

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

for the year ended 31 March 2014

**Government of Punjab
Report No. 4 of the year 2014**

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PREFACE

This Report for