, Ghaziabad, Gorakhpur, G B Nagar, Kanpur, Lakhimpur Kheri, Lucknow, Merrut, Moradabad, Muzaffarnagar, Rampur, Saharanpur, Unnao and Varanasi.
[39] DEO-Firozabad (2), DEO- Ghaziabad (1) and DEO Varanasi (8).
[40] No.8272-E/XIII-656-79 dated 20 December 1980.
[41] Notification No. 17882/X-Licence-9/New Beer-Bar Policy-2002 dated 24 November 2002

3.8.11.5 Loss of licence fee for the Model Shop

As per State Excise Policies notified on 11 February 2009, 26 February 2010 and 12 March 2011, the licence fee for setting up a model shop for the year 2009-10, 2010-11, 2011-12 and 2012-13 or part thereof was fixed as ` eight lakh for the year 2009-10 and 2010-11 or part thereof and similarly ` nine lakh for the year 2011-12 and 2012-13, or the highest licence fee among the settled retail shops in the city /town for the same year for both foreign liquor and beer whichever was higher, but it could not be more than ` 22 lakh and ` 25 lakh respectively in those year.

- We observed from the records[42] of 26 DEOs[43] between August 2012 to March 2013 that licence fee of 393 model shops[44] of foreign liquor and beer was fixed and realised as ` 87.90 crore for the year 2009-10 to 2012-13, whereas it comes to ` 95.41 crore as per excise policy. The DEOs have ignored the actual sale by these model shops in preceding year while calculating the highest sale by settled retail shops in the city/town. They have taken into account the sale by other shops of the city/town to fix the licence fee. However these model shops are also settled as retail shops, hence sale by model shops was required to be taken into account while fixing the licence fee prior to regulating it with ceiling. Thus, the Government was deprived of revenue of ` 7.51 crore.
- We also observed from the records[45] of 26 Districts Excise Offices (DEOs) between August 2012 to March 2013 that licence fee of 393 model shops[46] of foreign liquor and beer was fixed and realised as ` 87.90 crore for the years 2009-10 to 2012-13. The licence fee realisable on actual sale of these model shops alone was ` 150.72 crore. Due to the ceiling of ` 22 lakh and ` 25 lakh imposed on upper limit of the licence fee of model shops, the Department has been deprived of licence fee of ` 62.82 crore, as the actual sales and the licence fee realisable ranged from 0.06 *per cent* to 505.34 *per cent* above the actual fee realised from the model shops.

We also observed that the imposition of ceiling was a part of the proposal sent to the Government by the Department. The ceiling was initially revised[47] from ` 20 lakh to ` 22 lakh in 2009-10 and to ` 25 lakh in 2011-12 and 2012-13. The Department did not examine the loss of revenue due to imposition of this ceiling despite having all the data available with them. The proposal sent by the Department was approved as such by the Government.

We reported the matter to the Government (June 2013). The Government replied (July 2013) that the allotment and licence fee was fixed as per the

[42] Model shops settlement files, excise policies and sales/returns

[43] DEO –Aligarh, Allahabad, Badaun, Baghpat, Bareilly, Bijnore, Bulandshahar, Firozabad, GB Nagar, Ghaziabad, Ghazipur, Gorakhpur, Jalaun, Jaunpur, JP Nagar, Kanpur, Lakhimpur Kheri, Lucknow, Meerut, Moradabad, Muzaffarnagar, Rampur Saharanpur, Shahjahanpur, Unnao and Varanasi.

[44] Model shop is a licenced shop situated in the commercially approved area of the corporation, city or municipality having at least 600 sq. ft. carpet area and consumption facility also.

[45] Model shops settlement files, excise policies and sales/returns.

[46] Model shop is a licenced shop situated in the commercially approved area of the corporation, city or municipality having at least 600 sq. ft. carpet area and consumption facility also.

[47] On the grounds that there is a regular annual increase in licence fees of all retail shops, hence licence fees of model shops should periodically be revised.

policy, they had considered the issue in 2013-14, and revised the minimum licence fee for model shops from ` 9 lakh to ` 11 lakh and revised the ceiling from ` 25 to ` 30 lakh.

Our examination shows that this increase of 20 *percent* in the ceiling of licence fees of model shops was inadequate, as 241 shops out of 393 mentioned in our observations have already had[48] sales ranging from ` 30 lakh to ` 1.57 crore[49].

3.8.12 Non-forfeiture of security deposit

Para 13, 14 and 16 of the Uttar Pradesh Excise (Settlement of retail licences for Model shop of foreign liquor) Rules 2003, Uttar Pradesh Excise settlement of licences for retail sale of foreign liquor (excluding beer and wine) Rules 2001 and Uttar Pradesh (Settlement of licences for retail sale of country liquor) Rules 2002 respectively, provide that the MRP as fixed by Excise Commissioner on sanction of the State Government, shall be printed on the labels of bottles or containers of Foreign liquor/Beer/Country liquor, and the licensee shall not charge from consumers more than MRP printed on labels of bottles. The conditions of grant of licence under these Rules state that the retail licences shall not charge more than printed MRP, violation of terms and conditions of retail licence or a conviction for any offence under the United Provinces Excise (UPE) Act, 1910 or Narcotic Drugs and Psychotropic substances Act, 1985 shall make the licensee liable for cancellation of the licence and forfeiture of security deposit, in addition to any penalties imposed under the relevant laws.

We observed between August 2012 and April 2013 from breach registers and G-6[50] for the period April 2007 to March 2012 in respect of 19 DEOs[51], that 1610 cases were registered under breach[52] by the Department against 1,333 retailers, where liquor was found to be sold over the MRP, and penalty at the rate of ` 50 to ` 10,000[53] only was imposed on these shops. We noticed that while 277 of these shops had repeatedly violated the Rules, no action as defined under the Rules and Acts such as cancellation of the licence and forfeiture of security deposit, in addition to penalty imposed was taken against them. The non forfeiture of security deposit alone for violation comes ` 47.74 crore as shown in **Appendix – XIII.**

We reported the matter to the Government (June 2013). The Government in its reply (July 2013) stated that under Section 64/74 of United Provinces Excise Act 1910, violation of terms and conditions of licence cases are to be closed after imposition of penalty upto ` 5000. After compounding of such cases there is no legal base for suspension and cancellation of licences. The Government reply is not as per the Act. The breach of the conditions by the

[48] Between 2009-10 to 2012-13.
[49] In model shop at *CTI Chauraha* (Crossing), Kanpur.
[50] A register of excise receipts shall be maintained in the Collectors office in form G-6.
[51] DEO-Aligarh,Badaun, Baghpat, Bareilly, Bijnore, Firozabad, GB Nagar, Ghaziabad, Jaunpur, Kanpur, Lakhimpur Kheri, Meerut, Moradabad, Muzaffarnagar, Rampur, Saharanpur, Shahjahanpur, Unnao and Varanasi.
[52] Breach: breaching of conditions of licence.
[53] Penalty of ` 10,000 imposed only in one case.

holder are dealt with Section 34 of the Act wherein the EC has the power to cancel/suspend the licence. Moreover the general and special conditions of the licence clearly state that the licensee is liable for forfeiture of security deposit as well as payment of penalties/compounding in case of breach of conditions. In all the cases including those of repeated violation the Department has merely imposed compounding penalty but has not taken action to cancel licence/forfeit the security deposit as deterrence.

3.8.13 Non-levy of interest on belated payment of excise revenue

Under the provisions of the United Provinces Excise Act, 1910, where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent per annum is recoverable from the date on such excise revenue becomes due.

From the records of three offices of excise Department, that excise revenue [54] of ` 63.15 lakh pertaining to the period from 2003-04 to 2008-09 was deposited between April 2007 and December 2011 i.e. with delay of 126 to 2823 days. However, interest amounting to ` 19.47 lakh on the belated payment was not levied by the Department, as detailed in the table no. 3.8:

Table No. 3.8

(` in lakh)

Sl. No.	Name of office	Period	Amount	Period of delay in days	Amount of Interest
1	District Excise Office, Allahabad	2008-09	30.76	126 – 513	1.84
2	Assistant Commissioner, Daurala Distillery, Daurala, Meerut	2003-04 to 2006-07	24.00	398 – 1493	11.19
3	District Excise Office, Mau	2003-04 to 2008-09	8.39	828-2823	6.44
	Total		**63.15**	**126 - 2823**	**19.47**

We reported the matter to the Government (June 2013). The Government accepted (July 2013) the observation and stated that notice for recovery in cases mentioned at Sl. No. 2 and 3 have been issued. Regarding Sl. No. 1, the reply stated that the security deposit was deposited in treasury and no interest was leviable. We do not agree with this part of the reply as our observation was on non levy of interest due on delayed deposit of excise duty while the Department has responded that the security deposit was deposited in treasury. The two [55] are different items and the reply of the Department does not address our observation.

[54] Excise duty ` 30.76 lakh , Licence fees ` 32.39 lakh
[55] Security deposit and excise duty.

3.8.14 Short-levy of rent and non-levy of stamp duty on warehouses

Under Rule 5(2) and (3) of the Uttar Pradesh Excise (Settlement of licences for country liquor bonded warehouse) Rules 2003, the licensee shall be allowed to run warehouse at the district headquarters in the existing warehouse buildings of the Excise Department on payment of rent approved by the District Magistrate (DM). As per Rule 4 of the U. P. Stamp (valuation of property) Rules 1997, market rates for rent for commercial properties are fixed biennially by the DM and are called circle rates. When there is no Government warehouse in the district or there is no adequate space in Government warehouse it may be opened in private premises situated at District headquarters, that shall be approved by the collector of concerned district. Under the provisions of the section 18 of the Registration Act 1908 leases of immovable property for any terms not exceeding one year is optional for registration. As per Article 35 of Schedule 1B of Indian Stamp Act (IS Act) 1899, however stamp duty on lease upto one year is chargeable as conveyance for a consideration equal to whole amount payable. As per section 33(i) of IS Act every person in charge of a public office (except an officer of police) before whom any instrument chargeable with duty is produced or comes in the performance of his duties, if it appear to him that such instrument is not duly stamped shall impound the same and refer to the Collector for valuation.

During the audit between August 2012 and April 2013 of seven DEOs,[56] we noticed that the Departmental warehouses/ godowns were leased on rent to the licenced wholesalers of country liquor. In two districts[57] permission for establishment of the wholesale warehouses on private premises was granted. We observed the following irregularities in these cases:

- These wholesale licensees of CL during 2007-08 to 2012-13 were not charged the correct rent as per the approved circle rate for the lease of these warehouses. This led to short recovery of rent of ` 66.79 lakh.
- In eight cases of three districts[58] we noticed during 2009-10 to 2012-13 that the lease agreement was executed[59] on ` 10 and ` 100 stamp paper but not registered. Thus, there was short levy of stamp duty of ` 1.62 lakh in these cases.

In 29 cases of six districts[60] during 2007-08 to 2011-12 while the DEOs had awarded the warehouse on rent to the wholesalers, the lease deeds were not executed and no stamp duty was paid. As a result of ` 3.45 lakh of stamp duty was not levied on the lease agreements.

The DEOs of the districts did not exercise due diligence in levying the correct lease rent and also did not ensure the payment of the stamp duty on the agreements. As a result the Government was deprived of revenue of ` 71.86 lakh (` 66.79 lakh short rent and ` 5.07 lakh stamp duty).

[56] Aligarh, Allahabad, Bareilly, Jaunpur, Rampur, Unnao and Varanasi.
[57] Bareilly and Lucknow.
[58] Bareilly, Lakhimpur Kheri and Lucknow.
[59] Bareilly and Lucknow (Private premises), Lakhimpur kheri (Government warehouse)
[60] DEO – Aligarh, Bareilly, Jaunpur, Rampur, Unnao and Varanasi.

We reported the matter to the Government (June 2013). The Government accepted (July 2013) our observation and stated that instructions for recovery have been issued. The details of recovery are awaited.

3.8.15 Lack of documentation of Godown expenses allowed to wholesalers of country liquor

At the time of fixation of MRP of country liquor for the year 2007-08 to 2011-12 godown expenses are allowed to the wholesalers and included in the MRP of country liquor at the rate ` 1.30 per BL for the year 2007-08, ` 1.39 per BL for the year 2008-09 to 2010-11 and ` 1.53 per BL for the year 2011-12.

Under sub Rule 3 of Rule 7 of Uttar Pradesh excise (settlement of licences for country liquor bonded warehouses) Rules 2003, the licensee shall furnish to the officer in charge a list of agent and all employees, whose services are required in warehouse. Godown expenses include rent, payment of salaries of employees, water and electricity charges.

From the records[61] of nine DEOs[62] we noticed that the seven DEOs[63] had allotted Departmental warehouse and two DEOs[64] had details of private used warehouses by the licenced wholesalers of CL. The lists of employees of the respective wholesalers[65] were available with all the nine DEOs. We observed that the number of employees ranged from two to four[66] and the actual rent expenses ranged from 0.28 to 6.99 *per cent* only of the godown expenses being allotted to the wholesalers of CL, as part of their wholesalers margin. In these nine districts alone the godown expenses allowed to the wholesalers between 2007-08 and 2011-12 were ` 29.74 crore. The same appear to very high when compared to the actual expenses as available[67]. Details are as shown in **Appendix– XIV**.

When we pointed this out, the Government agreed that there was no calculation sheet for computation of godown expenses and stated that rent, water and electricity charges, computer, stationary and salary of employees/labourers are taken into consideration for deciding godown expenses allowable. It is clear from the Government reply that the actual expenses are not calculated by the pricing committee.

We recommend that godown expenses may be estimated on proper documentation such as actual rent, salary/wages paid in previous years etc.

3.8.16 Conclusion

Our audit revealed inconsistencies in fixation of maximum retail price of IMFL and CL and several deficiencies in implementation of New Excise Policy such as absence of provisions to deposit excess collection of wholesale licence fee on actual estimates. There was non-compliance of Rules on issues such as non-forfeiture of basic licence fees, late security deposit, short lifting of MGQ, low recovery of alcohol from molasses and cases of non/short levy of licence fee on wholesale and retail shops.

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[61] lease deeds of warehouses.
[62] DEO – Aligarh, Allahabad, Bareilly, Jaunpur, Lakhimpur Kheri, Lucknow, Rampur, Unnao and Varanasi.
[63] DEO – Aligarh, Allahabad, Jaunpur, Lakhimpur Kheri, Rampur, Unnao and Varanasi.
[64] DEO – Bareilly and Lucknow.
[65] In the CL 1C (wholesale licence) details.
[66] With exception of nine for 2007-08 in Bareilly.
[67] and taking into account the routine water and electricity charges for average 223.09 sq. mts. warehouse.

3.9 Non-imposition of penalty

Rule 27 of Uttar Pradesh *Sheera Niyantran Niyamavali*, 1974 provides the officer-in-charge or any other officer authorised by the Controller under Rule 26 shall determine the quantity and the quality of the molasses immediately on receipt of each consignment with the help of the laboratory of the distillery and record the result of the verification and test done by him on the reverse of the gate-pass in Form MF -4 received in duplicate from the occupier of the sugar factory alongwith consignment. One copy of the gate-pass shall be retained by the distillery and the other copy thereof shall be sent to the occupier of the sugar factory by the officer-in-charge so as to reach the latter within one week of the arrival of the consignment at the gate of the distillery.

The receipt back of MF -4 gate pass should be monitored by the Excise Department officials at the sugar factory to ensure that the molasses was received by the authorised distillery and the quantity & quality was as mentioned in the MF -4 gate pass. As per Section 11 of *UP Sheera Niyantran Adhiniyam*, any contravention of the Rules or orders made or the directions issued there under shall be punishable with imprisonment or with fine which may extend to two thousand rupees and continuing contravention attracts, an additional fine which may extend to one hundred rupees for every day during which the contravention continues.

During audit between January 2011 and December 2012 of 15 Sugar Mills[68],we examined the MF -4 gate passes [69] issued to 40 distilleries during the period 2007-08 to 2011-12. We noticed that out of 26,554 MF -4 gate passes, 3241 MF -4 gate passes (12.21 *per cent*) were received back by these sugar mills from the respective distilleries with an average delay of 71 days. Distilleries were responsible for timely return of these gate passes. However we noticed that in all the cases the delays were many, persistent and ranged over one to three years. The Departmental officers at the sugar factories did not take cognigence of this delay in return of gate passes by the distilleries and failed to initiate action for imposition of penalty to the extent of ` 1.51 crore.

After we pointed this out (between June 2011 and January 2013) the Government accepted our observation in August 2013 and stated that MF -4 passes should be received back in sugar mill within 7 days of issue of molasses. Action regarding prosecution/penalty against defaulters will be initiated under Section 16 of *Sheera Niyantran Adhiniyam.*

[68] Kisan Sahkari Chini Mill Ltd. Satha Aligarh, Wave Distillery & Breweries Ltd Aligarh, JK Sugar Mill Bareilly, Kisan Sahkari Chini mill Anoosahar Bulandshahar, Simbhawali Sugar Mill Ltd. Ghaziabad, The United Province Sugar Mill Sewarahi, Kushinagar, Kanoria Sugar Mills Ltd. Kaptanganj Kushinagar, Ganga Kisan Cooperative Sugar Corporation Ltd. Morna Muzaffarnagar, Titabi Sugar mill Titabi, Muzaffarnagar,Bajaj Hindustan Sugar Mill Ltd. Pilibhit, LH Sugar Factory Pilibhit, Rana Sugar Mills Rampur, Shakumbhri Sugar Todarpur Saharanpur, Bajaj Hindustan Sugar Mills Ltd. Maksudanpur Shahjahanpur, The Kisan Sahakari Sugar Mills Ltd. Tilhar, Shahjahanpur.

[69] Rule 25 defines MF 4 as gate passes through which molasses is dispatched by the sugar factories to distilleries.

3.10 Avoidable expenditure due to non-compliance of the provisions of the Acts

Under the provision of UPTT Act and VAT Act, sale of tender forms attracts tax liability at such rates as are prescribed in these Acts. The person selling the tender forms is liable to charge and collect the tax on sale of such forms from the purchasing persons and deposit it to the Treasury.

We noticed during cross check of records[70] of 29 DEOs[71] (April 2011 to January 2012) that 1,25,664 tender forms were sold and processing fees of ` 3,864.66 lakh was collected during the year 2007-08 to 2010-11. Trade Tax/VAT amounting to ` 1.69 crore leviable on this sale was not collected from purchasers of the forms by DEOs.

After we pointed this out (between June 2011 and February 2012) the Government replied in August 2013 that a grant of ` 5.92 crore has been allotted by the Government in July 2012 against the demand raised by Excise Commissioner for payment of VAT on sale of these forms to Commercial Tax Department. The reply of the Government confirms our objection that the Department did not collect the tax from the purchasing dealers and has imposed this burden on the Government which had to sanction a grant for the same. We also noticed that the reason for raising a demand of ` 5.92 crore was stated as inability to recover the amount from applicants as addresses of the applicants not being available. On our examination of the application records we have noticed that the names and addresses of the applicants were clearly mentioned on the forms. Hence, our audit establishes that the basis of raising a demand for the grant was not factually correct.

Thus, non-compliance of provisions of Act and lack of timely action for realisation of tax from the applicants resulted in an unavoidable burden to the state exchequer.

[70] Sale of tender forms register, Receipt book and Cash book.

[71] DEO: Aligarh, Ambedkar Nagar, Auraiya, Baghpat, Bahraich, Ballia, Banda,Bijnore, Bulandshahar, Chandauli, Etah, Ghaziabad, Gorakhpur, Hamirpur, Hardoi, Hathrus, Jalaun, Jaunpur, Kushinagar,Lalitpur, Mahoba, Mau, Meerut, Ramabai Nagar (Kanpur Dehat), Saharanpur, Shravasti, Siddharthnagar, Sitapur and Sonebhadra.

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ` 9.66 crore from observations noticed during our test check of records in the Transport Department. We found several instances of non/short realisation of tax and penalty from goods and passenger vehicles, short realisation of vehicle tax due to wrong assessment of seating capacity, non-imposition of penalty on vehicles carrying excess load, non-imposition of penalty due to violation of terms and conditions of permit, non-realisation of application and renewal fees of permit, non/short realisation from seized vehicles, and non-levy of tax and fines on tractors registered for agricultural purposes engaged in commercial activities.
Trend of receipts	In 2012-13, the actual receipts increased by 25.76 *per cent* as compared to the previous year but are short by 1.54 *per cent* from the budget estimate.
Internal Audit Wing (IAW)	A five member Internal Audit Committee has been formed in the Department under Chairpersonship of Principal Secretary, Transport which meets periodically to discuss functioning of IAW. The Department had recovered ` 12.13 lakh in four cases at the instance of IAW during the year 2012-13.
Status of compliance to Inspection Reports (2012-13)	We conducted test check of the records of 72 units relating to the Transport Department during the period 2012-13 and found cases of underassessment of tax and other irregularities involving ` 151.56 crore in 668 cases.  The Department accepted underassessment and other deficiencies of ` 10.30 lakh and recovered ` 10.10 lakh.
Our conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover non-realisation, short levy of tax, penalties etc. pointed out by us, more so in those cases where it has accepted our observation.

CHAPTER-IV
TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1 Tax administration

The Uttar Pradesh Motor Vehicles Taxation Act, 1997 (UPMVT Act), Uttar Pradesh Motor Vehicles Taxation Rules, 1998 (UPMVT Rules), Motor Vehicles Act, 1988 and Motor Vehicles Rules, 1989 provide for levy of various types of taxes viz. goods tax, additional tax (passenger tax) and fees etc. in the State.

The Principal Secretary, Transport, Uttar Pradesh is the administrative head at Government level. The entire process of assessment and collection of taxes and fees is administered and monitored by the Transport Commissioner (TC) Uttar Pradesh, who is assisted by two Additional Transport Commissioners at Headquarters and six Deputy Transport Commissioners (DTCs), 19 Regional Transport Officers (RTOs) and 72 Assistant Regional Transport Officers (ARTOs) (Administration) in the field.

4.2 Trend of receipts

Actual receipts from Taxes on Vehicles, Goods and Passengers during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the table no. 4.1:

Table No. 4.1

(` in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percent-age of actual receipts vis-à-vis total tax receipts
2008-09	1,600.00	1,391.15	(-) 208.85	(-)13.05	28,658.97	4.85
2009-10	1,574.89	1,674.55	(+) 99.66	6.33	33,877.60	4.94
2010-11	2,089.90	2,058.58	(-) 31.32	(-)1.50	41,355.00	4.98
2011-12	2,329.95	2,380.67	(+) 50.72	2.18	52,613.43	4.52
2012-13	3,093.90	2,993.96	(-) 99.94	(-) 3.23	58,098.36	5.15

Source: Finance Accounts of the Government of Uttar Pradesh.

It can be seen that the budget estimates are realistic and that there has been a steady growth in the revenue. In the year 2012-13, the actual receipts increased by 25.76 *per cent* as compared to year 2011-12, but are short by 3.23 *per cent* from the budget estimates.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ` 53.83 crore. The table no. 4.2 depicts the position of arrears of revenue during the period 2008-09 to 2012-13:

Table No. 4.2

(` in crore)

Year	Opening balance of arrears	Addition during the year	Amount collected during the year	Closing balance of arrears
2008-09	71.74	1,380.02	1,391.15	60.61
2009-10	60.61	1,661.41	1,674.55	47.47
2010-11	47.47	2,040.78	2,058.58	29.67
2011-12	29.67	2,380.69	2,380.67	29.69
2012-13	29.69	3,018.10	2,993.96	53.83

Source: Finance Accounts and Information provided by the Department.

There has been an increase in the closing balance of arrears. Information regarding arrears more than five years old and the various stages at which recovery of outstanding arrears are pending were not intimated by the Department despite request (December 2013).

4.4 Cost of collection

The gross collection from taxes on vehicles, goods and passengers, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2008-09 to 2012-13 along with the relevant all India average percentage of cost of collection to gross collection for the relevant previous year are mentioned below:

Table No. 4.3

(` in crore)

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
2008-09	1,391.15	50.43	3.62	2.58
2009-10	1,674.55	69.16	4.13	2.93
2010-11	2,058.58	78.13	3.80	3.07
2011-12	2,380.67	79.86	3.35	3.71
2012-13	2,993.96	95.45	3.19	2.96

Source: Finance Accounts of the Government of Uttar Pradesh and information provided by the Department.

It may be seen from the above table that percentage of cost of collection to gross collection has gradually decreased during the period 2009-10 to 2012-13. However, cost of collection for the year 2012-13 is still higher than all India average.

4.5 Internal audit wing

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

A five member Internal Audit Committee has been formed in the Department under Chairpersonship of Principal Secretary, Transport which meets periodically to discuss functioning of IAW. The Department had recovered ` 12.13 lakh in four cases at the instance of IAW during the year 2012-13.

In IAW, one Assistant Audit Officer and three Auditors have been posted. However, the sanctioned strength of the wing, details of audit planning such as number of units planned for audit, number of units audited, number and amount of objection raised and settled during the year was not intimated by the Department despite request.

We recommend that the IAW may be strengthened and an annual audit plan prepared.

4.6 Impact of audit

4.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

We had reported cases of non/short levy of passenger tax/additional tax, under assessment of road tax/goods tax and other irregularities involving ` 121.51 crore in the Audit Reports for the year 2007-08 to 2011-12. Of these, the Department has accepted observations of ` 83.50 crore and recovered ` 12.76 crore up to 31 March 2013. The details are mentioned in the table no. 4.4:

Table No. 4.4

(` in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made up to 31.03.2013
2007-08	82.02	73.22	8.80
2008-09	5.80	0	0
2009-10	15.80	8.16	2.61
2010-11	2.46	1.28	0.62
2011-12	15.43	0.84	0.73
Total	**121.51**	**83.50**	**12.76**

The amount recovered as compared to the accepted cases has been nil or extremely low during the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position, at least in the accepted cases.

4.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, we had pointed out through our Inspection Reports short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation etc. with revenue implication of ` 399.45 crore in 1,819 cases. Of these, the Department/Government had accepted audit observations in 459 cases involving ` 10.13 crore and had since recovered the amount involved in these cases upto 31 March 2013. The details are shown in the table no. 4.5:

Table No. 4.5

(` in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered up to 31.03.2013	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	62	213	94.45	4	0.25	4	0.25
2008-09	71	344	118.34	148	2.49	148	2.49
2009-10	71	245	26.46	40	0.85	40	0.85
2010-11	71	369	29.54	263	6.44	263	6.44
2011-12	96	648	130.66	04	0.10	04	0.10
Total	**371**	**1819**	**399.45**	**459**	**10.13**	**459**	**10.13**

In view of the large number of pending audit observations, the Government may ensure holding of audit committee meetings at regular intervals for expeditious settlement of the pending paragraphs.

4.6.3 Status of Compliance to Inspection Reports (2012-13)

Test check of the records of 72 units relating to the Transport Department during the period 2012-13 revealed underassessment of tax and other irregularities involving ` 151.56 crore in 668 cases which fall under the following categories as mentioned in table no. 4.6:

Table No. 4.6

(` in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short levy of passenger tax/additional tax	126	72.87
2.	Underassessment of road tax	49	0.82
3.	Non/Short levy of goods tax	72	7.61
4.	Other irregularities	421	70.26
Total		**668**	**151.56**

During the year 2012-13, the Department accepted our observation of ` 10.30 lakh involved in four cases out of which recovered ` 10.10 lakh of underassessment and other deficiencies.

A few illustrative cases including a paragraph on **"Non compliance of provisions of Motor Vehicles Act/Departmental order"** involving ` 9.66 crore are mentioned in the succeeding paragraphs.

4.7 Non compliance of provisions of Motor Vehicles Act/Departmental Order

Under Rules 86 to 90 of Motor Vehicle Rules, 1989 (MV Rules) any goods vehicle intending to move on national level shall apply for a National Permit in a prescribed form to the Regional Transport Officer. As per Section 81 of Motor Vehicle Act, 1988 (MV Act) a permit is valid for 5 years. However as per Rule 87 (3) of MV Rules, authorisation of the National Permit is for one year.

Application for renewal of National Permit is required to be submitted 15 days prior to expiry of such permit.

As per orders of Transport Commissioner of February 2000 the authorities concerned shall issue notice to the permit holder within 15 days of expiry of authorisation calling his explanation as to why the permit should not be cancelled in case of his non renewal of authorisation and cancel the permit in case of non receipt of explanation within the prescribed time.

4.7.1 With a view to examine the implementation of the provisions of the new National Permit System, we examined the relevant records[1] in all the 19 RTOs[2] in the State between May 2012 and March 2013. We noticed that out of 78,156 goods vehicles which had been issued National Permit in the State, authorisation of 2,939 vehicles[3] became due for renewal between February 2010 and March 2013.

Despite the fact that all the information such as date of expiry of authorisation, tax paid and other details of vehicles with National Permit was available in VAHAN Software[4], these cases were not detected by the Department. The Department also did not initiate any action to issue notices to these permit holders and cancel the permit as prescribed in the order of the Transport Commissioner of February 2000.

[1] Vehicles files, permit register, receipt books and cash-book.
[2] Agra, Aligarh, Allahabad, Azamgarh, Banda, Bareilly, Basti, Faizabad, Ghaziabad, Gonda, Gorakhpur, Jhansi, Kanpur Nagar, Lucknow, Meerut, Mirzapur, Moradabad, Saharanpur and Varanasi.
[3] In 17 RTO's.
[4] Designed for keeping vehicles details such as registration certificate, permit and taxes etc.

We noticed that only in Saharanpur[5] action was taken by RTO as per orders of TC dated February 2000 and notice issued under Section 86 of MV Act, 1988.

After we pointed out these cases, the Department stated[6] (January 2014) that

- permits of 842 vehicles have been cancelled;
- authorisation of National Permit of 779 vehicles have been renewed after charging of consolidated fee and renewal fee of ` 1.10 crore;
- action under Section-86 of MV Act, in respect of 1,008 vehicles has been initiated.

Section 81(1) of the MV Act, 1988 provides that a permit other than a temporary permit issued under section 87 or a special permit issued under Sub-Section(8) of Section 88 shall be effective for a period of five years. Under Section 81(2), a permit may be renewed on an application made not less than fifteen days before the date of its expiry. As per Rule 22 of UPMV Rules, 1998, permits and other documents should be surrendered, if the vehicle is withdrawn from use. Further, if the permit and other documents are not surrendered, the vehicle is deemed to be in use.

4.7.2 We observed (May 2012) from the records[7] of the office of the TC that validity of permit of 55 buses[8] and 111 motor taxies[9] expired between the period from January 2008 to March 2012.

As the owners did not surrender the documents the vehicles were deemed to be in use as per Rule 22 of UPMV Rules, 1998.

Despite the fact that all the information such as date of expiry of permit, tax paid and other details of vehicles were available in VAHAN Software, these cases were not detected by the Department.

After we pointed this out to Department/ Government in June 2012, the Department stated (September 2013) that renewal of permit can be done only when the permit holder applies for the same, no permit and application fees were realised in these cases as permit holders in question never applied for its renewal or cancellation. We do not agree as the validity of the permits had expired and permits/documents were not surrendered. Thus, these vehicles were deemed to be in use as per Rule 22 of the UPMV Rules and the Department should have in the interest of the State Exchequer taken proactive action to issue notices to the vehicle owners.

The Government may consider devising a mechanism to ensure compliance of the provisions of the MV Act/UPMV Rules or the departmental order of February 2000, so that there is no leakage of State revenue.

[5] 194 vehicles.
[6] Reply of RTO Aligarh, Allahabad, Banda, Bareilly, Faizabad and Gonda is awaited.
[7] Permit registers and concerned files
[8] Out of 3,359 vehicles
[9] Out of 34,789 vehicles

4.8 Commercial use of vehicles registered as private/agricultural vehicles

As per notification dated 28 October 2009 issued under Section 4(2) of UPMV Act, 1997 construction equipment vehicles or vehicles manufactured in special design or for special purpose and registered or used for commercial purpose, tax is leviable at the rate of ` 500 per quarter or ` 1,800 per year, for every metric tonne of the unladen weight of the vehicle or part thereof.

We scrutinised (between June 2012 and December 2012) the records[10] of four RTOs[11] and three ARTOs[12] and observed as under:

4.8.1 During the period February 2010 to July 2012, 10 vehicles[13] were registered as private vehicles and deposited only a onetime tax. Since all these vehicles were used for commercial purposes, registration of these vehicles as private vehicles and levy of one time tax was wrong. The details are indicated in table no. 4.7:

Table No. 4.7

(` in lakh)

Sl. No.	Name of the office	Number of vehicle registered as private	Tax leviable @ 1800/- per tonne per year	Tax paid as one time tax	Period of registration
1.	RTO Azamgarh	04	8.64	5.23	02/2010 to 07/2012
2.	RTO Ghaziabad	04	8.50	5.11	07/2011 to 01/2012
3.	ARTO Hardoi	02	4.59	0.88	08/2011 to 12/2011
Total		**10**	**21.73**	**11.22**	

Further, in 14 cases, vehicles[14] owners had not deposited even the quarterly tax for one to eight quarters and were plying unauthorisedly. This resulted in non-levy of tax of ` 3.06 lakh as shown in table no. 4.8:

Table No. 4.8

(` in lakh)

Sl. No.	Name of the office	Number of vehicle registered as private	Tax leviable @ 1800/- per tonne per year	Tax paid	Tax due	Period of registration
1.	RTO Lucknow	14	3.06	-	3.06	7/2010 to 3/2012
	Total	**14**	**3.06**	**-**	**3.06**	

After we reported the matter to the Department and Government (July 2012 to February 2013), the Department accepted (September 2013) our observation in cases of Azamgarh, Lucknow and Hardoi and has begun the action for issue of notices and recovery. In case of Ghaziabad[15] and one vehicle (crane) of Hardoi, the Department stated that as per affidavits given by the firms, the vehicles are being used as non-transport/private vehicle. We do not agree with the reply of the Department with reference to the above, as all these vehicles were registered with the firms and not with individuals and these were excavators and crane.

[10] Tax posting register, registration register, tax register and Prosecution Books, Crime and Seizure Registers.
[11] Azamgarh, Ghaziabad, Kanpur Nagar and Lucknow.
[12] Hardoi, Maharajganj and Mau.
[13] JCB machines (1), Cranes (1), Earth moving machines (4), Excavators (4).
[14] Cranes (13), Cash van (1).
[15] Four Excavators in Ghaziabad

The rate of tax applicable to tractor used for commercial purposes other than agricultural purposes, for every metric tonne of the unladen weight of the vehicle or part thereof is ` 500 per quarter or ` 1,800 per annum. Further, under Section 192-A of the MV Act, use of a motor vehicle in contravention of the provisions of sub-section (1) of Section 66 or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine of ` 2,500 which was raised to ` 4,000 with effect from 25 August 2010 according to UP *Shashan* Notification No 1452/30-4-10-172/89 dated 25 August 2010.

4.8.2 During the period April 2011 to October 2012, in 86 cases, tractors registered for agricultural purposes were engaged in the commercial activities of transporting sub-mineral (sand and ordinary soil). This fact was verified from the MM-11 forms issued by the respective District Mines Officers to these tractors. As seen from the prosecution registers, the Department did not initiate any action for levy and collection of the differential rate tax from these vehicles for their use as commercial vehicles and also did not impose the necessary fines for violation of act. This inaction led to non-realisation of tax and fines of ` 4.31 lakh as detailed in the table no. 4.9:

Table No. 4.9

(` in lakh)

Sl. No.	Name of unit	Unladen Weight of vehicle (in Tonne)	Period of plying of vehicle	No. of vehicles	Amount of tax payable @ ` 500 per quarter per tonne of un laden weight	Penalty leviable @ ` 4000 per vehicle	Total amount of tax and penalty
1.	RTO Kanpur Nagar	02	04/2011 to 07/2012	07	0.07	0.28	0.35
		03		02	0.03	0.08	0.11
2.	ARTO Maharajganj	02	03/2011 to 06/2011	37	0.37	1.48	1.85
3.	ARTO Mau	02	08/2009 to 09/2010	40	0.40	1.60	2.00
Total				**86**	**0.87**	**3.44**	**4.31**

After we reported the matter to the Department and Government (July 2012 to February 2013), the Department has not agreed with our observation and stated (November 2013) that none of the tractors have been found carrying minerals during checking of vehicles by enforcement wing. The reply of the Department shows that it did not take any proactive action against the tractors employed in commercial activities despite there being concrete evidence of the same being available in the records of the Mining Department and pointed out by us. The Department has not even cross-checked the records of District Mines Officers.

4.9 Short-levy of tax due to adoption of lesser seating capacity of Tata Magic Vehicle

Under the provisions of sub section (2) of Section-4 of the Uttar Pradesh Motor Vehicles Taxation Act, 1997 (as amended on 28 October 2009) no transport vehicle shall be used in any public place in Uttar Pradesh unless a tax prescribed under sub section (2) of Section-4 of the Act has been paid. The rate of tax applicable to motor cab (excluding three wheelers motor cab) and maxi cab was ` 550 per seat/per quarter upto 7 November 2010 and ` 660 per seat per quarter from 8 November 2010. The Transport Commissioner vide order dated 30 July 2007 and 24 May 2010 permitted eight seats in all for Tata Magic vehicle (basic model) having kerb weight of 1,000 kg.

We scrutinised (between May 2012 and September 2012) the records[16] of two Regional Transport Offices (RTOs)[17] and four Assistant Regional Transport Offices (ARTOs)[18] and noticed that during the period from April 2011 to August 2012, taxes in respect of 723 Tata Magic vehicles (basic model) having kerb weight of 1000 kilogram were assessed and realised on the seating capacity of seven instead of eight in contravention of the orders of the Transport Commissioner dated 30 July 2007 and 24 May 2010. The details of the vehicle are noted in the sale letter which is required to be presented at the ARTO / RTO office at time of registration. The ARTOs/RTOs concerned did not detect the same and this resulted in short realisation of tax of ` 16.75 lakh as shown in the table no. 4.10:

Table No. 4.10

(` in lakh)

Sl. No.	Name of unit	Number of vehicles (unladen weight 1000 Kg.)	Period	Tax leviable	Tax paid	Tax short levied
1.	RTO Bareilly	194	April 2011 to March 2012	18.31	15.69	2.62
2.	RTO Jhansi	90	August 2011 to July 2012	16.63	14.25	2.38
3.	ARTO Jalaun	166	July 2011 to June 2012	30.68	26.29	4.39
4.	ARTO JP Nagar	64	April 2011 to April2012	12.15	10.41	1.74
5.	ARTO Maharajganj	120	April 2011 to June 2012	26.58	22.78	3.80
6.	ARTO Pratapgarh	89	August 2011 to August 2012	12.72	10.90	1.82
Total		**723**		**117.07**	**100.32**	**16.75**

After we reported the matter to the Department and the Government (April 2012 and October 2012), the Department accepted (October 2013) our observation and recovered ` 9.58 lakh in respect of 544 vehicles and stated that action has been initiated for remaining vehicles. In the case of Jhansi, the Department stated that no differences have been found in 67 cases cited by Audit and attached a list with the unladen weight and other details of the vehicles. We cross checked and found that the registration number of these

[16] Passenger tax register, vehicles files and vehicles database.
[17] RTO: Bareilly and Jhansi.
[18] ARTO: Jalaun, J.P. Nagar, Maharajganj and Pratapgarh.

contested 67 vehicles are not the same as the ones pointed out by us, hence we do not agree with the reply of the Department in Jhansi.

4. 10 Non-realisation of revenue due to vehicles plying without certificate of fitness

Under Section 56 of Central Motor Vehicle (CMV) Act, 1988 and Rule 62 of Central Motor Vehicle (CMV) Rules, 1989 made thereunder, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness. A fitness certificate granted in respect of a newly registered transport vehicle is valid for two years and is required to be renewed every year. Thereafter payment of the prescribed fee of ` 100, ` 200, ` 300 and ` 400 and fee of ` 100 is required to be made for issuing certificate of fitness for three wheelers, light, medium and heavy vehicles respectively. In case of default, an additional amount equal to the prescribed fee is also leviable. Plying a vehicle without certificate of fitness is compoundable under Section 192 of the MV Act, 1988 at the rate of ` 2,500 per offence which has been increased to ` 4000 vide notification no. 1452/30-4-10-172/89 dated 25 August 2010.

We scrutinised (between April 2012 and March 2013) the records[19] of ten RTOs[20] and 15 ARTOs[21], and observed that 8,792 vehicles[22] plied between April 2010 and February 2013 without valid fitness certificates and only the tax due was realised. There is no system in the Department to check whether there is a valid fitness certificate while accepting payment of tax due. Plying of such vehicles compromised public safety. These vehicles were liable for levy of fitness fee of ` 51.22 lakh and imposition of penalty of ` 3.52 crore as they were plying without a fitness certificate.

We reported the matter to the Department and Government (May 2012 and May 2013), the Department stated (November 2013) that in absence of proof of movement of vehicles without fitness certificate, penalty cannot be levied. Further, the Department stated that there is no loss of fitness fee as the same would be recovered at the time of renewal.

We do not agree with the reply as these vehicles were paying road tax for the period involved and as such these vehicles were plying without fitness certificate. Thus, the fact remains that the Department did not ensure production of fitness certificate at the time of payment of tax as pointed out above. Moreover, the Department has recovered ` 19.05 lakh as fitness fee and ` 14.16 lakh as penalty[23] and issued RCs for the recovery of fitness fee in remaining cases after audit pointed out.

[19] Tax register, vehicles files, vehicles database, receipt books and cash-book.
[20] RTO: Allahabad, Bareilly, Faizabad, Ghaziabad, Jhansi, Kanpur Nagar, Meerut, Mirzapur, Saharanpur and Varanasi.
[21] ARTO: Badaun, Bahraich, Bijnaur, Bulandshahar, Deoria, Fatehpur, J.P.Nagar, Kushinagar, Maharajganj, Mainpuri, Mahoba, Pilibhit, Shahjahanpur, Sonbhadra and Unnao.
[22] Out of 3.18 lakh vehicles.
[23] ARTO Unnao ` 1.44 lakh and RTO Varanasi ` 12.72 lakh.

4.11 Non-realisation of permit fee on school vehicles

Under the provisions of the UPMVT Act, as amended in 2000 in respect of Notification number 27/2000 of Government of India, no Educational Institute shall use vehicles for transportation of students without proper permit. Further, Rule 125 of the UPMVT Rules, 1998 (as amended on 31 December, 2010) prescribes ` 3,750 for issue of new permit, its renewal and countersignature.

We scrutinised (between May 2012 and June 2012) the records[24] of one RTO[25] and four ARTOs[26] and observed that during the period May 2011 to May 2012, 255 school vehicles were plying in sub regions without permit. This resulted in non realisation of permit fees of ` 9.56 lakh as shown in the table no. 4.11:

Table No. 4.11

(` in lakh)

Sl. No.	Name of unit	Number of vehicles	Permit fee leviable per vehicle	Amount of revenue involved
1.	ARTO Ambedker Nagar	31	3750	1.16
2.	RTO Bareilly	29	3750	1.09
3.	ARTO JP Nagar	30	3750	1.12
4.	ARTO Mahoba	09	3750	0.34
5.	ARTO Lakhimpur kheri	156	3750	5.85
	Total	**255**		**9.56**

After we reported the matter to the Department and the Government (June 2012 and July 2012), the Department accepted (October 2013) our observation and recovered ` 4.46 lakh in cases of 119 vehicles and stated that action has been initiated for the remaining vehicles.

4.12 Impact of non-establishment of Accident Relief Fund

As per provisions of Section 8(1) of UPMVT Act, 1997 as amended in 2009, for the purpose of providing relief to the passengers or other persons suffering casualty in any accident in which a public service vehicle is involved, or to heirs of such passengers or other persons, the State Government shall establish a fund to be known as the Uttar Pradesh Road Transport Accident Relief Fund (UPRTARF). The amount equivalent to two *per cent* of the tax levied under section 4 and two *per cent* of the additional tax levied under Section 6 shall be credited to the said fund.

We observed (May 2012) from the records[27] of the office of the Transport Commissioner that the Department had realised a sum of ` 786.74 crore as tax and additional tax from goods and passenger vehicles during the period between April 2011 and March 2012. Two *per cent* of this amount ` 15.73 crore was to be credited to the UPRTARF, the same has not been credited to the fund by the Department as the fund is yet to be established. We further noticed that compensation amounting to ` 61.90 lakh was paid from the budget major head "2235 Social Safety and Welfare" during the year 2009-10 to 2012-13 to the passengers or heirs of such passengers against 1039 cases of accident from UPSRTC buses. The non-establishment of

[24] Vehicles files, permit register and vehicles database.
[25] RTO: Bareilly.
[26] ARTO: Ambedkar Nagar, J.P.Nagar, Lakhimpur Khiri and Mahoba.
[27] Monthly statement of revenue receipts.

fund negated the very purpose of the provision of the Act and the compensation had to be paid out of revenue budget of the State.

When we reported the matter to the Department and the Government (June 2012), the Department stated (September 2013) that process of establishing the UPRTARF is in process. The tax and additional tax realised has been deposited in Government treasury, so Government was not deprived of revenue. Compensations were given under the head "2235" so no beneficiary was deprived of receiving compensation. We do not agree with the reply of the Department as the Department is showing inflated revenue earning by fully depositing the tax and additional tax in the major head "0041", rather than crediting two *per cent* of the same in UPRTARF. Moreover, non-establishment of fund has negated the very purpose of the provisions of the Act.

4.13 Non-imposition of penalty on the vehicles carrying excess load

Section 113 of the Motor Vehicles Act, 1988 (MV Act), defines the limits of weight and limitation of use, which are laid down by the Transport Commissioner (TC) who prescribes conditions for issue of permits for transport vehicles in the state. Section 113 (3) (b) states that no person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer, the laden weight exceeds the gross vehicle weight specified in the certificate of registration.

As per provisions made under Section 194 (1) of the MV Act, 1988, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with a load exceeding permissible weight, shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load, together with the liability to pay charges for off-loading of the excess load.

As per the certificate of registration issued by the TC for the vehicles the maximum laden weight for the vehicles is fixed and the maximum limit of weight* of sub minerals transported by different categories of vehicles is as below:

(In Tonnes)

Sl. No.	Minor mineral	Two Wheel Tractor	Four Wheel Tractor	Six Wheel Truck	10 Wheel Truck
1.	Ordinary Sand	3.00	5.25	13	19
2.	*Morrum*	3.00	5.25	13	19
3.	Ordinary Soil	3.00	5.25	13	19
4.	Boulder/*Gitti*/ stone grit	3.00	5.25	13	19

* Maximum permissible Laden Weight = Gross Vehicle Weight (GVW) *minus* Un Laden Weight (ULW)

We scrutinised the records[28] of three RTOs[29] and 20 ARTOs[30] and Form MM-11 issued to the vehicles for carrying sub minerals[31] in respective District Mines Offices between April 2012 and March 2013 and observed that in 3,706 cases, transportation of sub-mineral sand, grit and ordinary soil was carried out during the period February 2009 to January 2013 by different categories of vehicles. In all these cases the actual load[32]carried by these vehicles as evidenced by the MM-11 forms[33] issued was higher than the permitted load as per their Registration Certificates. Hence all these vehicles were liable for action under Section 194(1) of the Motor Vehicles Act, 1988.

[28] Prosecution Books, Crime and Seizure Registers.
[29] RTO: Banda, Gorakhpur and Saharanpur.
[30] ARTO:Ambedkarnagar, Auraiya, Badaun, Bagpat, Bahraich, Balrampur, Barabanki, Bulandshahar, Farukkhabad, G.B.Nagar, Kanshiramnagar, Kushinagar, Lalitpur, Maharajganj, Mainpuri, Mau, Pratapgarh, Santravidasnagar, Sitapur and Unnao.
[31] Sand, stone, gritt and ordinary soil.
[32] Conversion of volume to weight for sand/*morrum* 1 m^3=2 tonnes and 1 m^3 of ordinary soil = 1.70 tonnes.
[33] Transit Pass issued by the holder of the mining lease or mining permit or prospecting licence as the case may be.

We noticed that these vehicles were not mentioned in the Prosecution book, Crime or Seizure registers of the respective RTOs/ARTOs offices as having been checked and booked as overloaded and charged for offloading of the excess load. The RTOs/ARTOs did not take action to stop and off load these vehicles carrying greater than permissible load and penalise them.

The plying of overloaded vehicles compromised public safety. These vehicles were liable for imposition of penalty of ` 2.97 crore as detailed in **Appendix-XV.**

After we reported the matter to the Department/Government (between May 2012 and May 2013), the Department stated (October 2013) that none of the vehicles have found overloaded during checking of vehicles by enforcement wing and hence penalty is not tenable. Only in two offices[34] the transport authorities have so far recovered ` 2.20 lakh from the vehicles mentioned in our observation and a further two offices[35] have issued notices to the defaulters.

The Department itself admits to failure of its enforcement wing as pointed out by us. Despite concrete evidence of vehicle-wise movement of overloaded vehicles in the District being available the enforcement wing of the Department failed to detect these overloaded vehicles while they plied on road and impose penalty.

We recommend that the Department develop a system to cross verify the same with the DMO offices and take action against overloaded vehicles plying in contravention of the MV Act.

4.14 Non-levy of penalty due to violation of terms and conditions of permit

As per Rule 70 of the UPMV Rules, 1998 the owner of the contract carriage vehicle other than motor cab is liable for submission of passenger's list and quarterly abstract of the vehicle log book as required under the terms and conditions of the permit issued by the competent authority. Section 192A of MV Act defines the penalties for violation of conditions of permits. Vide Notification No.1452/30-4-10-172/89 dated August 25, 2010 the Government has defined that violation of terms and conditions of the permit is an offence which may be compounded by imposition of penalty of ` 4,000.

We observed (May 2012) from the records[36] that 2,448 permit holders failed to provide the requisite documents[37] to the Uttar Pradesh State Transport Authority (UPSTA) during the period 2011-12. The Department did not impose and realise the penalty of ` 97.92 lakh for non-submission of requisite documents by the permit holders as shown in the table no. 4.12:

[34] ARTO, Gorakhpur and ARTO Kushinagar
[35] ARTO, Sitapur and ARTO Unnao
[36] Permit registers and personal file of vehicles.
[37] List of passengers for every trip and quarterly log book.

Table No. 4.12

(` in lakh)

Sl. No.	Type of Permit	Seating Capacity	Number of Permits	Penalty at the rate 4000 per permit
1.	All India Bus Permit	43-56	25	1.00
2.	All Uttar Pradesh Bus Permit	43-56	376	15.04
3.	All India Mini Bus Permit	13-42	888	35.52
4.	All Uttar Pradesh Mini Bus Permit	13-42	675	27.00
5.	All India Maxi Cab Permit	8-12	355	14.20
6.	All Uttar Pradesh Permit Maxi Cab	8-12	129	5.16
Total			**2,448**	**97.92**

After we pointed this out to the Department and the Government in June 2012, the Department stated (September 2013) that non-production of log book and/or passengers list does not attract penalty as this is not violation of permit conditions. We do not agree with the reply of the Department as Section 192A of CMV Act clearly defines the penalties for violation of conditions of permits and submission of the above documents is required under the additional terms and conditions of the permits issued under Rule 70 of UPMV Rules, 1998.

4.15 Non/Short realisation from seized vehicles

Under the provisions of Section 22 of the UPMVT Act, vehicles seized by the enforcement wing of the Department are liable to pay dues and compounding fee imposed thereon and get it realised. Where owners of vehicles did not turn up to pay dues, these vehicles may be auctioned after 45 days from the date of seizure and revenue realised should be adjusted towards the tax, additional tax, penalty and the expenses of such auction. The balance, if any, shall be refunded to the owner of the vehicle.

We observed ((between August 2012 and December 2012) from the records[38] of six ARTO/ RTOs that 73 vehicles were seized under the provisions of the UPMVT Act during the period from February 2006 to October 2012 against which dues of ` 44.23 lakh remained to be realised. The owners of these vehicles did not pay the dues within 45 days from the date of seizure. The concerned offices[39] also did not initiate action required under the Act to realise the dues through auction of these vehicles despite lapse of 22 to 80 months from the date of seizure. The details of the 73 vehicles are mentioned in the table no. 4.13:

Table No. 4.13

(` in lakh)

Sl. No.	Name of the offices	Number of vehicles	Period of seizure	Recoverable amount of Tax/Additional tax
1.	ARTO, Bijnour	16	11/2009 to 05/2012	2.66
2.	ARTO, Chandauli	24	02/2006 to 07/2011	3.61
3.	ARTO, Hamirpur	05	06/2007 to 10/2010	25.26
4.	RTO, Kanpur Nagar	11	01/2011 to 07/2012	1.06
5.	ARTO, Kushinagar	04	07/2006 to 10/2012	6.34
6.	ARTO, Sonbhadra	13	11/2008 to 11/2011	5.30
	Total	**73**		**44.23**

Thus inaction on part of the RTOs/ARTOs led to non- recovery of dues of ` 44.23 lakh from seized vehicles.

[38] Seizure register and concerned files.
[39] RTO: Kanpur Nagar. ARTO: Bijnaur, Chandauli, Hamirpur, Kushinagar and Sonbhadra.

After we pointed this out to the Department and the Government in February 2013, the Department accepted (September 2013) our observation and stated that action is being taken and ` 2.02 lakh has been recovered so far.

4.16 Absence of monitoring and follow up mechanism for realisation of arrears

Under the provisions of Section 20 of the UPMVT Act, arrears of any tax or additional tax or penalty shall be recoverable as arrears of land revenue. Further, the taxation officer shall raise a demand in the form as may be prescribed from the owner or operator, as the case may be, for the arrears of tax and additional tax and penalty of each year, which shall also include the arrears of tax, additional tax or penalty, if any of preceding years.

Section 22 authorises the taxation officer to seize and detain the vehicle and to get the dues recovered by auction of the vehicle if the dues are not paid within 45 days from the date of seizure or detention of the vehicle.

We scrutinised (between November 2011 and March 2013) the records[40] of three RTOs[41] and four ARTOs[42] and observed that there were arrears of tax/additional tax amounting to ` 2.13 crore in 251 cases for which Recovery Certificates (RCs) were issued during the period January 2010 to September 2012. We noticed that these RCs were issued seven months to 92 months after the date when revenues become due and recovery of these outstanding dues could not be made. No evidence of regular follow up with the revenue authorities for the recovery of these outstanding RCs was seen on files. The taxation officers of the districts did not initiate any action under Section 22 regarding seizure of vehicles etc against the motor vehicle owners who had defaulted on their dues. We noticed that no provision for a time frame regarding issue of RCs was made in the rules and the Department also had no system to monitor the issue of the RCs within a specified time frame. Absence of internal control and monitoring mechanism led to non-realisation of revenue amounting to ` 2.13 crore as shown in the table no. 4.14:

Table No. 4.14

(` in lakh)

Sl. No.	Name of office	No of RCs issued	Time taken in issuing RCs	Amount of RCs
1.	RTO Allahabad	147	8 to 92 months	56.21
2.	RTO Azamgarh	24	7 to18 months	15.77
3.	ARTO Bahraich	5	21 to 69 months	1.82
4.	ARTO Mathura	13	Not mentioned	59.99
5.	RTO Saharanpur	4	17 to 45 months	1.45
6.	ARTO Sant Kabir Nagar	30	8 to 58 months	10.49
7.	ARTO Sant Ravidas Nagar	28	19 to 79 months	67.55
Total		**251**		**213.28**

We pointed this out to the Department/Government (between August 2012 and March 2013). The Department accepted (September 2013) our observation and stated that ` 52.04 lakh has been recovered and action has been initiated for recovery in the remaining cases.

[40] Tax register, arrear register, recovery certificate issue register and vehicles files.
[41] RTO:Allahabad, Azamgarh and Saharanpur.
[42] ARTO:Baharaich, Mathura, Sant Kabir Nagar and Sant Ravidas Nagar.

4.17 Non-realisation of tax/additional tax in respect of vehicles surrendered beyond three months

Rule 22 of the Uttar Pradesh Motor Vehicles Taxation Rules (UPMVT Rules), 1998 (modified in October 2009), provides that when the owner of a transport vehicle withdraws his motor vehicle from use for one month or more, the certificate of registration, tax certificate, additional tax certificate, fitness certificate and permit, if any must be surrendered to the Taxation Officer. The Taxation Officer shall not accept the intimation of non-use of any vehicle for more than three calendar months, within a calendar year, however, the period beyond three calendar months may be accepted by the Regional Transport Officer of the region concerned, if the owner makes an application with requisite fee to the Taxation Officer. If any such vehicle remains surrendered for more than three calendar months during a year without extension of acceptance of surrender by Regional Transport Officer it shall be deemed to be revoked and the owner shall be liable to pay tax and additional tax, as the case may be. Further, subject to the provision of sub- rule (4), the owner of a surrendered vehicle in respect of which intimation of non-use has already been accepted, shall be liable to pay tax and additional tax for the period beyond three calendar months during any calendar year, whether the possession of the surrendered documents have been taken from the taxation officer or not.

We scrutinised (between April 2012 and November 2012) the records[43] of one RTO[44] and ten ARTOs[45] and noticed that 179 vehicles were surrendered for periods beyond three calendar months during the period from May 2011 to October 2012. However, despite the fact that extension of acceptance of surrender beyond three months was not granted by concerned RTO, the Taxation Officers[46] did not initiate any action to realise the tax/ additional tax due thereon. This resulted in non-realisation of revenue amounting to ` 87.55 lakh.

After, we pointed this out to the Department and the Government (between June 2012 to December 2012), the Department accepted (November 2013) our observation and recovered ` 3.89 lakh. Recovery certificates have been issued for the remaining cases.

[43] Surrender register, vehicles files, passenger tax register and goods tax register.
[44] RTO:Barielly.
[45] ARTO:Auraiya, Bijnaur, Farukkhabad, Kannauj, Kushinagar, Mahoba, Mathura, Mau, Muzaffarnagar and Sonebhadra.
[46] Taxation Officer: RTO or ARTO is defined as Taxation Officer within the local limits of their respective region or sub-region under UPMVT Rules, 1998.

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a separate paragraph on short levy of stamp duty and registration fees on execution of developers' agreement and a few other illustrative cases of ` 6.14 crore selected from observations noticed in 2012-13 during our test check of records relating to stamp duty and registration fees.
Trend of receipts	Total collection from stamps and registration during the year 2012-13 was ` 8,742.17 crore. It has increased by 13.62 *per cent* as compared to the previous year.
Internal Audit / Internal control	Internal Audit was discontinued from March 2009 and a new set up named as Technical Audit Cell was established in the Department vide Government notification of July 2008, which conducts internal audit. In addition to this Assistant Inspectors General posted at district level inspect the records of the subordinate offices.
Status of compliance to Inspection Reports (2012-13)	We conducted test check of the records of 352 units relating to the Registration Department during the year 2012-13 and found cases of short levy of stamp duty and registration fees due to misclassification of documents/undervaluation of properties and other irregularities amounting to ` 211.37 crore in 1,302 cases. The Department accepted underassessment of ` 5.90 lakh, involved in 15 cases.
Our conclusion	The Department needs to improve the internal control system including strengthening of Technical Audit Cell so that weaknesses in the System are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover the amount, pointed out by us, more so in those cases where it has accepted our observation.

CHAPTER-V
STAMPS AND REGISTRATION FEES

5.1 Tax administration

Receipts from Stamps and Registration Fees in the State are regulated under the Indian Stamp Act (IS Act) 1899, Indian Registration Act (IR Act) 1908, the UP Stamp (Valuation of Property) (SVOP) Rules, 1997 and circulars and orders of the Government of Uttar Pradesh, issued from time to time. Stamp duty is leviable on the execution of instruments at the prescribed rates. Evasion of stamp duty is commonly effected through undervaluation of properties, non-presentation of documents in the office of the registering authority and non/short payment of stamp duty by the executants on the documents submitted before the registering authorities.

The determination of policy, monitoring and control at the Government level is done by the Principal Secretary, *Kar evam Nibandhan*. The Inspector General, Registration (IGR) is the head of the Stamps and Registration Department and exercises overall superintendence and control over the working of the Department. He is assisted by an Additional Inspector General (Addl. IG), 24 Deputy Inspectors General (DIGs) at the divisional level, 96 Assistant Inspectors General (AIGs) at the district level and 354 Sub-Registrars (SRs) at the district and *tehsil* level.

5.2 Trend of receipts

5.2.1 Variations between budget estimates and actuals

Para 25 of Uttar Pradesh Budget Manual stipulated that in preparation of the Budget, the aim is to achieve as close on approximation to the actual as possible. It is, therefore, essential that not merely should all items of revenue that can be foreseen be provided but also only so much and no more, should be provided as is expected to be realised, including past arrears.

The budget estimates and actual receipts under the head (0030) Stamps and Registration Fees- Receipts from Non-Judicial Stamp are given in table no. 5.1:

Table No. 5.1

(` in crore)

Year	Budget estimates	Actual receipts	Variation (+/-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	4,600	4,138.27	(-) 461.73	(-) 10.04	28,658.97	14.44
2009-10	4,800	4,562.23	(-) 237.77	(-) 4.95	33,877.60	13.47
2010-11	5,000	5,974.66	(+) 974.66	(+) 19.49	41,355.00	14.45
2011-12	6,612	7,694.40	(+)1,082.40	(+) 16.37	52,613.43	14.62
2012-13	9,308	8,742.17	(-) 565.83	(-) 6.08	58,098.36	15.05

Source: Information provided by the Department and Finance Accounts of respective years.

It may be seen that variation between Budget Estimates and actuals ranged between (-) 10.04 *per cent* and 19.49 *per cent*.

The Department stated that no system existed in the Department to monitor such shortfall or increase.

We recommend that the budget estimates be framed as per provisions of the budget manual and the Department should examine reasons for variations.

5.2.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ` 586.67 crore. The details of arrears outstanding for more than five years were not available with the Department. The table no. 5.2 depicts the position of arrears of revenue during the period 2008-09 to 2012-13:

Table No. 5.2

(` in crore)

Year	Opening balance of arrears	Arrears increased during the year	Amount collected during the year	Closing balance of arrears
2008-09	213.24	448.88	109.07	553.05
2009-10	553.05	171.65	129.87	594.83
2010-11	594.83	(-) 3.03	132.16	459.64
2011-12	459.64	(-) 2.33	125.87	331.44
2012-13	331.44	417.80	162.57	586.67

Source: Figures provided by the Department.

We noticed that out of the arrears of ` 586.67 crore. ` 382.75 crore were stayed and ` 63.21 crore were reduced by the Hon'ble Courts and remaining amount of ` 140.71 crore were required to be recovered by the Department. However, the Department could not furnish the data regarding the total number of cases involved in respect of these arrears.

We recommend that the Department may consider taking appropriate steps for early recovery of the arrears in cases which are clear for recovery and not covered under stay orders.

5.2.3 Cost of collection

The gross collection from Stamps and Registration Fees, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2010-11, 2011-12 and 2012-13 along with the all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned in the table no. 5.3:

Table No. 5.3

(` in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage of cost of collection for the previous year
Stamps and registration fees	2010-11	5,974.66	145.46	2.43	2.47
	2011-12	7,694.40	149.10	1.94	1.60
	2012-13	8,742.17	232.33	2.66	1.89

Source: Information provided by the Department and Finance Accounts of respective years

It can be seen from the foregoing table that the cost of collection of Stamps and Registration Fees was below the all India average during 2010-11 whereas it was higher during the years 2011-12 and 2012-13.

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

5.3 Internal Audit Wing/Internal control

Internal Audit Wing (IAW) of an organisation is a vital arm of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

We observed that Internal Audit was discontinued from March 2009 and a new set up named as Technical Audit Cell was established in the Department vide Government notification of July 2008, which conducts internal audit. In addition to this Assistant Inspectors General posted at district level inspect the records of the subordinate offices. The sanctioned strength of the wing, details of audit planning such as number of units planned for audit, number of units audited, number and amount of objection raised and settled during the year was not intimated by the Department.

5.4 Impact of audit

5.4.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

We had reported cases of non/short assessment/realisation of stamp duty and registration fees and other irregularities involving ` 517.61 crore in the Audit Reports for the years 2007-08 to 2011-12. Of these, the Department has accepted observations of ` 57.71 crore and recovered ` 2.31 crore. The details of cases accepted and recovered are mentioned in the table no. 5.4:

Table No. 5.4

(` in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made	Percentage of recovery to amount accepted
2007-08	87.09	50.53	-	-
2008-09	4.05	-	-	-
2009-10	0.69	0.44	0.02	4.55
2010-11	10.36	6.70	2.25	33.58
2011-12	415.42	0.04	0.04	100.00
Total	**517.61**	**57.71**	**2.31**	**4.00**

The percentage of recovery as compared to the accepted cases has been Nil or extremely low over the last five years except in 2011-12.

We recommend that the Government should take appropriate steps to improve the recovery position, at least in the accepted cases.

5.4.2 Status of compliance of outstanding inspection reports (2007-08 to 2011-12)

We had reported cases of non/short assessment of stamp duty and registration fees due to misclassification of documents and undervaluation of properties and other irregularities involving ` 5.91 crore through Inspection Reports (IRs) during the period 2007-08 to 2011-12. Of these, as on December 2012, the Department has accepted observations of ` 53.72 lakh and recovered ` 46.12 lakh. The details are shown in the table no. 5.5:

Table No. 5.5

(` in lakh)

Year of Inspection Report	Total money value	Accepted money value	Recovery made
2007-08	93.30	Nil	Nil
2008-09	10.74	7.73	0.13
2009-10	14.96	3.56	3.56
2010-11	11.73	37.79	37.79
2011-12	460.01	4.64	4.64
Total	**590.74**	**53.72**	**46.12**

It may be seen that the Government/Department had affected full recovery against the accepted cases of the IRs for the years 2009-10 to 2011-12 whereas it could recover only ` 13,000 against the accepted amount of ` 7.73 lakh for the IR for the year 2008-09.

5.4.3 Status of compliance to Inspection Report (2012-13)

Our test check of the records of 352 offices of Stamps and Registration Department, conducted during 2012-13 revealed cases of short levy of stamp duty and registration fees due to misclassification of documents/ undervaluation of properties and other irregularities amounting to ` 211.37 crore in 1,302 cases which fall under the following categories as mentioned in the table no. 5.6:

Table No. 5.6

(` in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Levy of Stamp Duty on Developer's Agreement	1	2.32
2.	Short levy of stamp duty and registration fees due to misclassification of documents	303	8.95
3.	Short levy of stamp duty and registration fees due to undervaluation of properties	275	6.05
4.	Other irregularities	723	194.05
	Total	**1,302**	**211.37**

During the year 2012-13, the Department accepted ` 5.90 lakh, involved in 15 cases [1] of short levy of Stamp Duty and Registration Fees due to misclassification of documents/undervaluation of properties and other irregularities, pointed out by us in the earlier years.

Significant cases involving an amount of ` 6.14 crore pertaining to audit of offices of 176 Sub Registrars and office of IG Registration (including those cases found in audit during 2011-12 but not featured in earlier report) are mentioned in the succeeding paragraphs.

5.5 Non levy of additional stamp duty in development areas

Under the provisions of Section 128-A of UP Municipalities Act 1916 as amended from time to time, additional stamp duty at the rate of 2 *per cent* will be levied on the transfer of immovable property situated within the limit of such *Nagar Palika/Nagar Panchayat* as notified by the Government. The Government vide notifications of September 2008, December 2010 and April 2011 declared *Nagar Panchayat Rasulabad (Unnao), Nagar Panchayat Sahjanawa (Gorakhpur), Parichhit Garh (Meerut)* respectively, as town areas .

We scrutinised the records [2] of three Sub-Registrars (between August 2011 to March 2013) and observed that between December 2008 and January 2013 additional stamp duty at the rate of two *per cent* was not levied on deeds of transfer of the immovable property valued at ` 5.94 crore situated in the *Nagar Panchayat* areas viz. *Nagar Panchayat Rasulabad (Unnao), Nagar Panchayat Sahjanawa*

[1] Pertain to one case each of the year 1997-98, 2004-05, 2007-08 and 2008-09, two cases of 2009-10, 2010-11 and seven cases of 2011-12.

[2] Book 1, *Khand* and registered documents.

(Gorakhpur), Parichhit Garh (Meerut). This resulted in non-levy of additional stamp duty of ` 11.87 lakh.

We reported the matter to the Department and the Government between October 2012 and May 2013. The Department stated (September 2013) that it had started levying the additional stamp duty at the rate of 2 *per cent* after receiving information about the notification from respective *Nagar Panchayats*. We do not agree as the additional stamp duty was leviable from the date of the notification. Further reply has not been received (December 2013).

5.6 Short levy of stamp duty

Under Article 23 of Schedule 1-B of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of the consideration set forth therein, whichever is higher. As per the Uttar Pradesh Stamp (valuation of property) Rules, 1997, market rates of various categories of land situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering Authorities. Further, Inspector General of Registration (IGR) vide guidelines issued in June 2003 clarified that a property in the same plot *(gata)* should not be splitted up in more than one part for different purposes i.e. one for agriculture and the other for non-agriculture for the purpose of levy of Stamp duty. In the same guidelines it was also mentioned that if properties were surrounded by residential properties, the same properties should be valued as residential properties.

5.6.1 On scrutiny of the records[3] of 39 Sub-Registrars [4] between May 2011 and February 2013, we noticed that 64 deeds of conveyance relating to non-agricultural land were registered between March 2010 and November 2012 for ` 9.95 crore at agricultural rates and stamp duty and registration fees of ` 65.20 lakh was levied.

We found that due to the following reasons the valuation should have been made at residential rates:

- part of the same plot was sold earlier at residential rates (54 deeds)
- part of the same plot was sold at residential rate on the same day (3 deeds)
- plots were surrounded by residential plots owners (7 deeds)

The plots were found valued at agricultural rates whereas as detailed above, their correct valuation at residential rate worked out to ` 50.82 crore. On this stamp duty and registration fees of ` 3.08 crore was leviable, whereas stamp duty and registration fees of ` 65.20 lakh only was levied. This incorrect valuation of property resulted in short levy of stamp duty of ` 2.43 crore.

[3] Book 1 , *khand* and registered documents.

[4] SR Atrauli Aligarh, SR Khair Aligarh, SR III Aligarh, SR Karchana Allahabad, SR Soraon Allahabad, SR Azamgarh, SR Balrampur, SR Tulsipur Balrampur, SR Utraula Balrampur, SR Sadar Barabanki, SR Awala Bareilly, SR Etawah, SR Sohawal Faizabad, SR Dadri GB Nagar, SR Greater Noida GB Nagar, SR Jewar GB Nagar, SR Karnelganj Gonda, SR Sawayajpur Hardoi, SR Maudha Hamirpur, SR Sadar Hamirpur, SR Chhibramau Kannauj, SR Tirwa Kannauj, SR I Kanpur Nagar, SR III Kanpur Nagar, SR Chayal Kaushambi, SR Sirathu Kaushambi, SR I Lucknow, SR IV Lucknow, SR Manth Mathura, SR I Meerut, SR III Meerut, SR Kanth Moradabad, SR III Noida, SR Sadar Pilibhit, SR Sadar Rampur, SR Sadar Sitapur, SR Sidhauli Sitapur, SR I Varanasi and SR Gangapur Varanasi.

We reported the matter to the Department and the Government between May 2011 and April 2013. In reply the department accepted (September 2013) our observation and referred the cases to Collector Stamps for correct valuation of property. The Collector Stamps confirmed the short levy of the stamp duty of ` 5.63 lakh in five cases[5]. Action is pending in remaining cases (December 2013).

As per the Rule 4 of Uttar Pradesh Stamp (Valuation of Property) Rules, 1997, the Collector of a district after following prescribed procedure, fixes the minimum market value (circle rates) of the land/properties category-wise (Agriculture, residential, commercial, etc.) and locality-wise for the purpose of levying Stamp duty.

5.6.2 On scrutiny of the records [6] of four Sub-Registrars [7] between March 2012 and March 2013, we noticed that eight deeds of conveyance relating to non-agricultural land were registered between February 2011 and January 2013 for ` 1.31 crore at agricultural/ residential rates and stamp duty and registration fees of ` 8.13 lakh was levied against the Stamp Duty and Registration fee of ` 40.50 lakh leviable on market value of these properties at ` 6.52 crore as per approved circle rates as:

- six plots were declared as residential in the circle rates in force at the time of registration and therefore were to be valued at residential rates (six deeds at Sl. No. 1, 2 and 3)
- two plots were situated at roads and were to valued at the specific given rate (commercial rate) as per general instructions of circle rate, in force at the time of registration (two deeds at Sl. No.4)

This incorrect valuation of property resulted in short levy of stamp duty of ` 32.37 lakh as shown in the table no. 5.7:

Table No. 5.7

(` in lakh)

Sl. No.	Name of unit	Deed No./ Date of registration	Khasra No./date of application of circle rate	Area (sq. mt.)/ Valuation (as per deed)	Market value applicable (as per list)	Stamp duty and Regn. fee leviable at residential/ commercial rate	Stamp duty and regn. fee levied	Short levy
1.	SR Sahaswan Badaun	745/16.03.2012	102/31.07.2010	1680/6.96	75.60	5.59	0.58	5.01
		4716/17.12.2011	13/31.07.2010	1540/1.85	46.20	2.31	0.10	2.21
		4717/17.12.2011	13/31.07.2010	1050/1.26	31.50	1.58	0.06	1.52
		3067/12.08.2011	70/31.07.2010	1612.5/2.98	65.50	3.33	0.21	3.12
2.	SR Haathras Mahamaya Nagar	2370/30.04.2012	236/24.10.2011	6160/64.68	147.84	7.49	3.23	4.26
3.	SR-I Mathura	2340/13.2.2012	125/01.09.2011	3790/37.93	170.55	12.04	2.76	9.28
4.	SR -Sadar Mau	564/04.02.2012	321/01.06.2011	700/10.50	70.00	5.00	0.83	4.17
		2948/05.0712	354/01.06.2011	753.3/4.52	45.20	3.16	0.36	2.80
Total				**17285.8/ 130.68**	**652.39**	**40.50**	**8.13**	**32.37**

We reported the matter to the Department and the Government between April 2012 and May 2013. The department intimated (September 2013) that in case

[5] SR Atrauli, Aligarh, SR IV Lucknow, SR Karnelganj, Gonda, SR Balrampur, SR Sadar, Azamgarh.
[6] Book 1, *khand* and registered documents.
[7] SR Sahaswan, Badaun, SR Haathras, Mahamaya Nagar, SR I Mathura and SR Sadar, Mau.

of SR Mau, recovery of ` 49,000 has been made and all remaining cases have been referred to Collector Stamps for correct valuation of property. Further reply has not been received (December 2013).

5.7 Undervaluation of property by concealing the facts

Under Section 27 of the Indian Stamp (IS) Act, all facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth in instrument. Under Section 47 A (3) of the Act, the instrument not found duly stamped can be referred to Collector stamp for examination of the Valuation of the same.

In our scrutiny of the records[8] of office of one SR in February 2013, we noticed that a sale deed was executed on 23 December 2012 for a purchase/sale of land [9] measuring 4090 sqm, on the basis of *chauhaddi* (surroundings) declared as agricultural by the executant. In a subsequent lease deed on 27 December 2012 of property[10] which included the property (*Gata* No. 345) whose sale deed was earlier executed on 23 December 2012, it was mentioned that the property under consideration included six rooms at ground and first floor. Based on these facts, the property which was registered on 23 December 2012 was to be classified as residential and not agricultural.

Due to the concealment of facts, the stamp duty on the sale deed was charged at agricultural rates[11], instead of the prescribed residential rates[12] of ` 1.55 crore. Accordingly stamp duty of ` 7.77 lakh was chargeable whereas stamp duty of ` 45,000 only was paid. This, undervaluation of land due to concealment of facts and non reference to the Collector Stamp has resulted in short levy of stamp duty of ` 7.32 lakh.

We reported the matter to the Department and the Government in June 2012 and May 2013. The Department referred (September 2013) the case to Collector Stamp. Further, reply has not been received (December 2013).

[8] Book 1. *Khand* , Sale Deed dated 23.12.2012 and lease deed dated 27.12.2012.
[9] *Gata* No. 345.
[10] *Gata* No. 345, 346 and 347.
[11] ` 2200/- per are (100 square meter = 1 are).
[12] ` 3800/- per sqm.

5.8 Short levy of stamp duty due to irregular change of land use

Section 143 of the Uttar Pradesh Zamindari Abolition and Land Refroms Act, 1950 (UPZA&LR Act) provides that where a *bhumidhar*★ used his holding or part thereof for a purpose not connected with agriculture, horticulture or animal husbandry, the Assistant Collector in charge of the sub-division may, *suomoto* or on an application, after making such enquiry, make a declaration to that effect.

Section 144 of the UPZA&LR Act provides that if owner of any land did not wish to use the said land for non agricultural purposes, on application or on *suomoto* the SDM concerned can change the nature of land from non agricultural to agriculture.

Section 47A (3) of IS Act, provides that the Collector may, *suomoto*, or on a reference from any court or from the Stamps and Registration Department or any officer authorised by the Government in that behalf, within four years from the date of execution of any instrument, call for and examine it to satisfy himself to the correctness of the market value of the property, and if after such examination he has reason to belief that the market value of such property has not been set forth truly in such instrument, he may determine the market value of the such property and duty payable thereon.

★ Person having free hold with full transferable right.

On scrutiny of the records [13] of one Sub-Registrar, Sadar Pilibhit in September 2012, we noticed that two deeds of conveyance relating to non-agricultural land were registered in April 2012 for ` 32.80 lakh at agricultural rates and stamp duty of ` 2.30 lakh was levied. We noticed that the same plot was earlier declared [14] (September 2011) non-agricultural by the SDM [15] and subsequently after six months redeclared[16] (March 2012) from non-agricultural land to agricultural land, both times on the request [17] of the land owner. We noticed that while declaring the said land as non agriculture (15 September 2011) the report of the *Tehsildar* clearly mentioned that the land was *parti* (barren) and being used for *abadi* (residential) purposes and while declaring the land as agriculture (31 March 2012), the report of *Tehsildar* stated that the *parti* (barren) and residential land was now being used for agricultural purposes, within six months. Thus, the nature of the same land was changed twice within a span of just six months.

This reversal of land use[18] within six months from *parti* (barren) used for *abadi* and then shown used for agricultural purposes in the *tehsildar's* successive reports[19] was not examined by the registration authorities who did not exercise the power vested under Section 47 (3) of IS Act and refer the case

[13] Book 1 , *khand* , registered deeds , orders u/s 144 and 143 of UPZALR Act.
[14] On 15 September 2011 vide order no. 133/10-11 , u/s 143 of UPZALR Act.
[15] The same officer was posted as SDM on dates 15 September 2011 and 31 March 2013.
[16] On 31 March 2012 vide order no.03/11-12 u/s 144 of UPZALR Act.
[17] Owner first requested in September 2011 change of land use as residential since plot was being used as residential and in March 2012 again requested change of land use of plot as agricultural.
[18] By the same SDM.
[19] Tehsildar's reports dated 15 September 2011 and 31 March 2012 respectively.

to Collector Stamp. The consequential short levy of stamp duty worked out to ` 11.36 lakh as shown in the table no. 5.8:

Table No. 5.8

(` in lakh)

Sl. No.	Name of unit	Gata No./area (Square meter)	Deed No. Date of registration.	Date of order U/Sec. 143/144	Valuation (as per deed)	Market value leviable (as per list)	Stamp duty and regn. fee leviable	Stamp duty and regn. fee levied	Short levied
1.	SR Pilibhit	560/6110	3273/23.04.2012	15.9.2011/ 31.3.2011	20.54[20]	122.20[21]	8.56	1.44	7.12
		558/3645	3274/23.04.2012	15.9.2011/ 31.3.2011	12.26	72.90	5.10	0.86	4.24
Total					**32.80**	**195.10**	**13.66**	**2.30**	**11.36**

We reported the matter to the Department and the Government in October 2012. The Department (September 2013) has not agreed with our observation and stated that in a recent inspection no short levy was found. We do not agree with the reply as the department has not referred the case to Collector Stamp under Section 47(3) of IS Act, to examine the reasons which led to the SDM to change the land which was *parti* (barren) and used for *abadi* to being used for agriculture within six months. As the SDM on both occasions was the same officer, the reasons for the change in land use back to agriculture from *parti* and *abadi* could best be examined by Collector Stamp [22] (the District Magistrate), who is also controlling officer of the SDM.

5.9 Irregularities in valuation done under Section-31 of IS Act

Under the Indian Stamp (IS) Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. Government vide order clarified adjudicating the case in the capacity of Collector under Section 31 of the IS Act, reports of concerned SRs must invariably be sought and decision must be taken in the light of such report.

Under the provisions of Section 56 of IS Act, any person including the Government, aggrieved by an order of the Collector, may within sixty days from the date of receipt of such order, prefer an appeal against such order to the Chief Controlling Revenue Authority, who shall, after giving the parties a reasonable opportunity of being heard consider the case and pass such order thereon as he thinks just and proper and the order so passed shall be final.

During the scrutiny of records [23] of office of SR-III and IV Agra conducted in March 2013 we noticed that three deeds of conveyance having 44351.46 square meter of land were registered between 12 March 2012 and 27 April 2012. The property was sold at the consideration value of ` 3.81 crore. Before registration, the document was brought for adjudication under Section 31 and value of the

[20] ` 28,00,000/- per hectare + 20 *per cent* multiplied by sale area.
[21] ` 2,000/- per sq.metre multiplied by sale area.
[22] Defined as Collector (District Magistrate) under Section 2(9) of IS Act.
[23] Book 1. *Khand*, Sale Deed, and orders u/s 31 of IS Act.

property was assessed at ` 3.81 crore by Additional District Magistrate (F&R) who was also designated as Collector (Stamp) keeping in view the inspection note of *Tehsildar* Sadar Agra.

We noticed the following:

- Reports from SR-III and IV Agra were not sought for in accordance with the order of Government of December 1999 despite the fact that the properties fell under the purview of SR-III and IV Agra.
- The actual value of land was ` 8.66 crore as per circle rate was decided at ` 3.81crore assessed by the Additional District Magistrate (ADM).
- In all three cases the same officer designated as ADM (F&R) had reduced the value of property on strength of the inspection note of Tehsildar Agra. We noticed however that the violation of the Government order of December 1999 was not challenged by the Department and the authorities concerned did not prefer an appeal before the CCRA/ Hon'ble High Court[24]. By not preferring the appeal before the CCRA/ Hon'ble High Court, no action was taken on short levy of stamp duty of ` 33.92 lakh as shown in the table No. 5.9:

Table No. 5.9

(` in lakh)

Sl. No.	Name of office	Khand/ Deed no	Registration date	Sale area (sq mt)	Levied rate (` per sq mt)	Levied Market value[25]	Levied Stamp	Leviable rate (` per sq mt)	Leviable Market value[26]	Due Stamp	Difference
1	SR-III Agra	4410/2365	12-3-2012	32570	525	170.99	11.97	1050	341.99	23.94	11.97
		4415/2433	14-3-2012	6474.25	1600	103.69	7.25	4000	258.97	18.13	10.88
2	SR-IV Agra	2305/2496	27-4-2012	5307.21	2000	106.15	7.51	5000	265.37	18.57	11.07
Total				**44351.46**		**380.83**	**26.73**		**866.33**	**60.64**	**33.92**

The matter was reported to Department/Government in May 2013. The Department stated (September 2013) that a writ petition will be filed in the Hon'ble High Court. Further reply has not been received (December 2013).

[24] Cases of section 31 are generally referred directly to the Hon'ble High Court.
[25] Sale areq multiplied by levied rate.
[26] Sale areq multiplied by leviable rate.

5.10 Short levy of stamp duty due to undervaluation of land

Section 143 of the UPZA&LR Act provides that where a *bhumidhar* with transferable rights used his holding or part thereof for a purpose not connected with agriculture, horticulture or animal husbandry, the Assistant Collector in charge of the sub-division may, *suo moto* or on an application after making such enquiry as may be prescribed, make a declaration to that effect. Further, the Chief Secretary vide his letter dated 11 June 2010 addressed to all the Commissioners and District Magistrates emphasised that if the land is used fully or partially for residential purposes, the concerned SDM should *suo moto* declare the whole land as *abadi* under Section 143 of UPZA&LR Act. If the land was declared non-agriculture under Section 143 of the above Act, the same should be valued at residential rate for the purpose of levy of Stamp duty.

On scrutiny of records [27] of two SRs [28] between August 2012 and March 2013, we found that three deeds were registered between April 2012 and January 2013 for a consideration of ` 61.75 lakh at agricultural rates on which stamp duty of ` 4.65 lakh was paid. We noticed that the respective *Arazi* numbers were declared as non agricultural by order under Section 143 of UPZA&LR Act, prior to the date of registration of three deeds. Hence the properties were required to be valued at ` 3.29 crore at residential rates and stamp duty of ` 23.34 lakh was leviable at residential rate. The concerned SRs did not consider these aspects while registering the documents. This resulted in short levy of stamp duty of ` 18.69 lakh as shown in the table no. 5.10:

Table No. 5.10

(` in lakh)

Sl. No.	Name of unit	Deed No. Date of registration	*Arazi No.*/date of declaration u/s 143	Area (sq. mt.)/ Valuation (as per deed)	Market value applicable (as per list)[29]	Stamp duty and regn. fee Leviable	Stamp duty and regn. fee levied	Short levied
1.	SR II Firozabad	563/24.01.2013	335m/26.11.2012	5760/21.34	230.40	16.23	1.60	14.63
		3532/04.07.2012	1350/10.05.2012	4610/9.11	46.10	3.32	0.74	2.58
2.	SR I Meerut	4022/12.04.2012	134m and 137/20.03.2012	5180/31.30	52.76	3.79	2.31	1.48
Total				**15550/61.75**	**329.26**	**23.34**	**4.65**	**18.69**

The matter was reported to Department and Government in May 2013. The department stated (September 2013) that cases have been referred to Collector Stamps for correct valuation of property. Further reply has not been received (December 2013).

[27] Book 1. *Khand*, Sale Deed, and Circle rate.
[28] SR-II, Firozabad and SR-I Meerut.
[29] Sale area multiplied by residential rate applicable.

5.11 Lease executed for more than 30 years

Under the provisions of Article 35 of schedule 1 B of Indian Stamp Act, Stamp duty on lease where the lease purports to be for a term exceeding 30 years or in perpetuity or does not purports to be for any definite term, stamp duty is chargeable as for conveyance for a consideration equal to the market value of the property.

We observed (between September 2012 and January 2013) from the records of three Sub-Registrars that five lease deeds for a period over 30 years were registered between March 2011 and December 2012, on which stamp duty of ` 6,720 was levied for a consideration equal to six times the amount or value of the average annual rent reserved. Since the lease deeds were for a period more than 30 years, stamp duty of ` 22.66 lakh, based on consideration equal to market value[30] of the property of ` 4.43 crore was leviable. Incorrect computation of lease period for less than 30 years resulted in short levy of stamp duty of ` 22.66 lakh and registration fees of ` 48,000 as shown in the table no. 5.11:

Table No. 5.11

(` in lakh)

Sl. No.	Name of unit	Khand/Deed No. and Area (in Sq. mt.)	Month of registration/ period of lease (years)	Value of property Applicable/ Applied	Stamp duty and registration fees Leviable/ Levied (in `)	Stamp duty short levied
1.	Sub-Registrar Sahasvan, Budaun	3459/2372 (743.49)	July 2012 01.07.2012 to 01.07.2042 (30 years 1 day)	37.18/0.14	2,70,260/900	[31]2.69
		3398/1073 (353.16)	April 2012 01.07.2012 to 01.07.2042 (30 years 1 day)	15.90/0.14	79,500/700	[31]0.79
		3398/1072 (297.4)	April 2012 01.07.2012 to 01.07.2042 (30 years 1 day)	13.39/0.14	66,950/700	[31]0.66
2.	Sub-Registrar Puranpur, Pilibhit	2925/7490 (213.2)	October 2011 20.10.2011 to 19.10.2042 (31 years)	17.70/0.72	98,500/2,260	[31]0.97
3.	Sub-Registrar Sidhauli, Sitapur	2225/2981 (7950)	August 2012 August 2012 to August 2042 ((30 years 1 month)	359.08/0.72	18,05,400/2,160	18.03
			Total	**443.25/1.86**	**23,20,610/6,720**	**23.14**

The matter was reported to the Department and Government between October 2012 and March 2013. The Department stated (September 2013) that cases at Sl. No. 2 and 3 of the above table have been referred to Collector Stamp for correct valuation. Reply in one case (Sl. No. 1 of table) and further progress in cases at Sl. No. 2 and 3 has not been received (December 2013).

5.12 Levy of stamp duty on developer's agreement

5.12.1 Introduction

Article 5(b-1) of Schedule I-B of Indian Stamp Act 1899 (IS Act) provides that in a sale of an immovable property where possession is not admitted to have been delivered, nor is agreed to be delivered without executing the conveyance, the stamp duty as on conveyance will be payable at one half of the amount of consideration as set forth in the agreement. Further under Article 5(b-2)[32] of Schedule I B of the Act *ibid* if a building is constructed on a

[30] As defined in the circle rate.

[31] In these cases the rate of open areas at the rate of ` 5000, ` 4500 and ` 4500 per square meter respectively has been used for calculation on a conservative basis rather than the higher rate of ` 11500, ` 10500 and ` 10500 per square meter for built up areas despite there being built up area mentioned in deed.

[32] Article 5 (b-2) Added vide Indian Stamp (Uttar Pradesh Amendment) Act, 1997 w.e.f. 1 September 1998

land by a person other than the owners of the land having a stipulation that after construction, such a building or part thereof shall be held or sold jointly or severally by that other person and the owner of the land, stamp duty on such agreement shall be charged as a conveyance for a consideration equal to the amount or value of the land.

With a view to examine if the levy of stamp duty on developers' agreement were as per the provisions of Article 5 of Indian Stamp Act or whether there were any deficiencies in charging of stamp duty on valuation of property in the different nature of such documents, we conducted an audit for the same.

Our scrutiny of records in the 28 offices of the stamp and registration[33], 12 Development Authorities[34] and two *Nagar Palikas*[35] revealed that there were cases of non-registration of documents of developers' agreements, non-levy and short levy of stamp duty as mentioned in succeeding paragraphs. These cases are illustrative and are based on a test check carried out by us.

5.12.2 Non-levy of Stamp duty due to non-registration of property transferred by land owners to developers

Under Section 33 of Indian Stamp Act every person having by law or consent of parties authority to receive evidence, and, every person-in-charge of a public office*; before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same. Further, under the provisions of Section 17 of the Registration Act, 1908, transfer of immovable property with or without any consideration is compulsory for registration. Under Section 73-A (1) of the Indian Stamp Act where the Collector has reason to believe that any instrument chargeable to duty has not been charged at all or has been incorrectly charged with duty leviable under this Act, he or any other officer authorised by him in writing in this behalf may enter upon any premise where the Collector has reason to believe that any registers, books, records, papers, maps, documents or proceedings relating to or in connection with any such instrument are kept and inspect them and take such notes, copies and extracts as the Collector or such officer deems necessary.

* A public office is defined in clause (17) of Section 2 of the code of civil procedure, 1908 and includes any statutory body or authority constituted under any Uttar Pradesh Act.

We scrutinised the records of offices of seven[36] SRs and cross checked with records of four[37] Development Authorities and one[38] *Nagar Palika* and observed that eight agreements were executed between the builders and the owners of the land, between April 2009 and March 2013. We noticed that although their maps were approved in the offices of Development Authority/*Nagar Palika*, the developers' agreements were not registered in the offices of the respective SRs. The land owners/ developers or the Development Authorities approving the layout maps, also did not initiate any action to register the documents of such agreements.

[33] Allahabad (SR I, II), Agra (SR I, III), Bareilly (SR I, II, III), Bulandshahar (SR Khurza), Ghaziabad (SR I, II), Gorakhpur (SR I, II), Kanpur Nagar (SR I, IV), Lucknow (SR I, III), Meerut (SR I, III), Muzaffarnagar (SR I, II),Saharanpur (SR I, II, III) , Sambhal (SR Chandausi), Sultanpur (SR Sadar) and Varanasi (SR I, III, IV).

[34] Allahabad, Agra, Bareilly, Bulandshahr, Ghaziabad, Gorakhpur, Kanpur Nagar, Lucknow, Meerut, Muzaffarnagar, Saharanpur and Varanasi.

[35] Sambhal and Sultanpur.

[36] SR I and SR II Bareilly, SR Chandausi, SR I Gorakhpur, SR I Saharanpur, SR III and SR IV Varanasi

[37] Bareilly, Gorakhpur, Saharanpur and Varanasi.

[38] Chandausi

We noticed that there was no system in place in the departments wherein the registering authorities could cross verify the registration of developers' agreements whose layouts were approved by Development Authorities/*Nagar Palikas*. While registration of such documents was compulsory and the agreements should be executed on stamp papers of correct value, non-registration of the agreements between the owners of the land and builders and developers in SR offices resulted in forgoing of ` 1.41 crore in the shape of registration fee as detailed in table no. 5.12:

Table No. 5.12

(` in lakh)

Sl. No.	Name of unit/Layout plan approved by	Detail of Property	Owner's Name	Developers Name/ Date of Appointment as developer	Stamp affixed (in `)	Valuation* rate per Square meter (in `)	Valuation	Stamp duty/Reg. fee due	Difference Stamp duty/Reg. fee	Total Difference
1	SR I Saharanpur/ Saharanpur Development Authority	Vill.-Manakmau, Paragna & Distt.- Saharanpur, Area-25000 Sq. m,	Smt Megha-9730 Sq. m, Smt. Nitika-11590 Sq. m. and Smt. Pooja Anand-3680 Sq. m	Smt. Parveen Rani/ 01.04.2009	750	2500	625.00	43.65/0.10	43.64/0.10	43.74
2	SR I Bareilly/ Bareilly Development Authority	Sherpur, Sanjay Nagar Bypass Road Bareilly, Khasra No. 279, 280, 281, 282, 291, 293, 294, 295, Area-22000 Sq. m	Dr. Dhirendra Agrawal and Dr. Jitendra Agrawal	Qwality Associate/ 01.10.2011	0	3000	660.00	46.20/0.10	46.20/0.10	46.30
3	SR I Bareilly/ Bareilly Development Authority	Haru nagla Bareilly Khasra No.-10/A, 12 Area-1891.72 Sq. m	Sri Rajesh Gupta, Dharmendra Gupta, Shivam Associates	M/s Sanjay Med Diagnostic Pvt Ltd., / 06.02.2013	100	4000	75.67	5.29/0.10	5.29/0.10	5.39
4	SR II Bareilly/ Bareilly Development Authority	Saidpur hawkins Tehsil sadar bareilly Khasra No. 241, 242, 311, 312, 315 Area-6960.61 Sq. m	Sri Puttan, Sri Yasin Miyan and Shiv kumar Sharma	M/s Himalayan Housing Pvt Ltd./ 03.10.2011	0	4000	278.42	19.49/0.10	19.49/0.10	19.59
5	SR Chandausi/ Nagar Palika Sambhal	Vill.- Devarkheda Tehsil Chandausi Sambhal KhasraNo. 796 to 800, 806 Area-2187 Sq. m	Balaji Associates	M/s Vinayak farmers / 03.05.2012	0	3500	76.55	5.36/ 0.10	5.36/ 0.10	5.46
6	SR IV Varanasi/ Varanasi Development Authority	Vill.-Jolha Ward Nagwqan Pargna-Dehat Amanat Tehsil Sadar Varansi Khasra No. 36/1, 36/2 Area-1510 Sq. m	Smt Kamla Tripathi W/o Sri Hare Ram, Sri Hare Ram Tripathi and Mritunjay Tripathi S/o Sri Hare Ram Tripathi	Vidya Devi W/o Vindhyavasini Misra/ 04.06.2009	0	4800	72.48	5.07/0. 10	5.07/0. 10	5.17
7	SR III Varanasi/ Varanasi Development Authority	Plot No. Bhuvneshwar nagar Colony nagar palika Mo. Ardli bazar Sikraul Varanasi Area-296.94 Sq. m	Dushyant Singh	Digvijay Singh Chetganj Varanasi/ 18.03.2013	0	14280	42.40	2.97/0. 10	2.97/0. 10	3.07
8	SR I Gorakhpur/ Gorakhpur Development Authority	Vill.- Mirzapur Pachparwa, Gorakhpur, Araji No. 252, Area-2704.46 Sq. m.	Sri Madhav Prasad jalan and Prem Prakash Jalan	M/s Kamadgiri Developers, Gorakhpur/ 25.10.2012	800	6500	175.79	12.30/0.10	12.30/0.10	12.40
Total					**1650**		**2006.31**	**140.34/0.80**	**140.32 /0.80**	**141.12**

*As per the circle rate fixed by the District Magistrate

The cases were reported to Department and the Government in May 2013. The Department stated (September 2013) that there is a lack of penal provision under Section 17 of the Registration Act and no time limit is provided for execution of such deed. Further, the instructions were being issued to competent officers of the departments concerned in regular monthly meetings held at the Government level. The reply is however silent about the action to be taken under Section 73(A) of Indian Stamp Act by issuing directions to the Development Authorities/*Nagar Palikas* concerned for taking under Section 33 of Indian Stamp Act.

5.12.3 Short-levy of Stamp duty

Under the provisions of Article 23 of Schedule I-B of Indian Stamp Act (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of the consideration set forth therein, whichever is higher. As per the Uttar Pradesh Stamp (valuation of property) Rules, 1997, market rates of various categories of land situated in a district are to be fixed biennially by the Collector concerned for the guidance of the Registering authorities.

We scrutinised the records[39] of office of SR I Muzaffarnagar and cross checked with records[40] of Development Authority Muzaffarnagar and observed that an agreement without possession was executed in July 2010 between the builder and the owner of the land. The stamp duty of ` 4 lakh and registration fee ` 10,000 was levied on consideration amount[41] of ` 2 crore. The lay out plan of the said land was approved by the Muzaffarnagar Development Authority on 16 May 2011 for residential purposes. The sale deed of the said property was executed between December 2011 and June 2012 in favour of developer at agriculture rate after due adjustment of stamp duty already paid in deed of agreement without possession. We noticed that as the layout plan was approved/ earmarked as residential prior[42] to the sale deed; the land was required to be valued at residential rates [43] instead of agricultural rates. Incorrect classification of land resulted in short determination of consideration amount with ` 17.97 crore and consequently led to short levy of stamp duty of ` 1.26 crore as detailed in table no. 5.13:

Table No. 5.13

(` in lakh)

Sl. No.	Deed No./Date of execution	Name of seller	Name of purchaser	Detail of land	Valuation of land	Registration fee/Stamp duty	Valuation levied @ `5000/- per square meter	Stamp duty levied	Difference Stamp duty
1	7600/01.06.2012	Sri Mushtaq Ahmed	A.S.J. Promotors & Developers Pvt. Ltd	Khasra No. 2263 & 2269 Vill.-Sujdoo; Area-1.1405 Hectare	57.14	0.10/4.00	570.25	39.92	35.92
2	9199/29.06.2012	Sri Mushtaq Ahmed	A.S.J. Promotors & Developers Pvt. Ltd	Khasra No. 2263 & 2269 Vill.-Sujdoo; Area-1.1408 Hectare	57.14	0.10/4.00	570.40	39.93	35.93
3	15040/31.12.2011	Sri Mushtaq Ahmed	A.S.J. Promotors & Developers Pvt. Ltd	Khasra No. 2263 & 2269 Vill.-Sujdoo; Area-0.5702 Hectare	28.57	0.10/2.00	285.10	19.96	17.95
4	6114/07.06.2012	Sri Mushtaq Ahmed	A.S.J. Promotors & Developers Pvt. Ltd	Khasra No. 2263 & 2269 Vill.-Sujdoo; Area-1.1405 Hectare	57.14	0.10/4.00	570.25	39.92	35.91
				Total	**199.99**	**0.40/14.00**	**1996**	**139.73**	**125.71**

*As per the circle rate fixed by the District Magistrate

The case was reported to the Department and the Government in May 2013. The Department intimated (September 2013) that cases have been referred to the Collector for determination of market value of property and proper duty payable thereon. Further report has not been received (December 2013).

[39] Book 1 containing details of registered deeds
[40] File of layout plan
[41] Stamp duty is chargeable on the fifty per cent of the consideration value as per Article 5 (b-1) of Schedule I-B of IS Act.
[42] 16 May 2011
[43] As per the circle rate fixed by the District Magistrate of ` 5000 per square meter

5.12.4 Short levy of stamp duty in execution of Consortium Agreement

Under the provisions of Article 5 (b-2) of Indian Stamp Act, if relating to construction of a building on a land by a person other than the owner, or lessee of such land, and having a stipulation that after construction, such building shall be held jointly or severally by that other person and the owner or the lessee, as the case may be, of such land, or that it shall be sold jointly or severally by them or that a part of it shall be held jointly or severally by them and the remaining part thereof shall be sold jointly or severally by them, stamp duty on such agreement shall be charged as a conveyance (under Article 23 of Indian Stamp Act) for a consideration equal to the amount or value of the land.

We scrutinised the records[44] of offices of two SRs[45] and cross checked with records[46] of two[47] Development Authorities and observed that two instruments of consortium agreement were registered between April 2006 and May 2012 between one or more owners of the land. In two agreements[48] the owners of land formed a consortium and appointed one of them as a lead member. In all consortium agreements the recital of the deeds show that the sole aim of agreements was the development of residential layout complex with the permission of owners of land. As per the deed the lead members were appointed for each consortium and the entire cost of development of the said project by the consortium was borne by lead member. Stamp duty of ` 2,000 and registration fee ` 10,100 only were levied on these two agreements showing the value of land as 'Nil'. We noticed that as in each case the owner of land was granting the right to develop the land, make residential complexes and get the layout map passed etc. to the respective lead member of consortium. Hence there was a transfer of land from land owners to the respective lead member of consortiums. As the value of the land transferred was known[49], the stamp duty of ` 90.94 lakh and registration fee ` 20,000 was leviable on the value of the land ` 9.75 crore at the circle rate. There was short levy of stamp duty and registration fee of ` 91.02 lakh as shown in the table no. 5.14:

Table No. 5.14

(` in lakh)

Sl. No.	Name of Unit/ Deed No./ Date of Registration	Detail of Property	Owner's Name	Lead members Name	Stamp / Reg. Fee paid (in `)	Valuation rate per hectare	Valuation*	Stamp / Reg. Fee due	Difference Stamp duty	Difference Reg. Fee (in `)	Total Difference
1.	SR I Ghaziabad/4/839/1 62 Page No. 259-276/14.05.2012	Khasra No.-588, Khandauli, Pargana, Tehsil and Distt.-Meerut Area-1.2211 Hect.	1. M/s Uphaar Construction Pvt. Ltd. 2. M/s A.B. Estate Pvt. Ltd.	Zenith Township Pvt Ltd.,	1000/10000	180.00	219.80	15.39/ 0.10	15.38	0	15.38
2.	SR Noida 278/06 dt. 12.04.2006 Bahi No. 4 Despite report of DIG Saharanpur dated 13 March 2013, no action taken on the same till January 2014.	Area-13.7529 Hect. and 11.3868 Hect Vill.-Mavi kala, Sawalpur nawada, Saharanpur	M/s Riskfree Traders Pvt Ltd and other 11 companies	M/s Paramount Prop Built Pvt. Ltd.	1000/100	45.00 12.00	755.52	75.55/ 0.10	75.54	9900	75.64
Total					**2000/10100**		**975.32**	**90.94/ 0.20**	**90.92**	**9900**	**91.02**
*As per the circle rate fixed by the District Magistrate											

[44] Book 1.
[45] SR I Ghaziabad and SR Noida.
[46] File of layout plan.
[47] Ghaziabad and Saharanpur.
[48] SR I Ghaziabad- Lead member Zenith Township Pvt. Ltd and SR Noida- Lead member M/s Paramount Prop Built Pvt. Ltd.
[49] ` 9.75 crore

Only after we pointed out the cases in May 2013, the Department replied (September 2013) that they have referred Sl. No. 1 for registering of a Stamp case[50]. Action is yet to be taken in case of Sl. No. 2 as the two AIGs concerned[51] have intimated that no reference has been received from the SRs concerned[52] so far for registering of any Stamp case.

5.12.5 Short-levy of Stamp duty due to missclassification of documents (Irrevocable Power of Attorney treated as Revocable Power of Attorney)

Under the provision of Section 5 of the Indian Stamp Act 1899, any instrument comprising or relating several distinct matters, shall be chargeable with the aggregate amount of duties with which separate instrument each comprising or relating to one of such matters would be chargeable under the Indian Stamp Act. Under Article 48 (ee) of Schedule I-B of the Indian Stamp Act, when irrevocable authority is given to the attorney to sale immoveable property the stamp duty on such agreement shall be charged as a conveyance [No. 23 clause (a)] on the market value of the property forming subject of such authority.

We scrutinised the records[53] of SR Khurja, district Bulandshahar and observed that one instrument of power of attorney registered in August 2012 was classified on the basis of its title and stamp duty ` 50 and registration fees ` 100 was levied accordingly. Recitals of this document, however, revealed that through power of attorney the attorney had got all rights of land including financial management, development of land, sale of land and possession of land. As per the recital this document was clearly irrevocable power of attorney but misclassified as revocable Power of Attorney case. As per the applicable rate, the value of land work out to ` 2.16 crore on which stamp duty of ` 15.15 lakh and registration fees of ` 10,000 was leviable. Improper classification of document resulted in short levy of stamp duty and registration fee of ` 15.25 lakh.

The case was reported to Department and the Government (May 2013). The Department stated (September 2013) that the matter was referred to Collector Stamp and stamp case was executed in this case. Further progress has not been intimated.

5.12.6 Conclusion

Our audit revealed that the Department, the registering authorities made no attempts to cross check the details of development maps passed on the basis of developer agreements in the respective Development Authorities/*Nagar Palikas* and ascertain whether these were being registered in the respective SRs/ executed on stamp papers of correct value. They also did not examine the fact that the provisions of Section 33 of Indian Stamp Act have not been followed by Development Authorities/*Nagar Palikas.* Moreover even after the cases being brought to the notice of the department, action under Section 73-A (1) of the Indian Stamp Act was not initiated by the department through

[50] Sl. No. 1 referred on 16 August 2013 for registering of Stamp case.

[51] AIG-I Gautam Budh Nagar and AIG Saharanpur – action taken by both AIG-I Gautam Budh Nagar and AIG Saharanpur was checked as the registration was done in Gautam Budh Nagar but land was situated in Saharanpur.

[52] Either SR, NOIDA (District Gautam Budh Nagar) or SR-II Saharanpur.

[53] Book 4

District Collector who is also District Stamp Officer. The Department has not designed any control mechanism and monitoring to cross check the registration of developer agreements. There was a lack of coordination between Development Authorities/*Nagar Palikas* and registration department.

5.12.7 Recommendation

We recommend that the Department develop a workable mechanism to coordinate with Development Authorities and *Nagar palikas* so that developer agreements are duly registered/executed on stamp papers of correct value.

5.13 Unfruitful expenditure

We scrutinised (September 2012) the records of Inspector General (Stamp and Registration), Allahabad and observed that to provide an office building to Sub Registrar, Salempur, Deoria, administrative and financial sanction of ` 42.77 lakh was accorded by the Government[54] and work was allocated to the executing agency[55] by the Government. Against this sanction, ` 22.12 lakh was released on 20 February 2009 and balance ` 20.65 lakh was released on 16 May 2011 to executing agency.

The executing agency started the work of office building of SR, Salempur Deoria in November 2009, with a delay of eight months from the receipt of funds. Work was initially to be completed by 31 March 2009, however, time extension upto May 2012, was granted by the Secretary of the Department to the executing agency.

We noticed that there was no Committee for monitoring the progress/no system of sending of regular progress reports on the works. The first joint inspection was carried out by the Deputy Inspector General/Assistant Inspector General (DIG/AIG) Registration alongwith officials of the executing agency only in August 2012 i.e three months after the scheduled date of completion. In the inspection it was reported that the quality of construction work of building was very poor and not upto the standard as there were many defects[56]. Due to these defects, the building was lying unused despite expending the sum of ` 42.77 lakh. The inaction/lack of monitoring resulted in unfruitful expenditure of ` 42.77 lakh.

The matter was reported to the Department/Government in November 2012. The Department (September 2013) accepted that the building has not been taken over and that the report of the committee set up to examine the issue of defects is awaited.

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[54] Vide Letter No. Ka.Ni.-5-4902/11-2008 dated 17 October 2008 of Department *Kar Evam Nibandhan Anubhag-5, Uttar Pradesh Shasan.*

[55] Pacsfed i.e. *UP Sahakari Vidhayanevam Shitgrih Sangh* Ltd., Lucknow

[56] There were several cracks in ceiling and walls, plaster was eroded, and no sewage and drainage system was built. Fittings and fixtures, flooring and toilets, railing on stairs were left unfinished and contact road from main road to office building was not built.

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ` 70.19 crore from observations noticed during our test check of records in the Entertainment Tax Department and Geology and Mining Department. We found several instances of non/short realisation of tax, royalty and interest by these Departments.
Status of compliance to Inspection Reports (2012-13)	We conducted test check of the records of 24 and 73 offices of Entertainment Tax Department and Geology and Mining Department respectively during the period 2012-13 and found cases of non/short realisation of tax, royalty, interest and other irregularities involving ` 665.93 crore in 490 cases.  The Departments accepted and recovered under assessment and other deficiencies of ` 18.20 lakh.
Our conclusion	The Departments need to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. They also need to initiate immediate action to recover non-realisation, short levy of tax, penalties etc. pointed out by us, more so in those cases where it has accepted our observation.

CHAPTER-VI
OTHER TAX AND NON-TAX RECEIPTS

6.1 Impact of audit

Test check of the records of the 24 and 73 offices of Entertainment Tax, Geology and Mining respectively, conducted during the year 2012-13 revealed non-realisation of tax and interest etc. of ` 665.93 crore in 490 cases which fall under the following categories as mentioned in table no. 6.1:

Table No. 6.1

(` in crore)

Sl. No.	Category	Number of cases	Amount
Entertainment Tax Department			
1.	Non-charging of interest	09	0.05
2.	Non- realisation of tax	18	1.52
3.	Other irregularities	70	1.51
Total (A)		**97**	**3.08**
Geology and Mining Department			
1.	Non-realisation of royalty	102	26.52
2.	Non-realisation of revenue due to non-execution of lease deed	13	2.45
3.	Non-imposition of penalty	66	141.27
4.	Non-realisation of cost of minerals	31	170.74
5.	Non-imposition of transit fee	23	85.31
6.	Other Irregularities	158	236.56
Total (B)		**393**	**662.85**
Grand total (A+B)		**490**	**665.93**

During the year 2012-13, the Departments accepted and recovered underassessment and other deficiencies of ` 18.20 lakh involved in five cases.

A few illustrative cases involving ` 70.19 crore are mentioned in the succeeding paragraphs.

6.2 Audit Observations

Our scrutiny of records in the offices of the Entertainment Tax, Geology and Mining, etc. revealed cases of non-realisation of license fee/non-deposit of maintenance charges, non/short realisation of royalty and interest, non-levy of penalty and application fee, non-short levy of price of minerals on illegal mining, unauthorised extraction, non-conformity of Government Orders with Act/Rules non-realisation of fee and additional fee etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

ENTERTAINMENT TAX DEPARTMENT

6.3 Non-realisation of licence fee

Under Section 4 of Uttar Pradesh Cinemas (Regulation) Act, 1955 (UP Act No.3 of 1956), Rules 12, 16 and 18(2) of The UP Cinema (Regulation of exhibition by means of video) Rules 1988 and Rule 18(2) of Uttar Pradesh Cinemas (Regulation of exhibition by means of video) Rules, 2011, the Licensing Authority may grant or renew the licence for a period not exceeding three financial years at a time for keeping a video library/television signal receiver agency in a local area having population mentioned in column I below, on payment of fee for one financial year or part at the rates specified* in column II or III, as the case may be.

*

Column I (Local area)	Column II (License fee for video library)	Column III (License fee for television signal receiver agency)
(a) Municipal corporation, NOIDA and Greater NOIDA	Five thousand rupees.	Ten thousand rupees.
(b) Municipal board	Three thousand rupees.	Six thousand five hundred rupees.
(c) Town Area/Others places	One thousand five hundred rupees.	Three thousand rupees.

We observed between June 2012 and February 2013 from the files[1] of four offices of Assistant Commissioner Entertainment Tax/ Entertainment Tax Office[2] for the period between April 2010 and January 2013, that no licence fee[3] as per rules was recovered from 50 television signal receiver agencies and 72 video libraries which were operating in the districts concerned. Thus, Government was deprived of revenue of ` 5.47 lakh as dues of licence fee and ` 74,000 as interest. The details are given in the following table:

Table No. 6.2

(` in lakh)

Sl. No.	Name of the District	Television signal receiver agencies	Video libraries	Licence fee due	Interest due (calculated till the date of audit
1	Bareilly	-	72	1.90	0.09
2	Bijnore	14	-	0.91	0.13
3	Moradabad	13	-	1.27	0.26
4	Muzaffar Nagar	23	-	1.39	0.26
Total		**50**	**72**	**5.47**	**0.74**

The matter was reported to Department/Government between June 2012 and February 2013. The Department accepted our observations and stated (August 2013) that in case of Bareilly, licence fee has now been deposited and late fees realised from 19 video libraries which were found functioning. The Department has initiated action of recovery in remaining cases of other three districts.

[1] Licence fee register of video library/television.
[2] ACET: Moradabad and Muzaffar Nagar.
ETO : Bareilly and Bijnore.
[3] Out of 78 television signal receiving agencies and 113 video libraries.

6.4 Non deposit of maintenance charges

Under Section 3A(1) of the UP Entertainment and Betting Act, 1979, the Cinema hall owners were authorised to collect additional charges in shape of maintenance charges of ` 3 per seat besides 60 paisa and 25 paisa for air conditioning and air cooling facility respectively from the viewers entering in the cinema hall. This facility was withdrawn from 16 June 2009 by enactment of UP Entertainment and Betting (Amendment) Ordnance 2009. The Entertainment Tax Commissioner (ETC) also clarified (October 2009) that if any additional charges towards maintenance charges or providing of air conditioning /cooling facility has been realised from the viewers after 16 June 2009 the same should be remitted into the Government account.

We observed between April 2012 and June 2012 from the records[4] of two Assistant Commissioners of Entertainment Tax[5] for the period April 2010 to May 2012, that 13 cinema hall owners had realised ` 5.53 lakh[6] as maintenance charges during the period 16 June 2009 to 03 September 2009, but ACETs did not initiate any action to get the amount remitted in to the Government account. This resulted in unjustified enrichment of cinema hall owners.

The matter was reported to the Department and Government between May 2012 and July 2012. The Department accepted (August 2013) our observation and stated that the process of recovery has been started and in case of Aligarh and Allahabad a sum of ` 2.81 lakh[7] has been remitted into Government account.

GEOLOGY AND MINING DEPARTMENT

6.5 Non-realisation of royalty and interest from brick kiln owners

Under the One Time Settlement Scheme (OTSS) issued in December 2004, brick kiln owners are required to pay consolidated amount of royalty at the prescribed rates, based on Category of the brick kiln areas after obtaining permit by paying an application fee of ` 400 per brick kiln. Further, the OTSS provide that if the brick kiln owner fails to make payment of consolidated amount of royalty, the competent officer shall stop such business and initiate certificate proceedings for realisation of outstanding royalty/penalty under Paragraph 3 of the OTSS. Besides, interest at the prescribed rate may also be charged on the rent, royalty, fee or other sum due to the Government as per Paragraph 1(5) of the OTSS.

We observed during test check of brick kiln register and other relevant records maintained in the individual files of the brick kiln owners between May 2012 and December 2012 in 22 District Mining Offices[8] that 1655 brick kilns (Category[9]-A: 1028, Category[10]-B: 290 and Category-C[11]: 337) were operated

[4] Maintenance charges register of cinema.
[5] Assistants Commissioner of Entertainment Tax Aligarh and Allahabad.
[6] Aligarh ` 3.82 lakh, Alllahabad ` 1.71 lakh
[7] Aligarh `1,34,652 and Allahabad ` 1,46,608
[8] Aligarh, Allahabad, Auraiya, Azamgarh, Badaun, Bagpat, Ballia, Balrampur, Barabanki, Bulandshahar, Chandauli, Fatehpur, Gautam Budh Nagar, Hathras, Jalaun, Kannauj, Kanpur, Maharajganj, Mau, Moradabad, Pilibhit and Saharanpur.
[9] Category A- Aligarh, Auraiya, Badaun, Bagpat, Bulandshahar, Gautam Budh nagar, Hathras, Kanpur, Moradabad, Pilibhit and Saharanpur.
[10] Category B- Allahabad, Barabanki, Chandauli, Fatehpur, Jalaun and Kannauj.
[11] Category C- Azamgarh, Ballia, Balrampur, Maharajganj and Mau.

in brick season[12] during 2009-10 to 2012-13. However, these brick kiln owners did not pay royalty of ` 7.48 crore. In Bulandshahar and Gautam Budh Nagar 44 brick kilns[13] owners had defaulted in payment of royalty for all three years. Action was not initiated by the concerne District Mines Officers (DMOs) to stop their business. Non-initiation of follow-up action by the DMOs for stopping of illegal operation of brick kilns resulted in non realisation of royalty amounting to ` 7.48 crore besides interest of ` 2.74 crore as shown in **Appendix-XVI**.

We reported the matter to the Department/Government between May 2012 and May 2013. The Department accepted (August 2013) our observation and stated that instructions have been issued to recover the royalty and interest from the defaulters through the Collector. Further reply has not been received (December 2013).

6.6 Removal of brick earth

6.6.1 Non-levy of penalty for illegal removal of brick earth

Under Rule 3 and 57 of UPMMC Rules, no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of a quarrying permit or a mining lease granted under these Rules.
Sections 21 (1) and (5) of MMDR Act prescribes that the penalty for any illegal mining includes recovery of the price of the mineral, rent, royalty or taxes as the case may be, for the period during which the land was occupied by such person without any lawful authority. Further, Rule 57 of the UPMMC Rules *ibid* prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to rupees one thousand or both.

We observed between July 2012 and February 2013 from the Demand and Collection and Permit Register of brick kiln owners, in 13 District Mining Offices[14] that 1400 brick kilns (Category-A[15]: 560, Category-B[16]: 712 Category-C[17]: 128) were operated during the period April 2009 to February 2013 without application for grant of permit along with requisite fee and obtaining quarrying permit for excavation of earth and paying the consolidated amount of royalty. Thus, the excavation of brick earth without quarrying permit was illegal. Despite the fact that the mining activities were being carried out, the Department did not take any action to stop the business or levy penalty as per the UPMMC Rules. Thus, taking the price of mineral equivalent to five times of royalty, there was non-levy of price of mineral of ` 30.75 crore[18] besides detrimental effect on environment.

We pointed this out to the Government and the Department (between September 2012 and April 2013). The Department accepted our observation (August 2013) and stated that due to shortage of staff, survey of brick kilns was not conducted, as such illegal removal of earth by brick kiln owners was not detected and also that brick kiln owners may be bringing earth from

[12] Brick season starts from the month of October every year to September of the subsequent year.
[13] Eight in Bulandshahar and 36 in Gautam Budh Nagar.
[14] Aligarh, Badaun, Barabanki, Chandauli, Etawah, Firozabad, G.B.Nagar, Gonda, Hathras, Mirzapur, Sonebhadra, Sultanpur and Varanasi.
[15] Aligarh, Etawa, Firozabad, G.B.Nagar and Hathras.
[16] Barabanki and Chandauli.
[17] Gonda, Mirzapur, Sonebhadra and Sultanpur.
[18] Determined as five times the cost of royalty as defined in Rule 21(2) of UPMMC Rules.

elsewhere. We do not agree with the reply as it is the responsibility of the Department to ensure that revenue interest of the state is not compromised and also enforce provisions under Section 21(5) of the MMDR Act wherein realization of price of minerals is mandatory.

6.6.2 Non/Short levy of application fee for removal of brick earth

Rule 52 of UPMMC Rules 1963, provides the system of application for grant of mining permit. The application fee was fixed ` 400 which has been increased to ` 2,000 vide Government Notification No.7338/86-2011-18 dated 01 December 2011.

We scrutinised the records[19] of eight DMOs[20] between July 2012 to April 2013 and observed that during the period April 2011 to March 2012, 299 brick kiln owners paid application fee for taking mining permit at pre-revised rate of ` 400 instead of ` 2000 and 150 Brick Kiln owners did not pay any application fee. The DMOs concerned did not detect the short/non-payment of the application fee and did not initiate steps to recover the same. This resulted in non/short levy of application fees of ` 7.75 lakh as shown in the table no. 6.3:

Table No. 6.3

(` in lakh)

Sl.No.	Name of the Unit	Year	No. of cases	Application fee due	Application fee deposited	Difference
1.	DMO Allahabad	2011-12	72	1.44	0.29	1.15
2.	DMO Azamgarh	2011-12	25	0.50	0	0.50
			49	0.98	0.23	0.75
3.	DMO Chandauli	2011-12	125	2.50	0	2.50
			45	0.90	0.18	0.72
4.	DMO Jaunpur	2011-12	42	0.84	0.17	0.66
5.	DMO Lucknow	2011-12	26	0.52	0.10	0.42
6.	DMO Mau	2011-12	13	0.26	0.05	0.21
7.	DMO Shahjahanpur	2011-12	31	0.62	0.12	0.50
8.	DMO Shravasti	2011-12	21	0.42	0.08	0.34
Total			**449**	**8.98**	**1.22**	**7.75**

We pointed this out to the Government and the Department (between September 2012 and May 2013). The Department (August 2013), accepted our observation and stated that recovery proceeding has been started.

[19] Brick Kiln register and concerned files.
[20] Allahabad, Azamgarh, Chandauli, Jaunpur, Lucknow, Mau, Shahjahanpur and Shravasti.

6.7 Non/Short levy of price of mineral on illegal mining

Under Rule 3 and 57 of UPMMC Rules, no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of a quarrying permit or a mining lease granted under these Rules.

Sections 21 (1) and (5) of MMDR Act prescribes that the penalty for any illegal mining includes recovery of the price of the mineral, rent, royalty or taxes as the case may be, for the period during which the land was occupied by such person without any lawful authority. Further, Rule★ 57 of the UPMMC Rules *ibid* prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to ` 25000/- or both.

★ Amended vide notification no. 7338/86-2011-183/2011 Lucknow: dated 01 December 2011

We observed between July 2012 and January 2013, from the files and registers of illegal mining, in five District Mining Offices[21] that in 35 cases 4,80,358 cubic meter of minor minerals were extracted between the period April 2009 and December 2012 without any lawful authority.

Excavation of minerals without mining permit/lease was not only illegal but also affected the ecological balance. Despite the fact that these cases of illegal mining were in knowledge of the Department, the Department did not take any action to levy the royalty at the specified rate of five times the price of the mineral illegally mined and the penalty thereof as per UPMMC Rules. This inaction led to non/short levy of price of minerals ` 2.78 crore and non/short levy of penalty as detailed in the table no. 6.4:

Table No. 6.4

(` in lakh)

Sl. No.	Name of the district Mines Office	Name of the mineral	No. of cases	Quantity of the mineral in Cubic Meter	Rate of Royalty (in `)	Royalty of the mineral	Price of the mineral[22]	Due Amount	Paid/ levied Amount	Balance Amount to be paid	Penalty levied/short levied/not levied
1	Aligarh	Ordinary earth	1	32410	9	2.92	14.58	17.50	0	17.50	Not levied
		Ordinary earth	1	209700	9	18.87	94.37	113.24	37.75	75.49	Levied
2	Bijnore	Sand/ Bajari	1	84520	22	18.59	92.97	111.57	20.71	90.86	Not levied
		Ordinary earth	1	85050	9	7.65	38.27	45.93	7.65	38.27	Not levied
		Sand	1	17560	22	3.86	19.32	23.18	3.10	20.08	Not levied
3	Meerut	Ordinary earth	2	16222	9	1.46	7.30	8.76	0	8.76	Not levied
4	Shravasti	Ordinary earth	23	22997	9	2.07	10.35	12.42	0	12.42	Levied at differential rates
		Sand	4	8099	22	1.78	8.91	10.69	0	10.69	Levied at differential rates
5	Varanasi	Sand	1	3800	22	0.84	4.18	5.02	0.84	4.18	Levied
Total			**35**	**480358**		**58.04**	**290.25**	**348.31**	**70.05**	**278.25**	

The matter was reported to the Department/Government (September 2012 to March 2013). The Department in reply stated (August 2013) that there is no provision in Act and Rules to charge price of minerals and provisions are limited to only imposition of penalty. The Department further stated that it is discretionary to the authorities that whether they impose penalty or to realise price of mineral or royalty, hence in these cases the competent authorities on their discretion imposed the penalty instead of realising price of minerals.

[21] Aligarh, Bijnore, Meerut, Shravasti and Varanasi.
[22] Royalty is 20 *percent* of value of minerals as specified in Rule 21(2) of UPMMCR 1963

The reply of Department is incorrect as the penalty for any illegal mining specified in section 21(1) to (5) of MMDR Act includes recovery of the price of the mineral, apart from rent, royalty or taxes. The UPMMC Rules prescribes the penalty to be imposed in such cases and/or initiation of criminal proceedings. By not recovering the price of minerals and non-imposition of penalty, the Department has violated the Act and Rules.

6.8 Non-levy of interest for belated payment of royalty

Rule 58 (2) of UPMMC Rules provides that interest at the rate of 24 *per cent* per annum will be charged for the delay in payment of any rent, royalty, demarcation fee and any other dues to the State Government after the expiry of 30 days notice period. In case of royalty due to be realised from brick kiln owners alone, the Government vide order dated 18 May 2009 reduced the rate of interest to 18 *per cent* from 24 *per cent*. The rate of interest is again increased to 24 *per cent* vide order dated 22 November 2011.

We observed (between May 2012 and December 2012) from the lease files in nine DMOs[23], that royalty of ` 2.07 crore which was due to be deposited during the period 2009-10 to 2011-12 was paid with delays ranging from 37 to 851 days in 493 cases. Though the details of delay in payment were available on record, the Department did not initiate any action for levy and recovery of interest on these belated payments. This resulted in non realisation of interest of ` 19.10 lakh as detailed in the table no. 6.5:

Table No. 6.5

(` in lakh)

Sl. No.	Name of Office	Due Period	No. of cases	Amount due	Amount Deposited	Interest leviable[24]	Total amount due including interest	Period of delay in days	Net interest due to be realised
1	Bagpat	2009-10	68	36.43	36.43	3.04	39.47	43 to 732	3.04
2	Bijnore	2009-10	88	45.43	45.43	4.19	49.62	91 to 851	4.19
		2010-11	5	2.62	2.62	0.33	2.95	142 to 290	0.33
		2011-12	2	1.023	1.02	0.03	1.05	37 to 85	0.03
3	Chandauli	2011-12	45	16.28	16.28	2.23	18.51	84 to 422	2.23
4	Ghaziabad	2009-10	62	34.06	34.06	1.89	35.95	60 to 324	1.89
5	Kaushambi	2011-12	05	2.09	2.09	0.05	2.14	64 to 221	0.05
6	Mirzapur	2011-12	24	7.37	7.37	1.01	8.38	126 to 398	1.01
7	Moradabad	2010-11	13	6.62	6.62	0.98	7.60	69 to 454	0.98
		2011-12	7	3.74	3.74	0.24	3.98	46 to140	0.24
8	Sant Ravidas Nagar	2009-10	23	8.18	8.18	0.97	9.15	119 to 399	0.97
		2010-11	12	4.05	4.05	0.44	4.49	103 to 343	0.44
9	Varanasi	2009-10	139	39.44	39.44	3.70	43.14	65 to 562	3.70
Total			**493**	**207.33**	**207.33**	**19.10**	**226.43**		**19.10**

The matter was reported to Department/Government (between July 2012 and January 2013). The Department has accepted our observation in their reply (August 2013) and stated that notices for the delayed deposit were not issued in time. The Department has further stated that as notices were not served within the time limit prescribed in the Rules, interest cannot be realised now. The reply of the Department shows its indifference to recovery of Government dues. The Department should take steps to immediately issue notices of demand and recover the interest due on the delayed deposit of royalty and also fix responsibility on the officials who did not issue the notices on time.

[23] Bagpat, Bijnore, Chandauli, Ghaziabad, Kaushambi, Mirzapur, Moradabad, Sant Ravidas Nagar and Varanasi.
[24] Rate of interest 18% per annum in 2009-10, 24% per annum in 2010-11 and 24% per annum in 2011-12.

6.9 Unauthorised extraction

Rule 22A of Mineral Concession Rule, 1960 provides that mining operations shall be undertaken in accordance with duly approved Mining Plan and modification of the approved Mining Plan during the operation of a mining lease also requires prior approval. Under Section 21(5) of the MMDR Act, whenever any person raises without lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed off, the price thereof along with royalty. Further, under Rule 21 (2) of UPMMC Rules, the total royalty is fixed at the rate of not more than 20 *per cent* of the pits mouth value of minerals.
Under Rule 34 (2) of UPMMC Rules, in the case of mining of marble, limestone, building stones like sandstone and granite, stone ballast (*gitti*), *bajri* etc., the lease holder is required to attach a Mining Plan with MM-1 (A) form of application. A Mining Plan is not needed for mining of sand and *morrum* found in river beds.

6.9.1 Our test check (September 2012) of the mining lease case files and mining plans of DMO Sonebhadra, revealed that during the period July 2003 to March 2012, lessees had excavated 260049.66 cubic meter of stone ballast over and above the quantity mentioned in the approved mining plan. Thus, the mineral excavated by the lessees was unauthorised and the cost of the excavated mineral amounting to ` 7.08 crore was recoverable from the lessees. The fact was not seen by the DMOs who continued to issue MM-11 forms to the lease holders despite their excavating more than the permitted quantity of minerals. The DMO did not initiate any action against the lessees for excavation of the excess mineral over the mining plan and did not take any action for recovery of the cost of excavated mineral of ` 7.08 crore and penalties as detailed in the table no. 6.6:

Table No. 6.6

(` in lakh)

Sl. No.	District	Name of the firm M/S	No. of cases	Quantity allowed as per Mining Plan in Cubic Meter	Total quantity excavated in Cubic Meter	Excess excavation in Cubic Meter	Price of mineral to be recovered	Penalty imposable
1	Sonebhadra	AK Maurya	1	6000	77071.66	71071.66	131.43	0.25
		KK Stone Product	1	6000	79800	73800	184.68	0.25
		Saurabh Crushers	1	30000	48178	18178	61.80	0.25
		Bashir Beg	1	20000	117000	97000	329.80	0.25
Total			**4**	**62000**	**322049.66**	**260049.66**	**707.71**	**1.00**

Source: Files of lease holders.

6.9.2 Excavation of mineral without renewal of Mining Plan

We observed (September 2012 and November 2012) from the files of lessees in DMO Mirzapur and Sonebhadra that the lease holders excavated and dispatched minerals without renewal/approval of their Mining Plan. The Mining Plan of the lease holders had been approved only for three years however the lease holders continued to extract the mineral even after the expiry of the Plan. Between April 2003 and May 2012, for periods ranging from 1 to 1060 days, 626783 cubic meter of minerals were illegally excavated by the lessee. This fact was not seen by the DMOs who continued to issue MM-11 Forms to the lease holders even after expiry of the Mining Plan.

The DMOs did not take any action to stop the unauthorised excavation and also did not recover the cost of the excavated mineral which amounted to ` 18.82 crore and penalty thereof from the lessees.

After this was pointed out (November 2012 and December 2012), the Department replied (August 2013) that this violation of mining plan/ excavation without renewal of mining plan is not illegal but a violation of Rule 34 of UPMMCR.

We do not agree as the mining operations were required to be undertaken in accordance with the approved mining plan and Department had to take action for recovery of cost of the excavated and penalty thereof against lessees for violation of the same. Further reply has not been received (December 2013).

6.10 Non-conformity of Government Orders with Act/ Rules

As per Section 4(1-A) and Section 21(1) to (5) of the Act read with Rule 70(1) of the UPMMC Rules, 1963 provides that the holder of a mining lease or permit or a person authorized by him in this behalf may issue a pass in form MM-11 to every person carrying, consignment of minor mineral by a vehicle, animal or any other mode of transport. Rule 70(2) provides that no person shall carry, within the State a minor mineral by a vehicle, animal or any other mode of transport, excepting railway, without carrying a pass in Form MM-11 issued under sub rule (1) Rule 70 (6) provides that any person found to have contravened any provision of this rule shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or fined ` 25,000/- or with both.

Government Order no.594/77-5-2001-2002/77 TC-1 Lucknow dated 02 February 2001 and Government Order no. 4951(1)/77-5/2006-506/05 Lucknow dated 25 October 2006 provide that the executing were authorized to recover royalty in such cases where minor minerals were supplied to executing agencies of public works without valid MM-11 or copy of challan as proof of payment of royalty.

During our audit of DMO Firozabad in February 2013, we noticed that seven executing agencies[25] got 15 civil works done through contractors. In all these cases the contractors did not submit the MM-11 forms along with the bills of minor minerals used by them in the work, hence the executing agencies, in compliance of the Government orders dated 02 February 2001 and 25 October 2006 deducted the royalty from the bills and deposited ` 7.47 lakh in lieu of royalty.

We noticed that the above GOs were not in consonance with the MMDR Act and UPMMC Rules as vide these Government Orders the executing agencies were authorised to recover only royalty in such cases where minor minerals were supplied without MM-11 and copy of treasury challan as proof of payment of royalty. Under the provisions of Section 21(5) and 21(1) of the MMDR Act, the recovery of price thereof and imposition of penalty is mandatory. As the G.Os are silent about the recovery of the price of the minerals and imposition of penalty the same are not being imposed /

[25] Development Authority Firozabad, EE, RES, Firozabad, Jila Panchayat, EO, Nagar Palika, Firozabad, SS PDPWD, Firozabad, EE PWD PD Firozabad, and DD construction Firozabad.

recovered. In the instant case of DMO Firozabad alone the cost of minerals ` 37.33 lakh was leviable as per Act besides penalty of ` 25000 in each case of illegal transportation.

After this was pointed out the Department replied (August 2013) that the executing agencies have taken action as per the GO, which was issued in exercise of the powers given in Rule 68. The Department has not replied to our specific observation which is non-conformity of the GOs with the MMDR Act and UPMMC Rules. The said GOs have been issued without the provision of recovery of the price of the minerals and penalty which is the main thrust of the Section 21 of the MMDR Act. The provision of UPMMC Rules that a penalty and /or punishment shall be imposed on the person found transporting minerals without valid MM11 has also not been taken into account in the GOs. The non-conformity of GOs with the relevant provisions of MMDR Act and UPMMC Rules have left a lacuna by which illegal transportation of minerals and illegal mining of these minerals is indirectly being permitted as there is no deterrent to this illegal transportation of minerals.

We recommend that the Government revise its orders to be in conformity with the MMDR Act and UPMMC Rules.

WEIGHT AND MEASUREMENT DEPARTMENT

6.11 Non-realisation of fee/additional fee

Under the provision of Weights and Measures (Enforcement) Act, 1985 (SOWM) read with rule 14 and 15 of the U.P. Standard of Weights and Measures (Rules) 1990, (UPSWM), every person in possession, custody or control of any weight and measure (including capacity measurement like storage tank, lorries dispensing measurement, etc.) which he intends to use or is likely to use in any transaction or for industrial production shall present such weight and measure for verification or re-verification and get it stamped at least once in five years, as the case may be, on payment of the prescribed fees. Contravention of the provisions of the Act attracts penalty under section 47 with fine which may extend to ` 500. Further, under Rule 17(3) of the UPSWM Rules, additional fee at half the rates specified in schedule XII of the UPSWM Rules is also payable after expiry of the validity of stamping for every quarter of the year or part thereof for re-verification.

From the records[26] of one sugar mill[27] and two distilleries[28] we observed between September 2012 and December 2012 that storage vats/tanks were in use in these sugar mills and distilleries without verification by the Weights and Measures Department since inception in two cases and after lapse of period of five years in one case[29]. The Department did not conduct inspections for verification as laid down in rule 15 (7) ibid and users also did not get the vats/storage tanks verified as laid down in Rule 15(1) *ibid*. This resulted in

[26] Verification register of Vats/Tanks
[27] Kisan Sahkaari Chini Mills Ltd., Satha, Aligarh.
[28] Nanauta Distillery, Nanauta, Saharanpur and Nanapara Aswani, Nanpara Bahraich
[29] 1. since 29 January 1990 for September 2012 (Nanauta Distillery, Nanauta, Saharanpur) ` 2.83 lakh.
2. since inception 1976-77 for March 2012. (Kisan Sahkaari Chini Mills Ltd., Satha, Aligarh.) ` 3.65 lakh
3. since inception June 1992 for March 2012.(Nanapara Aswani, Nanpara Bahraich) ` 2.03 lakh

non-realisation of fee and additional fee amounting to ` 8.50 lakh besides penalties leviable for contravention of the Act. The officials of the Excise Department posted in the sugar mills and distilleries agreed with our observation that the inspection and verification of vats/storage tanks was not done. Non-calibration of the vats/storage tanks carried the risk of incorrect determination of the volume of liquor stored in them resulting in incorrect assessment of excise duty.

We reported to the matter to the Department and Government between October 2012 and January 2013. The Department has accepted (August 2013) our observation and stated that the process of recovery has been started and ` 3.56 lakh has so far been deposited in Saharanpur.

Lucknow,
The

(Dr. Smita S. Chaudhri)
Accountant General (E&RSA)
Uttar Pradesh

Countersigned

New Delhi,
The

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

Appendices

APPENDIX-I

Operational Gaps in MSUs

(Reference Para No. 2.8.8.1)

(` in lakh)

Sl. No.	Name of Unit	Year	Total No. of days in year	No. of days checking was done	Revenue received	No. of days checking was not done
1	AC (In-charge) MS-2 Agra	2008-09	365	238	87.73	127
		2009-10	365	181	145.25	184
		2010-11	365	237	142.16	128
		2011-12	366	219	133.88	147
2	AC (In-charge) MS-4 Agra	2010-11	365	224	160.52	141
		2011-12	366	194	158.36	172
3	AC (In-charge) MS-5Agra	2009-10	365	205	122.21	160
		2010-11	365	188	122.69	177
		2011-12	366	84	30.58	282
4	AC (In-charge) MS-7	2010-11	365	233	100.89	132
		2011-12	366	212	208.39	154
5	AC (In-charge) MS-8 Agra	2009-10	365	302	186.5	63
		2010-11	365	318	195.39	47
6	AC (In-charge) MS -1 Bareilly	2008-09	365	295	201.97	70
		2011-12	366	241	106.3	125
7	AC (In-charge) MS -2 Bareilly	2009-10	365	316	237.63	49
		2010-11	365	312	155.84	53
		2011-12	366	281	138.14	85
8	AC (In-charge) MS Bulandshahar	2010-11	365	193	142.02	172
		2011-12	366	205	148.91	161
9	AC (In-charge) MS-1 Chandauli	2009-10	365	316	105.58	49
		2010-11	365	283	142.39	82
		2011-12	366	321	146.79	45
10	AC (In-charge) MS-4 GB Nagar	2011-12	366	253	197.03	113
11	AC (In-charge) MS-1 Ghaziabad	2011-12	366	268	307.64	98
12	AC (In-charge) MS-2 Ghaziabad	2011-12	366	295	275.98	71
13	AC (In-charge) MS-3 Ghaziabad	2011-12	366	291	292.4	75
14	AC (In-charge) MS-4 Ghaziabad	2011-12	366	272	368.2	94
15	AC (In-charge) MS -1 Jhansi	2009-10	365	210	82.56	155
		2010-11	365	254	100.19	111
		2011-12	366	220	148.5	146
16	AC (In-charge) MS -2 Jhansi	2009-10	365	277	60.65	88
		2010-11	365	253	101	112
		2011-12	366	195	90.25	171
17	AC (In-charge) MS-1 Kanpur	2009-10	365	307	186.9	58
		2010-11	365	187	150.33	178
		2011-12	366	136	117.7	230

Sl. No.	Name of Unit	Year	Total No. of days in year	No. of days checking was done	Revenue received	No. of days checking was not done
18	AC (In-charge) MS-2 Kanpur	2008-09	365	311	241.91	54
		2009-10	365	305	141.95	60
		2010-11	365	229	19.22	126
		2011-12	366	188	49.25	177
19	AC (In-charge) MS -3 Kanpur	2010-11	365	260	108.09	105
		2011-12	366	239	144.35	127
20	AC (In-charge) MS-8 Kanpur	2011-12	366	78	21.56	288
21	AC (In-charge) MS-12 Kanpur	2010-11	365	229	43.37	45
		2011-12	366	107	13.2	259
22	AC (In-charge) MS-1 Lucknow	2010-11	365	275	167.98	90
		2011-12	366	214	154.09	152
23	AC (In-charge) MS-5 Lucknow	2011-12	366	331	130.06	35
24	AC (In-charge) MS-4 Mathura	2011-12	366	209	288.73	157
25	AC (In-charge) MS -4 Meerut	2010-11	365	266	182.35	99
		2011-12	366	296	236.98	70
26	AC (In-charge) MS -2 Meerut	2011-12	366	265	211.68	101
27	AC (In-charge) MS -5 Meerut	2011-12	366	305	167.14	61
28	AC (In-charge) MS-3 Moradabad	2009-10	365	148	99.69	217
		2010-11	365	205	75.16	160
		2011-12	366	202	118.39	164
29	AC (In-charge) MS -6 Moradabad	2011-12	366	236	114.03	130
30	AC (In-charge) MS-1 Noida	2010-11	365	316	298.18	49
		2011-12	366	279	312.65	87
31	AC (In-charge) MS-5 Noida	2011-12	366	343	152.37	23
32	AC (In-charge) MS-6 Noida	2010-11 (From15/09/2010)	198	172	281.2	26
		2011-12	366	301	338.02	65
33	AC (In-charge) MS-1 Saharanpur	2009-10	365	256	131.62	109
		2010-11	365	209	120.37	156
34	AC (In-charge) MS -4 Saharanpur	2011-12	366	109	100.67	257
35	AC (In-charge) MS-4 Varanasi	2009-10	365	286	133.19	79
		2010-11	365	268	117.68	97
		2011-12	366	242	118.51	124
Total			**25051**	**16695**	**10633.09**	**8254**

APPENDIX-II

Non charging of interest on encashing of Bank Guarantee/FDR

(Reference Para No. 2.17.2.1)

Sl. No.	Name of the unit	No. of dealers	Year and month of assessment	Admitted tax	Date of encashment	Period of delay	Rate of interest per year *(per cent)*	Interest levied	Interest leviable	Interest not levied
1.	JC (CC) Aligarh	1	2008-09 (April 2012)	2.55	17.04.12 (BG)	39 months 17 days	15	0	1.26	1.26
2.	DC Sec 10 Aligarh	1	2008-09 (March 2010)	7.80	02.02.12 (BG)	37months 2 days	15	0	3.61	3.61
3.	JC(CC) 2, CT Ghaziabad	1	2008-09 (October2011)	12.83	06.01.12 (BG)	36 months 6 days	15	0	5.80	5.80
		1	2008-09 (February 2012)	235.54	05.01.12 (BG)	39 months 5 days	15	0	115.31	115.31
				228.46	06.01.12 (BG)	39 month 6 days	15	0	111.93	111.93
			2007-08 (March 2010)	282.01	05.01.12 (BG)	51 month 5 days	14/15	0	179.47	179.47
		1	2008-09 (November 2011)	39.54	05.01.12 (BG)	39 month 5 days	15	0	19.36	19.36
		1	2008-09 (June 2012)	8.36	03.01.12 (BG)	39 month 3 days	15	0	4.09	4.09
		1	2008-09 (March 2012)	10.53	05.01.12 (BG)	39 month 5 days	15	0	5.15	5.15
			2009-10 (March 2013)	28.15	31.12.11 (BG)	27 months	15	9.70	9.70	0
4.	JC(CC)1, CT Ghaziabad	1	2008-09 (March 2012)	24.78	4.1.12 (BG)	39 months	15	12.08	12.08	0
		1	2009-10 (April 2013)	36.28	4.1.12 (BG)	27 month 4 days	15	15.36	15.36	0
5.	DC Sec 6 Ghaziabad	1	2007-08 (January 2012)	96.05	30.12.11 (BG)	45 to 48 month	14/15	0	60.99	60.99
			2008-09 (May 2012)	305.90	30.12.11 (BG)	39 month	15	0	149.13	149.13
		1	2007-08 (March 2010)	7.81	30.12.11 and 05.01.12 (BG)	48 month5 days	14/15	0	4.97	4.97
			2008-09 (March 2012)	8.13	05.01.12 (BG)	39 month 5 days	15	0	3.98	3.98
			2009-10 (May 2013)	14.24	31.12.11 (BG)	27 months	15	4.81	4.81	0
6.	DC Sec 7 Ghaziabad	1	2008-09 (March 2012)	55.92	31.12.11 (BG)	39 month	15	0	27.26	27.26
7.	DC Sec- 9 CT Ghaziabad	1	2008-09 (March 2012)	4.35	21.02.12 (BG)	37 months 21 days	15	0	2.05	2.05
8.	DC Sec-15 CT Ghaziabad	1	2008-09 (January 2013)	14.14	31.12.11 (BG)	37 months 21 days	15	4.45	4.45	0
9.	JC(CC) 1 CT, Kanpur	1	2008-09 (February 2011)	358.11	30.12.11 (BG)	39 months	15	0	174.58	174.58
			2009-10 (August 2011)	377.95	30.12.11 (BG)	27 months	15	0	127.56	127.56
		1	2007-08 (UPTT) (November 2011)	1264.65	02.01.12 (BG)	51 months 2 days	14/15	0	804.09	804.09

Sl. No.	Name of the unit	No. of dealers	Year and month of assessment	Admitted tax	Date of encashment	Period of delay	Rate of interest per year *(per cent)*	Interest levied	Interest leviable	Interest not levied
			2007-08 (VAT) (March 2011)	1076.76	02.01.12 (BG)	44 months 12 days	15	0	597.53	597.53
		1	2008-09 (December 2011)	5.78	13.01.12 (FDR)	39 months 13 days	15	0	2.85	2.85
			2009-10 (March 2011)	34.74	13.01.12 (FDR)	27 months 13 days	15	0	11.91	11.91
		1	2008-09 (February 2012)	10.89	04.01.12 (BG)	36 months 4 days	15	0	4.92	4.92
			2009-10 February 2012)	12.63	04.01.12 (BG)	27 months 4 days	15	0	4.28	4.28
10.	JC (CC) II Kanpur	1	2008-09 (April 2012)	52.87	28.03.13 (BG)	50months 28 days	15	0	17.05[1]	17.05
			2009-10 (July 2012)	183.04	28.03.13 (BG)	41months 28 days	15	0	50.77[2]	50.77
		1	2008-09 (March 2012)	17.38	11.01.12 (BG)	36months 11 days	15	0	7.90	7.90
			2009-10 (May 2012)	50.15	11.01.12 (BG)	27months 11 days	15	0	17.15	17.15
		1	2008-09 (April 2012)	8.98	23.02.13 (BG)	49months 23 days	15	0	5.58	5.58
			2009-10 (March 2012)	85.04	23.02.13 (BG)	40months 23 days	15	0	43.33	43.33
		1	2008-09 (June 2012)	15.44	31.12.11 (BG)	36months	15	0	6.95	6.95
11.	DC Sec 6 Kanpur	1	2008-09 (December 2011)	0.30	21.03.12 (BG)	41 months 21 days	15	0	0.15	0.15
				5.36	14.03.13 (BG)	50 months 14 days	15	0	3.38	3.38
			2009-10 (July 2012)	2.61	14.03.13 (BG)	41 months 14 days	15	0	1.36	1.36
12.	DC Sec 14 Kanpur	1	2008-09 (March 2011)	1.72	28.06.10 (BG)	20 months 28 days	15	0	0.45	0.45
				6.15	23.03.11 (BG)	29 months 23 days	15	0	2.29	2.29
				0.94	23.03.11 (BG)	29 months 23 days	15	0	0.35	0.35
				5.85	30.03.11 (BG)	30 months	15	0	2.19	2.19
13.	DC Sec 22 Kanpur	1	2007-08 (March 2010)	1.42	07.05.12 (BG)	55 months 7 days	14/15	0	0.97	0.97
14.	JC (CC) I Lucknow	1	2009-10 (January 2013)	87.77	17.01.12 (BG)	27 months 17 days	15	0	30.23	30.23
		1	2007-08 (January 2011)	18.96	02.03.12 (BG)	51 months 2 days	14/15	0	12.09	12.09
				5.94	02.03.12 (BG)	47 months 14 days	15	0	3.52	3.52
				7.05	02.03.12 (BG)	46 months 13 days	15	0	4.09	4.09

[1] 16.61 lakh already deposited by the dealer.
[2] 45.13 lakh already deposited by the dealer.

Sl. No.	Name of the unit	No. of dealers	Year and month of assessment	Admitted tax	Date of encashment	Period of delay	Rate of interest per year *(per cent)*	Interest levied	Interest leviable	Interest not levied
			2008-09 (November 2011)	62.03	02.03.12 (BG)	34 months 13 days to 45 months 14 days	15	0	30.39	30.39
15.	DC Sec 1 Muzaffar nagar	1	2008-09 (June 2012)	14.55	25.02.12 (BG)	37 months 25 days	15	0	6.88	6.88
16.	DC Sec 6 Muzaffar nagar	1	2008-09 (February 2011)	0.40	23.02.12 (BG)	37 months 23 days	15	0	0.19	0.19
17.	DC Sec 8 Varanasi	1	2008-09 (January 2012)	1.32	23.1.12 (BG)	39 months 23 days	15	0	0.65	0.65
			2009-10 (December 2011)	2.34	23.1.12 (BG)	27 months 23 days	15	0	0.81	0.81
	Total	**30**		**5202.49**				**46.40**	**2717.20**	**2670.80**

APPENDIX-III

Cases not detected by the AAs

(Reference Para No. 2.21.1)

(` in lakh)

Sl. No.	Name of the office	Number of dealer	Assessment year (month and year of assessment)	Amount of falsely or fraudulently claimed ITC	Penalty leviable	Interest chargeable
1.	DC Sec 12 Agra	1	2008-09 (February 2012)	0.40	1.99	0.27
2.	JC (CC) Agra	1	2008-09 (January 2012)	10.85	54.25	7.32
		1	2010-11 (April 2012)	2.51	12.56	0.94
3.	DC Sec 2 Azamgarh	1	2008-09 (February 2012)	0.71	3.55	0.48
4.	JC (CC) A Bareilly	1	2008-09 (January 2012)	6.69	33.42	4.52
5.	DC Sec 1 Basti	1	2008-09 (September 2011)	1.17	5.86	0.79
6.	DC Sec 1 Chatrapati Sahuji Maharaj Nagar, Gauriganj	1	2008-09 (February 2012)	0.82	4.08	0.55
7.	DC Sec 2 Gautam Buddha Nagar	1	2008-09 (October 2011)	3.06	15.30	2.07
		1	2008-09 (March 2012)	0.91	4.55	0.61
8.	DC Sec 9 Ghaziabad	1	2008-09 (February 2012)	23.24	116.21	15.69
9.	DC Sec 7 Ghaziabad	1	2008-09 (March 2011)	1.13	5.65	0.76
		1	2008-09 (March 2012)	3.71	18.55	2.50
10.	DC Sec 6 Ghaziabad	1	2008-09 (March 2012)	0.24	1.22	0.16
11.	DC Sec 4 Ghaziabad	1	2008-09 (November 2011)	2.86	14.30	1.93
12.	AC Sec 6 Ghaziabad	1	2008-09 (March 2012)	0.47	2.37	0.32
13.	DC Sec 1 Gonda	1	2007-08 (01.01.08 to 31.03.08) (March 2011)	1.00	5.00	0.73
14.	DC Sec 5 Gorakhpur	1	2007-08 (01.01.08 to 31.03.08) (February 2011)	1.27	6.34	0.95
15.	DC Sec 4 Hapur	1	2008-09 (February 2012)	0.48	2.40	0.32
16.	DC Sec 1 Hardoi	1	2008-09 (March 2012)	0.14	0.70	0.09
17.	DC Sec 1 Hasanpur	1	2007-08 (March 2011)	0.26	1.30	0.19
18.	DC Sec 2 Hathras	1	2008-09 (March 2012)	10.60	52.99	7.16
19.	DC Sec 2 Kannauj	1	2007-08 (01.01.08 to 31.03.08) (March 2011)	0.23	1.13	0.20
20.	DC Sec 18 Kanpur	1	2008-09 (March 2012)	10.17	50.85	6.86
21.	DC Sec 12 Kanpur	1	2008-09 (March 2012)	0.16	0.80	0.11
22.	AC Sec 9 Kanpur	1	2007-08 (01.01.08 to 31.03.08) (February 2011)	0.63	3.15	0.46
23.	DC Sec 20 Lucknow	1	2008-09 (February 2012)	0.56	2.80	0.38
		1	2009-10 (August 2011)	3.98	19.90	2.09
24.	DC Sec 18 Lucknow	1	2008-09 (August 2011)	11.08	55.40	7.48

Sl. No.	Name of the office	Number of dealer	Assessment year (month and year of assessment)	Amount of falsely or fraudulently claimed ITC	Penalty leviable	Interest chargeable
25.	DC Sec 17 Lucknow	1	2008-09 (October 2011)	0.64	3.20	0.43
		1	2008-09 (September 2011)	1.27	6.35	0.86
26.	AC Sec 21 Lucknow	1	2010-11 (January 2012)	0.84	4.22	0.32
27.	AC Sec 18 Lucknow	1	2008-09 (March 2012)	1.47	7.34	0.99
28.	AC Sec 15 Lucknow	1	2008-09 (January 2012)	1.21	6.05	0.82
29.	AC Sec 8 Lucknow	1	2008-09 (January 2012)	14.41	72.05	9.73
30.	DC Sec 8 Meerut	1	2008-09 (September 2011)	1.36	6.80	0.92
31.	DC Sec 4 Meerut	1	2008-09 (March 2012)	0.57	2.85	0.38
32.	DC Sec 1 Padrauna, (Kusinagar)	1	2007-08 (01.01.08 to 31.03.08) (March 2011)	0.61	3.07	0.48
33.	DC Sec 1 Raebareli	1	2008-09 (March 2012)	1.22	6.10	0.82
		1	2008-09 (January 2012)	0.35	1.77	0.24
34.	DC Sec 4 Varanasi	1	2008-09 (December 2011)	0.22	1.10	0.15
35.	DC Sec 1 Varanasi	1	2008-09 (March 2012)	0.17	0.87	0.11
	Total	**41**		**123.67**	**618.39**	**82.18**

APPENDIX-IV

Cases detected by the AAs but action not taken

(Reference Para No. 2.21.2)

(` in lakh)

Sl. No.	Name of unit	Number of dealer	Assessment year (Month and year of Assessment)	Falsely/ fraudulently claimed ITC	Penalty imposable	Amount of interest
1.	JC(CC) CT, Agra	1	2008-09 (May 2012)	2.10	10.50	1.42
2.	DC Sec-12 CT, Agra	1	2008-09 (March 2012)	6.04	30.20	4.08
		1	2007-08(VAT) (March 2012)	1.67	8.35	1.23
3.	DC Sec 2 CT, Etawah	1	2008-09 (March 2012)	4.58	22.90	3.09
4.	DC Sec 19 CT, Ghaziabad	1	2008-09 (March 2012)	0.14	0.72	0.09
5.	DC Sec 10 CT, Ghaziabad	1	2008-09 (March 2012)	0.46	2.29	0.31
		1	2008-09 (March 2012)	2.18	10.91	1.47
6.	DC Sec 7 CT, Ghaziabad	1	2008-09 (February 2012)	0.29	1.47	0.20
7.	DC Sec 5 CT, Ghaziabad	1	2010-11 (November 2011)	1.08	5.38	0.41
8.	AC Sec 11 CT, Ghaziabad	1	2008-09 (December 2011)	0.31	1.57	0.21
			2009-10 (December 2011	0.19	0.96	0.10
9.	AC Sec 4 CT, Ghaziabad	1	2008-09 (January 2012)	0.19	0.96	0.13
10.	DC Sec-29 CT , Kanpur	1	2008-09 (February 2012)	3.18	15.90	2.15
		1	2009-10 (December 2011)	3.89	19.45	2.04
11.	DC Sec 20 CT, Kanpur	1	2009-10 (June 2012)	0.12	0.58	0.06
12.	DC Sec 14 CT, Kanpur	1	2009-10 (January 2012)	0.38	1.90	0.20
13.	DC Sec 18 CT, Kanpur	1	2008-09 (March 2012)	0.50	2.50	0.34
		1	2008-09 (March 2012)	0.22	1.10	0.15
14.	DC Sec-1 CT, Kanpur	1	2008-09 (March 2012)	10.09	50.45	6.81
15.	DC Sec 2 CT, Kanshi Ram Nagar (Kasganj)	1	2008-09 (March 2012)	12.38	61.88	8.36
		1	2008-09 (March 2011)	0.60	3.00	0.41
16.	DC Sec 1 CT, Kasganj	1	2008-09 (March 2012)	0.55	2.73	0.37

Sl. No.	Name of unit	Number of dealer	Assessment year (Month and year of Assessment)	Falsely/ fraudulently claimed ITC	Penalty imposable	Amount of interest
17.	DC Sec 20 CT, Lucknow	1	2007-08 (01.01.08 to 31.03.08) (March 2011)	3.11	15.55	2.30
18.	DC Sec-11 CT, Lucknow	1	2008-09 (February 2012)	2.29	11.45	1.55
19.	DC Sec 3 CT, Lucknow	1	2009-10 (May 2011)	0.80	4.02	0.42
20.	AC Sec-13 CT, Lucknow	1	2008-09 (July 2011)	4.47	22.35	3.02
21.	DC Sec 2 CT, Maharajganj	1	2008-09 (October 2010)	0.82	4.08	0.55
22.	DC Sec 1 CT, Mathura	1	2008-09 (February 2012)	3.16	15.80	2.13
23.	DC Sec-12 CT, Meerut	1	2007-08 (VAT) (March 2011)	1.45	7.25	1.07
24.	DC Sec-7 CT, Muzaffanagar	1	2007-08 (VAT) (March 2012)	1.68	8.40	1.24
25.	DC Sec 8 CT,Noida	1	2008-09 (February 2012)	0.29	1.46	0.20
26.	DC Sec 3 CT,Pilibhit	1	2008-09 (March 2012)	2.33	11.65	1.57
27.	JC (CC) 2 CT,Varanasi	1	2008-09 (February 2012)	0.16	0.81	0.11
	Total	**32**		**71.70**	**358.52**	**47.79**

APPENDIX-V
Differential treatment of rounding off amount
(Reference Para No. 3.8.7.1)

(In `)

Strength	**25%**				**36%**							**42.80%**				
Capacity	**750ml**	**375ml**	**200ml**	**180ml**	**750ml**	**375ml**	**240ml**	**200ml**	**180ml**	**140ml**	**100ml**	**750ml**	**375ml**	**200ml**	**180ml**	
2007-08																
Number of bottles	1446876	9623944	8883500	195758796	6555702	30055174	9645203	19620840	731476478	N.S.	N.S.	28248	357024	N.S.	46245229	
Difference in **ORP & MRP**	3.94	1.88	0.72	0.15	8.96	2.39	2.65	1.45	1.22	__	__	9.83	2.83	__	1.63	
Amount in `	5700691	18093015	6396120	29363819	58739090	71831866	25559788	28450218	892401303	__	__	277678	1010378	__	75379723	**1213203689**
2008-09																
Number of bottles	1258008	8236808	15856165	186723658	6464940	24405816	8379042	64872795	728592755	40000	N.S.	N.S.	110232	2602008	46273796	
Difference in **ORP & MRP**	1.8	1.68	0.82	0.02	5.44	1.01	1.82	1.39	0.53	0.3	__	__	1.12	1.59	1.31	
Amount in `	2264414	13837837	13002055	3734473	35169274	24649874	15249856	90173185	386154160	12000	__	__	123460	4137193	60618673	**649126455**
2009-10																
Number of bottles	634596	894144	3786934	235262118	4707276	12602832	14939988	18650816	860137027	N.S.	9267350	N.S.	42984	60750	95565409	
Difference in **ORP & MRP**	0.95	0.7	0.18	0.54	3.1	0.78	1.08	1.09	0.45	__	0.36	__	1.09	0.86	0.84	
Amount in `	602866	625901	681648	127041544	14592556	9830209	16135187	20329389	387061662	__	3336246	__	46853	52245	80274944	**660611249**
2010-11																
Number of bottles	62868	35880	3793350	254266950	3978180	13413768	14219982	111554160	775238338	N.S.	5519190	N.S.	60000	N.S.	121050140	
Difference in **ORP & MRP**	2.7	0.57	0.38	0.11	3.64	0.55	1.55	0.63	0.54	__	0.64	__	1.95	__	1.01	
Amount in `	169744	20452	1441473	27969365	14480575	7377572	22040972	70279121	418628703	__	3532282	__	117000	__	122260641	**688317899**

Strength	**28%**				**36%**							**42.80%**				
Capacity	**750ml**	**375ml**	**200ml**	**100ml**	**750ml**	**375ml**	**240ml**	**200ml**	**180ml**	**140ml**	**100ml**	**750ml**	**375ml**	**200ml**	**180ml**	
2011-12																
Number of bottles	52320	69192	154689120	1030860	29427828	5087160	N.S.	903717960	N.S.	N.S.	4014630	54780	55200	13199400	95267480	
Difference in **ORP** & **MRP**	5.76	1.93	0.5	0.39	3.1	1.61	__	0.72	__	__	0.5	3.01	2.06	2.43	1.06	
Amount in `	301363	133541	77344560	402035	91226267	8190328	__	650676931	__	__	2007315	164888	113712	32074542	100983529	**963619010**
2012-13																
Number of bottles	N.S.	N.S.	193793364	N.S.	72300	360000	N.S.	633632490	N.S.	N.S.	252000	579984	1103064	330252210	23181470	
Difference in **ORP** & **MRP**	__	__	0.01	__	0.76	0.44	__	0.1	__	__	0.19	0.25	0.68	1.7	0.4	
Amount in `	__	__	1937934	__	54948	158400	__	63363249	__	__	47880	144996	750084	561428757	9272588	**637158835**
													GRAND TOTAL			**4812037138**
																or 481.20 crore

N.S.- Not sold
Based on the number of bottles of each capacity and strength sold by distilleries.

APPENDIX-VI

Undue advantage to the whole seller of country liquor

(Reference Para No. 3.8.7.2

(In `)

Strength	25%				36%							42.80%				
Capacity	750ml	375ml	200ml	180ml	750ml	375ml	240ml	200ml	180ml	140ml	100ml	750ml	375ml	200ml	180ml	
2007-08																
Number of bottles sold	1446876	9623944	8883500	195758796	6555702	30055174	9645203	19620840	731476478	N.S.	N.S.	28248	357024	N.S.	46245229	
Wastage @ 0.5% (in Rs)	0.30	0.16	0.09	0.08	0.41	0.22	0.14	0.12	0.11	__	__	0.48	0.25	__	0.13	
Wastage + 3% profit on wastage	0.309	0.1648	0.0927	0.0824	0.4223	0.2266	0.1442	0.1236	0.1133	__	__	0.4944	0.2575	__	0.1339	
Amount	447085	1586026	823500	16130525	2768473	6810502	1390838	2425136	82876285	__	__	13966	91934	__	6192236	**121556506**
2008-09																
Number of bottles sold	1258008	8236808	15856165	186723658	6464940	24405816	8379042	64872795	728592755	40000	N.S.	N.S.	110232	2602008	46273796	
Wastage @ 0.5% (in Rs)	0.33	0.18	0.10	0.09	0.46	0.24	0.16	0.13	0.12	0.10	__	__	0.28	0.16	0.14	
Wastage + 3% profit on wastage	0.3399	0.1854	0.103	0.0927	0.4738	0.2472	0.1648	0.1339	0.1236	0.103	__	__	0.2884	0.1648	0.1442	
Amount	427597	1527104	1633185	17309283	3063089	6033118	1380866	8686467	90054065	4120	__	__	31791	428811	6672681	**137252177**
2009-10																
Number of bottles sold	634596	894144	3786934	235262118	4707276	12602832	14939988	18650816	860137027	N.S.	9267350	N.S.	42984	60750	95565409	
Wastage @ 0.5% (in Rs)	0.36	0.19	0.11	0.10	0.50	0.26	0.17	0.14	0.13	__	0.08	__	0.30	0.17	0.15	
Wastage + 1% profit on wastage	0.3636	0.1919	0.1111	0.101	0.505	0.2626	0.1717	0.1414	0.1313	__	0.0808	__	0.303	0.1717	0.1515	
Amount	230739	171586	420728	23761474	2377174	3309504	2565196	2637225	112935992	__	748802	__	13024	10431	14478159	**163660035**
2010-11																
Number of bottles sold	62868	35880	3793350	254266950	3978180	13413768	14219982	111554160	775238338	N.S.	5519190	N.S.	60000	N.S.	121050140	
Wastage @ 0.5% (in Rs)	0.42	0.22	0.12	0.11	0.59	0.31	0.2	0.17	0.15	__	0.09	__	0.36	__	0.18	
Wastage + 1% profit on wastage	0.4242	0.2222	0.1212	0.1111	0.5959	0.3131	0.202	0.1717	0.1515	__	0.0909	__	0.3636	__	0.1818	
Amount	26669	7973	459754	28249058	2370597	4199851	2872436	19153849	117448608	__	501694	__	21816	__	22006915	**197319221**

Strength	25%				36%							42.80%				
Capacity	**750ml**	**375ml**	**200ml**	**180ml**	**750ml**	**375ml**	**240ml**	**200ml**	**180ml**	**140ml**	**100ml**	**750ml**	**375ml**	**200ml**	**180ml**	
2011-12																
Number of bottles sold	52320	69192	154689120	1030860	29427828	5087160	N.S.	903717960	N.S.	N.S.	4014630	54780	55200	13199400	95267480	
Wastage @ 0.5% (in Rs)	0.55	0.28	0.16	0.09	0.69	0.36	__	0.2	__	__	0.11	0.81	0.42	0.23	0.21	
Wastage + 1% profit on wastage	0.5555	0.2828	0.1616	0.0909	0.6969	0.3636	__	0.202	__	__	0.1111	0.8181	0.4242	0.2323	0.2121	
Amount	29064	19567	24997762	93705	20508253	1849691	__	182551028	__	__	446025	44816	23416	3066221	20206233	**253835781**
2012-13																
Number of bottles sold	N.S.	N.S.	193793364	N.S.	72300	360000	N.S.	633632490	N.S.	N.S.	252000	579984	1103064	330252210	23181470	
Wastage @ 0.5% (in Rs)	__	__	0.16	__	0.7	0.36	__	0.2	__	__	0.11	0.82	0.42	0.23	0.21	
Wastage + 1% profit on wastage	__	__	0.1616	__	0.707	0.3636	__	0.202	__	__	0.1111	0.8282	0.4242	0.2323	0.2121	
Amount	__	__	31317008	__	51116	130896	__	127993763	__	__	27997	480343	467920	76717588	4916790	**242103421**
											GRAND TOTAL					**1115727140 or ` 111.57 crore**

N.S. : Not sold

APPENDIX – VII

Enhancement of MGQ at lower base MGQ of country liquor

(Reference Para No. 3.8.9)

(In `)

Sl. No.	Name of units	Year	Settled MGQ of previous year	Actual lifting of previous year	Difference (Col. 5 - Col. 4)	Percentage of actual lifting of previous year on settled MGQ of previous year (Col. 6 x 100/Col. 4)	Enhan-cement perce-ntage of MGQ	Enhan-cement MGQ as per actual lifting in previous year	Actual fixed MGQ in the year	Difference (Col. 9 - Col. 10)	Rate of Basic License Fee	Basic License fee on short settlement (Col. 9 x Col. 11)
1	2	3	4	5	6	7	8	9	10	11	12	13
1	Allahabad	2008-09	5208691	5223474.96	14783.96	0.284	7	5589118.21	5168965	420153.21	15	6302298
		2009-10	5168965	5214285.34	45320.34	0.877	7	5579285.31	5275723	303562.31	20	6071246
2	Baghpat	2008-09	1277450	1335783	58333.00	4.566	7	1429287.81	1367250	62037.81	15	930567
		2009-10	1367250	1376466	9216.00	0.674	8	1486583.28	1476640	9943.28	20	198866
		2010-11	1476640	1478546	1906.00	0.129	3	1522902.38	1521260	1642.38	21	34490
3	Bareilly	2008-09	5750695	5791574	40879.00	0.711	7	6196984.18	6032254	164730.18	15	2470953
		2010-11	6540220	6544324	4104.00	0.063	3	6740653.72	6737880	2773.72	21	58248
		2011-12	6737880	6737915	35.00	0.001	1	6805294.15	6805280	14.15	21	297
4	Bijnore	2008-09	4231510	4294013.86	62503.86	1.477	7	4594594.83	4528520	66074.83	15	991122
		2009-10	4528520	4558828.28	30308.28	0.669	8	4923534.54	4891380	32154.54	20	643091
		2010-11	4891380	4898898	7518.00	0.154	3	5045864.94	5038820	7044.94	21	147944
		2011-12	5038820	5038886.53	66.53	0.001	1	5089275.40	5089270	5.40	21	113
5	Badaun	2008-09	3530640	3531116	476.00	0.013	7	3778294.12	3683250.00	95044.12	15	1425662
		2010-11	3977910	3979493	1583.00	0.040	3	4098877.79	4098490.00	387.79	21	8144
6	Ghaziabad	2008-09	9425750	9754330.54	328580.54	3.486	7	10437133.68	10086430	350703.68	15	5260555
		2009-10	10086430	10093097.6	6667.64	0.066	8	10900545.45	10894020	6525.45	20	130509
		2010-11	10894020	10896255.3	2235.30	0.021	3	11223142.96	11221440	1702.96	21	35762
7	Ghazipur	2008-09	3111595	3135419	23824.00	0.766	7	3354898.33	3296611	58287.33	15	874310
		2010-11	3522394	3569979	47585.00	1.351	3	3677078.37	3642290	34788.37	21	730556
8	Gorakhpur	2008-09	3731951	3981643	249692.00	6.691	7	4260358.01	3981643	278715.01	15	4180725
		2009-10	3981643	4165144	183501.00	4.609	7	4456704.08	4260576	196128.08	20	3922562
		2010-11	4260576	4319140	58563.56	1.375	3	4448713.75	4386589	62124.75	21	1304620
9	Kausambi	2008-09	269652	271147.02	1495.02	0.554	7	290127.31	275894	14233.31	15	213500
		2010-11	300331.25	312509.64	12178.39	4.055	3	321884.93	315413.04	6471.89	21	135910

Sl. No.	Name of units	Year	Settled MGQ of previous year	Actual lifting of previous year	Difference (Col. 5 - Col. 4)	Percentage of actual lifting of previous year on settled MGQ of previous year (Col. 6 x 100/Col. 4)	Enhan-cement perce-ntage of MGQ	Enhan-cement MGQ as per actual lifting in previous year	Actual fixed MGQ in the year	Difference (Col. 9 - Col. 10)	Rate of Basic License Fee	Basic License fee on short settlement (Col. 9 x Col. 11)
1	2	3	4	5	6	7	8	9	10	11	12	13
10	Meerut	2008-09	6440153	6548269	108116.00	1.679	7	7006647.83	6816220	190427.83	15	2856417
		2009-10	6816220	6819100	2880.00	0.042	8	7364628.00	7361620	3008.00	20	60160
		2010-11	7361620	7368146	6526.00	0.089	3	7589190.38	7582970	6220.38	21	130628
		2011-12	7582970	7583116	146.00	0.002	1	7658947.16	7658870	77.16	21	1620
11	Moradabad	2008-09	5610600	5615288.75	4688.75	0.084	7	6008358.96	6004200	4158.96	15	62384
		2010-11	6484620	6490521.95	5901.95	0.091	3	6685237.61	6679700	5537.61	21	116290
12	Muzaffar Nagar	2008-09	4043020	4063380.77	20360.77	0.504	7	4347817.42	4326950	20867.42	15	313011
		2010-11	4673117	4673889.5	772.50	0.017	3	4814106.19	4813940	166.19	21	3490
13	Rampur	2008-09	1638020	1698025	60005.00	3.663	7	1816886.75	1771986	44900.75	15	673511
		2009-10	1771986	1806728	34742.00	1.961	8	1951266.24	1921110	30156.24	20	603125
		2010-11	1921110	1939185	18075.00	0.941	3	1997360.55	1979330	18030.55	21	378642
Total					**1453575.39**					**2498800.57**		**41271327 or ` 4.13 crore**

APPENDIX – VIII

Loss of revenue due to low recovery of alcohol from molasses

(Reference Para No. 3.8.10)

(In `)

Sl. No.	Name of units	Period	Number of batches	Molasses Consumed (IN QTL.)	Actual Production (AL)	Production as per norms (col.5 x 22.5 x 94%) (AL)	Short Production (AL)	Range of short production percentage	Potable Alcohol produced in the distillery as percentage of total alcohol produced (in AL)		Duty involved on potable Alcohol at the prevailing rate
									Percentage	Quantity	
1	Wave Distillery, Aligarh	2009-10	12	409260	8116044.7	8655849	539804.3	1.64 - 10.88	100	539804.30	227020500
		2010-11	39	1175710	22532672.8	24866266.5	2333593.7	3.29 - 19.74	100	2333593.70	981417911
		2011-12	35	1045400	20999845	22110210	1110365	0.39 - 6.20	100	1110365.00	518862150
		2012-13	18	389120	7972507.74	8229888	257380.26	0.79 - 6.33	100	257380.26	138311822
2	Kesar Enterprises Ltd., Bahedi, Bareilly	2007-08	14	277890	5486871.3	5877373.5	390502.2	1.43 - 8.73	27.53	107505.26	7841512
		2008-09	12	195180	3922571.3	4128057	205485.7	0.32 - 12.24	37.89	77858.53	30925118
		2010-11	8	120690	2470861.02	2552593.5	81732.48	0.73 - 5.08	44.44	36321.91	15275571
		2011-12	7	102690	2076073.7	2171893.5	95819.8	0.02 - 15.82	44.16	42314.02	19772908
		2012-13	14	181230	3745489.3	3833014.5	87525.2	0.02 - 6.59	53.82	47106.06	25314006
3	Superior Distillery, Bareilly	2007-08	34	394522	7688509	8344140.3	655631.3	0.48 - 15.64	26.47	173545.61	19227203
		2008-09	15	159047	3119532.1	3363844.05	244311.95	0.82 - 16.80	60.09	146807.05	58311212
		2009-10	12	85622	1661756.4	1810905.3	149148.9	4.57 - 14.21	96.25	143555.82	60373941
		2010-11	13	70561	1351030.7	1492365.15	141334.45	2.42 - 21.58	98.17	138748.03	58351975
		2011-12	23	105512	2117575	2231578.8	114003.8	0.32 - 14.89	76.53	87247.11	40769677
4	Modi Distillery, Modinagar, Ghaziabad	2011-12	13	76356	1580772.99	1614929.4	34156.41	0.39 - 4.21	52.43	17908.21	8368320
		2012-13	11	66801	1384100.9	1412841.15	28740.25	0.07 - 5.79	58.72	16876.27	9069026
5	Mohan Meakin Distillery, Ghaziabad	2011-12	1	2385	41271.1	50442.75	9171.65	0.07 - 5.79	100	9171.65	4285818
		2012-13	3	4890	82271.5	103423.5	21152	16.61 - 25.26	100	21152.00	11366729
6	Simbholi Distillery, Simbholi, Ghaziabad	2007-08	2	41070	841439.4	868630.5	27191.1	0.26 - 4.27	29.54	8032.25	448056
		2008-09	1	13345	260091.4	282246.75	22155.35	7.85	46.17	10229.13	4062970
		2009-10	1	13700	287899.8	289755	1855.2	0.64	41.32	766.57	322389
		2011-12	5	106340	2210037.6	2249091	39053.4	0.24 - 3.76	28.09	10970.10	5126215
7	Lords Distillery, Nandganj, Ghazipur	2007-08	28	260477	5237890.27	5509088.55	271198.28	0.29 - 10.71	85.92	233013.56	45633604
		2008-09	29	279305	5563525.39	5907300.75	343775.36	0.09 - 10.08	90.77	312044.89	123943065

Sl. No.	Name of units	Period	Number of batches	Molasses Consumed (IN QTL.)	Actual Production (AL)	Production as per norms (col.5 x 22.5 x 94%) (AL)	Short Production (AL)	Range of short production percentage	Potable Alcohol produced in the distillery as percentage of total alcohol produced (in AL)		Duty involved on potable Alcohol at the prevailing rate
									Percentage	Quantity	
		2009-10	34	221615	4171469.67	4687157.25	515687.58	1.77 - 14.86	99.74	514346.79	216314072
		2010-11	43	231725	4408931.54	4900983.75	492052.21	1.96 - 14.47	99.93	491707.77	206792989
		2011-12	30	117214	2184059.38	2479076.1	295016.72	5.59 - 17.49	100	295016.72	137858280
		2012-13	34	172997	3300540.09	3658886.55	358346.46	0.79 - 13.44	99.56	356769.74	191722054
8	IGL Distillery, Gorakhpur	2007-08	5	336939	7082538.1	7126259.85	43721.75	0.01 - 1.29	1.03	450.33	142218
		2008-09	7	341947	6923440.4	7232179.05	308738.65	0.07 - 7.84	6.98	21549.96	8559563
		2009-10	8	354873	6957713.2	7505563.95	547850.75	0.44 - 10.59	4.64	25420.27	10690770
		2010-11	24	1166125	23910853.2	24663543.75	752690.55	0.42 - 6.78	17.14	129011.16	54257030
		2011-12	34	1493097	30495199.2	31579001.55	1083802.35	0.05 - 14.26	16.4	177743.59	83057750
		2012-13	30	1314404	26395859.1	27799644.6	1403785.5	0.003 - 14.62	21.94	307990.54	165508934
9	Saraya Distillery, Saradar nagar, Gorakhpur	2007-08	19	600625	12331675.2	12703218.75	371543.55	0.54 - 5.64	34.84	129445.77	22762155
		2008-09	12	276728	5630913.1	5852797.2	221884.1	0.74 - 10.78	51.11	113404.96	45044028
		2009-10	33	490256	9717955.6	10368914.4	650958.8	0.25 - 16.37	65.09	423709.08	178195409
		2010-11	46	633144	12300802.4	13390995.6	1090193.2	0.60 - 15.30	20.25	220764.12	92844725
		2011-12	44	640512	12653945.3	13546828.8	892883.5	0.13 - 15.23	54.86	489835.89	228895275
		2012-13	52	1013496	19828332.7	21435440.4	1607107.7	0.96 - 17.04	44.73	718859.27	386302881
10	Palliya Distillery, Lakhimpur Kheri	2009-10	7	133940	2682372.8	2832831	150458.2	0.24 - 8.25	92.03	138466.68	58233651
		2010-11	26	480540	9570995.1	10163421	592425.9	0.10 - 14.69	80.07	474355.42	199495269
		2011-12	12	175700	3481450.9	3716055	234604.1	0.12 - 18.17	87.24	204668.62	95639541
		2012-13	2	41000	850244	867150	16906	1.80 - 2.14	76.35	12907.73	6936398
11	Daurala Distillery, Meerut	2007-08	15	281940	5613111.6	5963031	349919.4	1.07 - 8.86	72.67	254286.43	26644490
		2008-09	8	171241	3529664.9	3621747.15	92082.25	0.03 - 6.21	51.38	47311.86	18792094
		2009-10	8	68598	1399885.2	1450847.7	50962.5	0.14 - 7.93	52.73	26872.53	11301530
		2010-11	10	194916	3902044.7	4122473.4	220428.7	0.51 - 10.28	67.94	149759.26	62982866
		2011-12	10	132423	2691518.6	2800746.45	109227.85	0.69 - 5.11	69.57	75989.82	35509259
12	NICL Distillery, Raja ka sahaspur, Moradabad	2007-08	20	313614	6110683.9	6632936.1	522252.2	2.42 - 12.93	58.32	304577.48	9420088
		2008-09	11	159369	3216637.9	3370654.35	154016.45	0.40 - 9.68	98.58	151829.42	60306077
		2009-10	4	31332	629009.8	662671.8	33662	2.52 - 7.03	96.96	32638.68	13726546

Sl. No.	Name of units	Period	Number of batches	Molasses Consumed (IN QTL.)	Actual Production (AL)	Production as per norms (col.5 x 22.5 x 94%) (AL)	Short Production (AL)	Range of short production percentage	Potable Alcohol produced in the distillery as percentage of total alcohol produced (in AL)		Duty involved on potable Alcohol at the prevailing rate
									Percentage	Quantity	
		2010-11	2	21084	433131.2	445926.6	12795.4	1.33 - 5.58	92.03	11775.61	4952358
		2011-12	13	157416	3172460.7	3329348.4	156887.7	0.20 - 8.04	54.34	85252.78	39837746
13	Shamli Distillery, Shamli, Muzaffarnagar	2007-08	4	23246	481073.2	491652.9	10579.7	1.75 - 2.74	17.7	1872.61	222249
		2008-09	19	121362	2543416	2566806.3	23390.3	0.15 - 2.78	30.68	7176.14	2850338
		2009-10	6	37633	792783.8	795937.95	3154.15	0.09 - 2.08	16.19	510.66	214762
14	Sir Shadilal Distillery, Mansoorpur, Muzaffarnagar	2007-08	12	178628	3643616	3777982.2	134366.2	0.06 - 13.21	71	95400.00	5053491
		2008-09	22	353973	7203079	7486528.95	283449.95	0.84 - 7.93	73.22	207542.05	82434928
		2009-10	13	166447	3330532	3520354.05	189822.05	2.72 - 9.32	87.31	165733.63	69701060
		2010-11	26	406708	8313605	8601874.2	288269.2	0.10 - 6.95	66.51	191727.84	80633206
		2011-12	16	265244	5363270	5609910.6	246640.6	2.69 - 7.57	51.83	127833.82	59735431
		2012-13	5	87163	1762231	1843497.45	81266.45	2.47 - 8.43	53.56	43526.31	23390307
15	Rampur Distillery, Rampur	2009-10	13	620990	12694610	13133938.5	439328.5	0.21 - 6.49	55.11	242113.94	101823618
		2010-11	20	1153385	23267575.4	24394092.75	1126517.35	0.97 - 8.37	42	473137.29	198982971
		2011-12	30	1615926	31590075.7	34176834.9	2586759.2	0.71 - 27.86	36.19	936148.15	437452409
16	Cooperative Distillery, Tapari, Saharanpur	2009-10 & 2011-12	27	76182	1508783.8	1611249.3	102465.5	18.18	100	102465.50	44553603
17	Shakumbhari Distillery, Saharanpur	2007-08	12	139532	2662779.3	2951101.8	288322.5	0.52 - 21.28	1.04	2998.55	143931
		2008-09	6	111380	2268022	2355687	87665	2.79 - 5.42	7.07	6197.92	2461789
18	Rosa Distillery, Shahjehanpur	2009-10 & 2010-11	41	391250	8141877.4	8274937.5	133060.1	0.02 - 6.07	100	133060.10	55959855
19	Unnao Distillery, Unnao	2009-10 to 2011-12	78	743440	13597695.1	15723756	2126060.9	4.27 -23.69	100	2126060.90	922584598
		21012-13	18	140275	2613979.2	2966816.25	352837.05	0.80-19.13	100	352837.05	189608695
	TOTAL		**1321**	**23978677**	**478107083.8**	**507149018.6**	**29041935**			**17485378.03**	**7364934982 or ` 736.49 crore**

APPENDIX –IX

Non/short levy of licence fee of wholesale supply of beer

(Reference Para No. 3.8.11.1)

(` in lakh)

Sl. No.	Name of district	2011-12						2012-13						Total loss of Revenue during 2011-12 & 2012-13
		Number of bottles of FL sales during 2010-11	Number of bottles of Beer sales during 2010-11	Total Number of bottles of FL & Beer sale during 2010-11	Licence fee due (` in lakh)	Realised licence fee (` in lakh)	Loss of Revenue (` in lakh)	Number of bottles of FL sales during 2011-12	Number of bottles of Beer sales during 2011-12	Total Number of bottles of FL & Beer sale during 2011-12	Licence fee due (` in lakh)	Realised licence fee (` in lakh)	Loss of Revenue (` in lakh)	
1	Baghpat	1300945.00	1017024.00	2317969.00	20	0	20	1415316.00	1324346.00	2739662.00	30	0	30	50
2	Bareilly	2525284.00	2330309.00	4855593.00	40	20	20	3012547.00	3256460.00	6269007.00	40	30	10	30
3	Bijnore	2764043.68	2081061.23	4845104.91	40	20	20	2875884.54	2538360.24	5414244.78	40	30	10	30
4	Budaun	1151472.04	473241.31	1624713.35	20	10	10	1395444.00	716647.83	2112091.83	20	10	10	20
5	Etawa	N. A.	N. A.	N. A.	0	0	0	774994.00	755869.00	1530863.00	20	10	10	10
6	Faizabad	N. A.	N. A.	N. A.	0	0	0	902758.00	765754.00	1668512.00	20	10	10	10
7	Fatehpur	796612.08	719603.42	1516215.50	20	5	15	1039267.12	999480.92	2038748.04	20	5	15	30
8	Firozabad	1966880.00	2217763.00	4184643.00	40	20	20	2353812.00	3128127.00	5481939.00	40	20	20	40
9	Ghazipur	682429.00	704044.00	1386473.00	10	5	5	795421.00	930857.00	1726278.00	20	10	10	15
10	Gorakhpur	2985172.44	4971088.35	7956260.79	40	20	20	3179382.00	6003998.00	9183380.00	40	20	20	40
11	Jaunpur	1160767.00	1362123.00	2522890.00	30	10	20	1236702.00	1519515.00	2756217.00	30	10	20	40
12	Kaushambi	227163.71	160678.84	387842.55	5	0	5	277187.48	218176.48	495363.96	5	0	5	10
13	Lakhimpur Kheri	*Commented upon in Report of The Comptroller and Auditor General of India for the year ended 31 March 2012*						1249256.00	1151657.00	2400913.00	20	0	20	20
14	Mainpuri	*834641.00*	*957382.00*	1792023.00	20	*10*	10	922257.00	1102018.00	2024275.00	20	10	10	20
15	Moradabad	2265461.12	1861705.45	4127166.57	40	20	20	2601890.72	2231274.74	4833165.46	40	20	20	40
16	Muzaffarnagar	2684136.76	2624817.37	5308954.13	40	30	10	2907679.64	3416026.11	6323705.75	40	30	10	20
17	Rampur	550301.00	530261.00	1080562.00	10	5	5	620797.00	679461.00	1300258.00	10	5	5	10
18	Saharanpur	2675974.00	1989442.00	4665416.00	40	30	10	2876561.00	2596471.00	5473032.00	40	30	10	20
19	Shahjehanpur	1061073.50	608052.09	1669125.59	20	10	10	1168220.90	765782.16	1934003.06	20	10	10	20
20	Unnao	2094571.00	2354322.00	4448893.00	40	10	30	1996819.00	2632055.00	4628874.00	40	10	30	60
	TOTAL				**475**	**225**	**250**				**555**	**270**	**285**	**535 or ` 5.35 crore**

APPENDIX – X

Short levy of licence fee of retail licence shops of beer

(Reference Para No. 3.8.11.2)

(In `)

Sl. No.	Name of Units	2009-10			2010-11			2011-12			Total short levy of licence fee for 2009-10 to 2011-12
		Licence fee leviable on actual sale of 12 months from February 2008 to January 2009	Licence fee assessed and collected	Short levy of licence fee	Licence fee leviable on actual sale of 12 months from February 2009 to January 2010	Licence fee assessed and collected	Short levy of licence fee	Licence fee leviable on actual sale of 12 months from March 2010 to February 2011	Licence fee assessed and collected	Short levy of licence fee	
1	DEO, Aligarh	945668	916000	29668	354900	326200	28700	13138416	12766000	372416	430784
2	DEO, Allahabad	837612	723720	113892	3041395	2939800	101595	7411180	7119300	291880	507367
3	DEO, Budaun			0	551630	516900	34730	984834	891900	92934	127664
4	DEO, Bijnore	5478954	3582500	1896454	2424862	2264200	160662	6728419	6188400	540019	2597135
5	DEO, Firozabad				1041455	990600	50855	3124573	3023700	100873	151728
6	DEO, GB Nagar			0	1675937	1608300	67637	7768496	7529600	238896	306533
7	DEO, Ghazipur			0	278990	257500	21490	1439939	1412900	27039	48529
8	DEO, Gorakhpur			0	976175	950100	26075	8240268	7714000	526268	552343
9	DEO, Jaunpur			0	1099714	1044100	55614	5603015	4700400	902615	958229
10	DEO, Kanpur			0	3212160	3124300	87860	9737166	9599100	138066	225926
11	DEO, Kaushambi	298406	285175	13231	0	0	0	0	0	0	13231
12	DEO, Lakhimpur Kheri			0				3559738	3361200	198538	198538
13	DEO, Lucknow			0	3362433	3248121	114312	12499691	11825400	674291	788603
14	DEO, Meerut			0			0	19310757	18569600	741157	741157
15	DEO, Moradabad	147430	141500	5930	534752	520900	13852	971164	941900	29264	49046
16	DEO, Muzaffarnagar	2514306	2329700	184606	2435108	2329700	105408	4721487	4533700	187787	477801
17	DEO, Rampur	79568	76200	3368	152560	119500	33060	254526	228600	25926	62354
18	DEO, Shahjehanpur			0			0	861978	830600	31378	31378
19	DEO, Unnao			0			0	1514198	1448700	65498	65498
20	DEO, Varanasi			0			0	9147882	8956400	191482	191482
	TOTAL	**10301944**	**8054795**	**2247149**	**21142071**	**20240221**	**901850**	**117017727**	**111641400**	**5376327**	**8525326** ***or `0.85 crore***

APPENDIX – XI

Short levy of licence fee of retail shops of foreign liquor

(Reference Para No. 3.8.11.3)

(In `)

Sl. No.	Name of Units	Period	Number of Shops	Actual sale of 12 months from March 2011 to February 2012 (in bottles)	Rate of licence fee per bottles	Licence fee leviable on actual sale of 12 months	Licence fee levied	Short levy of licence fee
1	DEO, Aligarh	2012-13	82	2672109	32	85507488	82311000	3196488
2	DEO, Allahabad	2012-13	93	2007704	32	64246528	62372356	1874172
3	DEO, Baghpat	2012-13	19	805642	32	25780544	25281000	499544
4	DEO, Bareilly	2012-13	12	382126	32	12228032	12086600	141432
5	DEO, Bijnore	2012-13	52	1676961	32	53662752	49686900	3975852
6	DEO, Budaun	2012-13	15	164488	32	5263616	5018900	244716
7	DEO, Firozabad	2012-13	63	1480577	32	47378464	45519882	1858582
8	DEO, GB Nagar	2012-13	15	432049	32	13825568	13351600	473968
9	DEO, Ghaziabad	2012-13	58	3371556	32	107889792	102470200	5419592
10	DEO, Ghazipur	2012-13	38	538792	32	17241344	16743100	498244
11	DEO, Gorakhpur	2012-13	43	1004380	32	32140160	30591300	1548860
12	DEO, Jaunpur	2012-13	65	839710	32	26870720	23721000	3149720
13	DEO, Kanpur	2012-13	84	3502647	32	112084704	109453050	2631654
14	DEO, Kaushambi	2012-13	34	218151	32	6980832	6447000	533832
15	DEO, Lakhimpur Kheri	2012-13	59	925320	32	29610240	27276900	2333340
16	DEO, Lucknow	2012-13	74	2109683	32	67509856	64592530	2917326
17	DEO, Meerut	2012-13	46	1953615	32	62515680	61534800	980880
18	DEO, Moradabad	2012-13	63	2437551	32	78001632	63802300	14199332
19	DEO, Muzaffarnagar	2012-13	2	83583	32	2674656	2657700	16956
20	DEO, Rampur	2012-13	2	4777	32	152864	144500	8364
21	DEO, Saharanpur	2012-13	41	1280053	32	40961696	38171100	2790596
22	DEO, Shahjahanpur	2012-13	9	152646	32	4884672	4812700	71972
23	DEO, Unnao	2012-13	39	433309	32	13865888	12692800	1173088
24	DEO, Varanasi	2012-13	73	1873714	32	59958848	58074100	1884748
	Total		**1081**	**30351143**		**971236576**	**918813318**	**52423258 or ` 5.24 crore**

APPENDIX-XII

Sale of beer without depositing the beer bar licence fees

(Reference Para No. 3.8.11.4)

(In `)

Name of Units	2007-08			2008-09			2009-10			2010-11			2011-12			2012-13			Grand Total
	No. of Licence for FL-6/6c/7	Due Licence fees per FL-7b	Total Licence fees not received	No. of Licence for FL-6/6c/7	Due Licence fees per FL-7b	Total Licence fees not received	No. of Licence for FL-6/6c/7	Due Licence fees per FL-7b	Total Licence fees not received	No. of Licence for FL-6/6c/7	Due Licence fees per FL-7b	Total Licence fees not received	No. of Licence for FL-6/6c/7	Due Licence fees per FL-7b	Total Licence fees not received	No. of Licence for FL-6/6c/7	Due Licence fees per FL-7b	Total Licence fees not received	
DEO Aligarh	5	110000	550000	4	110000	440000	4	110000	440000	4	110000	440000	5	150000	750000	7	150000	1050000	3670000
DEO Allahabad	13	110000	1430000	13	110000	1430000	13	110000	1430000	14	110000	1540000	14	150000	2100000	15	150000	2250000	10180000
DEO Badaun	1	85000	85000	1	85000	85000	1	85000	85000	1	85000	85000	1	100000	100000	1	100000	100000	540000
DEO Bareilly	17	110000	1870000	18	110000	1980000	18	110000	1980000	18	110000	1980000	19	150000	2850000	19	150000	2850000	13510000
DEO Bijnore	5	85000	425000	5	85000	425000	5	85000	425000	5	85000	425000	5	100000	500000	5	100000	500000	2700000
DEO Firozabad	4	85000	340000	4	85000	340000	4	85000	340000	4	85000	340000	6	100000	600000	6	100000	600000	2560000
DEO G B Nagar	35	110000	3850000	42	110000	4620000	53	110000	5830000	58	110000	6380000	65	150000	9750000	61	150000	9150000	39580000
DEO Ghaziabad	10	110000	1100000	11	110000	1210000	12	110000	1320000	17	110000	1870000	23	150000	3450000	23	150000	3450000	12400000
DEO Gorakhpur	5	110000	550000	5	110000	550000	5	110000	550000	5	110000	550000	5	150000	750000	5	150000	750000	3700000
DEO Kanpur	16	110000	1760000	16	110000	1760000	19	110000	2090000	19	110000	2090000	19	150000	2850000	0	0	0	10550000
DEO Kheri	2	85000	170000	2	85000	170000	2	85000	170000	3	85000	255000	3	100000	300000	4	100000	400000	1465000
DEO Lucknow	19	110000	2090000	21	110000	2310000	23	110000	2530000	23	110000	2530000	29	150000	4350000	29	150000	4350000	18160000
DEO Meerut	12	110000	1320000	11	110000	1210000	11	110000	1210000	11	110000	1210000	12	150000	1800000	13	150000	1950000	8700000
DEO Moradabad	17	110000	1870000	17	110000	1870000	17	110000	1870000	17	110000	1870000	17	150000	2550000	17	150000	2550000	12580000
DEO Muzaffar nagar	2	110000	220000	2	110000	220000	2	110000	220000	2	110000	220000	2	150000	300000	2	150000	300000	1480000
DEO Rampur	1	85000	85000	1	85000	85000	1	85000	85000	1	85000	85000	2	100000	200000	2	100000	200000	740000
DEO Saharanpur	10	110000	1100000	9	110000	990000	9	110000	990000	11	110000	1210000	11	150000	1650000	11	150000	1650000	7590000
DEO Unnao	0	85000	0	0	85000	0	0	85000	0	0	85000	0	1	100000	100000	1	100000	100000	200000
DEO Varanasi	21	110000	2310000	22	110000	2420000	24	110000	2640000	24	110000	2640000	25	150000	3750000	26	150000	3900000	17660000
Total	**195**		**21125000**	**204**		**22115000**	**223**		**24205000**	**237**		**25720000**	**264**		**38700000**	**247**		**36100000**	**167965000 or ` 16.80 crore**

APPENDIX - XIII

Non forfeiture of security deposit due to over rating

(Reference Para No. 3.8.12)

(In `)

Sl. No.	Name of Units	Period	Number of cases	Number of repeat cases	Penalty imposed	Penalty range	Forfeiturable deposited security deposit
1.	DEO, Aligarh	2011-12	32	0	37150	300-2000	10744820
2.	DEO, Baghpat	2009-10 to 2011-12	168	25	546650	50-5000	39748531
3.	DEO, Bareilly	2009-10 to 2011-12	83	11	160200	200-5000	36596930
4.	DEO, Bijnore	2009-10 to 2010-11	218	55	118000	500-5000	53377140
5.	DEO, Budaun	2009-10 to 2011-12	104	19	241000	1000-5000	27263267
6.	DEO, Firozabad	2007-08 & 2011-12	3	0	2000	500-1000	866550
7.	DEO, GB Nagar	2009-10 to 2011-12	128	26	387500	200-5000	35798640
8.	DEO, Ghaziabad	2009-10 to 2011-12	19	1	95000	5000	12430173
9.	DEO, Jaunpur	2010-11 to 2011-12	34	0	96500	2000-5000	8622815
10.	DEO, Kanpur	2010-11 t0 2011-12	249	65	436200	100-2000	82779925
11.	DEO, Kheri	2009-10 to 2011-12	69	8	118500	1500-2000	7594056
12.	DEO, Meerut	2010-11 to 2011-12	73	7	365000	5000	36974713
13.	DEO, Moradabad	2010-11 to 2011-12	71	18	355000	5000	49255352
14.	DEO, Muzaffarnagar	2009-10 to 2011-12	78	7	372500	1500-5000	14284826
15.	DEO, Rampur	2009-10 to 2011-12	105	8	139600	250-5000	7412301
16.	DEO, Saharanpur	2009-10 to 2011-12	66	8	202000	1000-5000	25916950
17.	DEO, Shahjahanpur	2009-10 to 2011-12	49	13	141400	200-5000	9647193
18.	DEO, Unnao	2009-10 to 2011-12	31	4	59800	500-3500	6740047
19.	DEO, Varanasi	2007-08, 2009-10, 2010-11 & 2011-12	30	2	84800	700-10000*	11326044
	TOTAL		**1610**	**277**	**3958800**	**50-10000**	**477380273 or ` 47.74 crore**

Note : ` 10,000 penalty imposed in a single case.

APPENDIX–XIV

Godown expenses

(Reference Para No. 3.8.15)

(In `)

Sl. No.	Name of unit	Year	Area of Godown (in Sq mtr)	Receipts			Expenses			Expenses in *per cent* against recipts	Difference
				Consumption of CL in BL (36% v/v)	Rate of godown expenses allowed per BL	Godown expenses received by whole sellers	Ware house rent paid to the deptt.	Salary of number of employees appointed	Total		
1.	Aligarh	2007-08	227.57	5212598.00	1.30	6776377	61359	2 to 4	61359	0.91	6715018
		2008-09	227.57	5134295.00	1.39	7196670	61359	2 to 4	61359	0.85	7135311
		2009-10	227.57	5576447.00	1.39	7751261	61359	2 to 4	61359	0.79	7689902
		2010-11	227.57	5722628.00	1.39	7954452	61359	2 to 4	61359	0.77	7893093
		2011-12	227.57	5800255.00	1.53	8874390	61359	4	61359	0.69	8813031
2.	Allahabad	2007-08	735.63	5223475.00	1.30	6790517	474924	2 to 4	474924	**6.99**	6315593
		2008-09	293.68	5214285.00	1.39	7247856	227590	2 to 4	227590	3.14	7020266
		2009-10	409.66	5348746.00	1.39	7434756	290040	2 to 4	290040	3.90	7144716
		2010-11	281.61	5516682.00	1.39	7668187	222060	2 to 4	222060	2.90	7446127
		2011-12	286.61	5586257.00	1.53	8546973	243936	2 to 4	243936	2.85	8303037
3.	Bareilly	2007-08	43	5791574.00	1.30	7529046	162300	9	162300	2.16	7366746
		2008-09	43	*6052284.00*	*1.39*	*8412674*	*82560*	*2*	*82560*	0.98	8330114
		2009-10	43	6544324.00	1.39	9096610	82560	2	82560	0.91	9014050
		2010-11	43	6737915.00	1.39	9365701	82560	2	82560	0.88	9283141
		2011-12	N. A.	6805320.00	1.53	10412139	165000	2	165000	1.58	10247139
4.	Jaunpur	2007-08	163.33	3744326.56	1.30	4867625	52728	2 to 4	52728	1.08	4814897
		2008-09	82.29	3936165.55	1.39	5471270	37645	2 to 4	37645	0.69	5433625
		2009-10	163.33	4231079.31	1.39	5881200	52800	4	52800	0.90	5828400
		2010-11	163.33	4286404.36	1.39	5958102	52800	2	52800	0.89	5905302
		2011-12	163.33	4330988.18	1.53	6626412	52800	2	52800	0.80	6573612
5.	Kheri	2009-10	78.8	1706206.80	1.39	2371627	113472	3	113472	4.78	2258155
		2010-11	78.8	1763644.37	1.39	2451466	113472	2	113472	4.63	2337994
		2011-12	78.8	1780916.89	1.53	2724803	113472	2	113472	4.16	2611331
6.	Lucknow	2009-10	N. A.	12347556.59	1.39	17163104	825000	4	825000	4.81	16338104
		2010-11	N. A.	12690198.03	1.39	17639375	825000	4	825000	4.68	16814375
		2011-12	N. A.	13124903.48	1.53	20081102	990000	4	990000	4.93	19091102
7.	Rampur	2007-08	427	1698025.00	1.30	2207432	99240	2 to 4	99240	4.50	2108192
		2008-09	427	1807044.00	1.39	2511791	99240	4	99240	3.95	2412551
		2009-10	427	1939275.00	1.39	2695592	99240	4	99240	3.68	2596352
		2010-11	427	1979339.00	1.39	2751281	99240	4	99240	3.61	2652041
		2011-12	427	2014346.00	1.53	3081949	99240	4	99240	3.22	2982709
8.	Unnao	2007-08	75.79	2937913.16	1.30	3819287	15636	2 to 4	15636	0.41	3803651
		2008-09	75.79	3121805.23	1.39	4339309	15636	2 to 4	15636	0.36	4323673
		2009-10	75.79	3381885.90	1.39	4700821	13250	2 to 4	13250	0.28	4687571
		2010-11	75.79	3434529.08	1.39	4773995	15900	2 to 4	15900	0.33	4758095
		2011-12	75.79	3469871.00	1.53	5308903	15900	4	15900	0.30	5293003
9.	Varanasi	2007-08	598.29	6749957.21	1.30	8774944	402484	2 to 4	402484	4.59	8372460
		2008-09	158.92	6634313.83	1.39	9221696	123120	2 to 4	123120	1.34	9098576
		2009-10	286.71	6939283.99	1.39	9645605	197592	4	197592	2.05	9448013
		2010-11	286.71	7248434.11	1.39	10075323	222120	2	222120	2.20	9853203
		2011-12	286.71	7321129.56	1.53	11201328	222120	2	222120	1.98	10979208
			8420.34	**210886627.19**		**297402953**	**7309472**		**7309472**		**290093481**

Average Area :- 8254.26 / 41 = 223.0881 sq. m.

APPENDIX-XV

Non- imposition of penalty on the vehicles carrying excess load

(Reference to Para No. 4.13)

(In `)

Sl. No.	Name of the Office	Vehicle by which the excess load was carried	Mineral carried	Period during which the overloaded vehicles plied	Load carried by the vehicles plied (in tonne after conversion from m^3)	Load permitted to be carried as per RCs of vehicles (in tonne)	Load carried in excess of permissible limit (in tonne)	Penalty imposable on each vehicle	Number of vehicles	Amount of penalty imposable but not imposed/ realized
1.	ARTO Ambedkar Nagar	Tractor (4 wheel)	sand	12/2011, and 03/2012	6	[3]5.25	0.75	3000	40	120000
		Truck of 10 wheels	sand	03/2011 and 04/2011	30	19	11	13000	70	910000
2.	ARTO Auraiya	Tractor (4 wheel)	sand	03/2010, 05/2010 and 06/2010	6	5.25	0.75	3000	74	222000
		Truck of 6 wheels	sand	03/2010 and 06/2010	24	13	11	13000	100	1300000
3.	ARTO Badayun	Tractor (4 wheel)	sand	06/2011	6	5.25	0.75	3000	22	66000
		Truck of 10 wheels	sand	10/2010, 12/2010, and 06/2011	24	19	5	7000	200	1400000
4.	ARTO Bagpat	Tractor	sand	12/2011, 01/2012, 03/2012, 04/2012	10	5.25	4.75	7000	149	1043000
		Truck of 6 wheels	sand	01/2012 and 04/2012	20	13	7	9000	109	981000
		Truck of 10 wheels	sand	01/2012, 03/2012 and 04/2012	40	19	21	23000	118	2714000
5.	ARTO Bahraich	Tractor	sand	11/2010, 12/2010, 02/2011,	6	5.25	0.75	3000	12	36000
6.	ARTO Balrampur	Tractor	sand	12/2011, 01/2012, 08/2012, and 10/2012	6	5.25	0.75	3000	81	243000
		Truck of 6 wheels	sand	06/ 2012 and 10/2012	20	13	7	9000	109	981000
		Truck of 10 wheels	sand	09/2012 and 10/2012	30	19	11	13000	120	1560000
7.	RTO Banda	Tractor	sand	12/2011, 01/2012 and 02/2012	8	5.25	2.75	5000	110	550000
		Tractor	Boulder/Gitti	02/2011 to 12/2011 and 10/2012	6.8	5.25	1.55	4000	37	148000
		Truck of 6 wheels	sand	02/2011 and 05/2011	28	13	15	17000	108	1836000
		Truck of 10 wheels	sand	04/2011	24	19	5	7000	100	700000
8.	ARTO Barabanki	Tractor	sand	08/2012, 09/2012 and 10/2012	6	5.25	0.75	3000	55	165000
		Truck of 6 wheels	sand	09/2012 and 01/2013	24	13	11	13000	95	1235000

[3] Load permitted to be carried as per RCs has been taken as Maximum permissible Laden Weight = Gross Vehicle Weight (GVW) *minus* Un Laden Weight (ULW)

Sl. No.	Name of the Office	Vehicle by which the excess load was carried	Mineral carried	Period during which the overloaded vehicles plied	Load carried by the vehicles plied (in tonne after conversion from m^3)	Load permitted to be carried as per RCs of vehicles (in tonne)	Load carried in excess of permissible limit (in tonne)	Penalty imposable on each vehicle	Number of vehicles	Amount of penalty imposable but not imposed/ realized
9.	ARTO Bulandshahar	Truck of 10 wheels	ordinary earth	02/2011	20.41	[4]19	1.41	4000	47	188000
10.	ARTO Farukhabad	Tractor	sand	02/2011	6	5.25	0.75	3000	100	300000
11.	ARTO G.B.Nagar	Truck of 6 wheels	sand	03/2012, 04/2012 and 05/2012	24	13	11	13000	98	1274000
12.	RTO Gorakhpur	Tractor	sand	03/2012, 04/2012 05/2012 and 07/2012	6	5.25	0.75	3000	104	312000
13.	ARTO Kanshiram nagar	Tractor	sand	03/2010, 04/2010, 08/2010, 09/2010 and 10/2011	6	5.25	0.75	3000	130	390000
14.	ARTO Kushinagar	Tractor	sand	06/2012 and 07/2012	6	5.25	0.75	3000	110	330000
		Truck of 6 wheels	sand	10/2012	14	13	1	3000	50	150000
15.	ARTO Lalitpur	Tractor	Boulder/Gitti	09/2011, 10/2011. 11/2011	6	5.25	0.75	3000	50	150000
		Truck of 6 wheels	sand	08/2012, 09/2012, 10/2012. 11/2012, 12/2012 and 01/2013	20	13	7	9000	200	1800000
		Truck of 6 wheels	Boulder/Gitti	10/2012. 11/2012, and 12/2012	16.62	13	3.62	6000	100	600000
16.	ARTO Maharaj Ganj	Tractor	sand	02/2011, 03/2011, 04/2011, 05/2011, and 06/2011	6	5.25	0.75	3000	105	315000
		Truck of 6 wheels	sand	03/2010, 04/2010, 05/2010, 06/2010 07/2011 and 08/2010	20	13	7	9000	133	1197000
17.	ARTO Mainpuri	Tractor	sand	09/2011 and 10/2011	6	5.25	0.75	3000	85	255000
18.	ARTO Mau	Tractor	earth/ sand	08/2009, 11/2009, 03/2010, 04/2010 07/2010, and 09/2010	6	5.25	0.75	3000	66	198000
		Truck of 6 wheels	sand	04/2010	24	13	11	13000	76	988000
19.	ARTO Pratapgarh	Truck of 6 wheels	sand	04/2012	18	13	5	7000	48	336000
20.	RTO Saharanpur	Truck of 6 wheels	sand	09/2012	20	13	7	9000	100	900000
		Truck of 10 wheels	sand	09/2012	40	19	21	23000	75	1725000
21.	ARTO Sant Ravidas Nagar	Truck of 6 wheels	sand	02/2009 to 07/2009, and 09/2009 to 12/2009	18	13	5	7000	162	1134000
22.	ARTO Sitapur	Tractor	sand	10/2011	8	5.25	2.75	5000	18	90000

[4] Load permitted to be carried as per RCs has been taken as Maximum permissible Laden Weight = Gross Vehicle Weight (GVW) *minus* Un Laden Weight (ULW).

Sl. No.	Name of the Office	Vehicle by which the excess load was carried	Mineral carried	Period during which the overloaded vehicles plied	Load carried by the vehicles plied (in tonne after conversion from m^3)	Load permitted to be carried as per RCs of vehicles (in tonne)	Load carried in excess of permissible limit (in tonne)	Penalty imposable on each vehicle	Number of vehicles	Amount of penalty imposable but not imposed/ realized
		Truck of 6 wheels	sand	09/2009, 10/2009 and 09/2011	24	[5]13	11	13000	12	156000
		Truck of 10 wheels	sand	09/2011	24	19	5	7000	8	56000
23.	ARTO Unnao	Truck of 6 wheels	ordinary earth	05/2012 and 06/2012	15.3	13	2.3	5000	50	250000
		Truck of 10 wheels	ordinary earth	07/2011 and 12/2011	20.4	19	1.4	4000	4	16000
		Truck of 10 wheels	ordinary earth	07/2011 and 12/2011	22.12	19	3.12	6000	34	204000
		Truck of 10 wheels	ordinary earth	07/2011 and 12/2011	23.8	19	4.8	7000	32	224000
Total									**3706**	**29748000**

[5] Load permitted to be carried as per RCs has been taken as Maximum permissible Laden Weight = Gross Vehicle Weight (GVW) *minus* Un Laden Weight (ULW).

APPENDIX XVI
Non realisation of royalty and interest from brick kiln owners
(Reference to Para No. *6.5*)

(` In lakh)

Sl. No.	Name of District	Total no. of Brick kilns	2009-10			2010-11			2011-12			2012-13			Total Royalty	Total Interest	Total Amount
			No. of brick kilns	Royalty	Interest @ 18% p.a from 30.06.2009 to 31.03.13 (45 Months)	No. of brick kilns	Royalty	Interest @ 24% p.a from 15.01.2011 to 31.03.13 (26.5 Months)	No. of brick kilns	Royalty	Interest @ 24% p.a from 15.12.2011 to 31.03.13 (15.5 Months)	No. of brick kilns	Royalty	Interest @ 24% p.a from 15.12.2012 to 31.03.13 (3.5 Months)			
1.	Aligarh	354				177	94.44	50.05	177	94.44	29.27				188.88	79.32	268.2
2.	Allahabad	41							41	15.52	4.81				15.52	4.81	20.33
3.	Auraiya	89				89	48	25.44							48	25.44	73.44
4.	Azamgarh	13							13	3.43	1.06				3.43	1.06	4.49
5.	Badayun	14							14	6.82	2.11				6.82	2.11	8.93
6.	Bagpat	48	4	2.07	1.4				44	24.93	7.73				27	9.13	36.13
7.	Ballia	17							17	4.18	1.3				4.18	1.3	5.48
8.	Balrampur	7							7	1.92	0.59				1.92	0.59	2.51
9.	Barabanki	11							11	4.6	1.43				4.6	1.43	6.03
10.	Bulandshahar	57	10	5.13	3.46	21	10.66	5.65	26	13.25	4.11				29.04	13.22	42.26
11.	Chandauli	125							125	46.48	14.41				46.48	14.41	60.89
12.	Fatehpur	83							83	31.05	9.63				31.05	9.63	40.68
13.	GautamBudh Nagar	205	37	20.34	13.73	84	47.05	24.94	84	47.06	14.59				114.45	53.26	167.71
14.	Hathras	30							30	16.07	4.98				16.07	4.98	21.05
15.	Jalaun	4							4	1.48	0.46				1.48	0.46	1.94
16.	Kannauj	8							8	3.31	1.03				3.31	1.03	4.34
17.	Kanpur	2							2	1.03	0.32				1.03	0.32	1.35
18.	Maharaj ganj	150							150	33.66	10.43				33.66	10.43	44.09
19.	Mau	150							150	36.68	11.37				36.68	11.37	48.05
20.	Moradabad	145							145	75.32	23.35				75.32	23.35	98.67
21.	Pilibhit	19							19	9.64	2.99				9.64	2.99	12.63
22.	Saharanpur	65										65	49.56	3.47	49.56	3.47	53.03
Total		**1637**	**51**	**27.54**	**18.59**	**371**	**200.15**	**106.08**	**1150**	**470.87**	**145.97**	**65**	**49.56**	**3.47**	**748.12**	**274.11**	**1022.23**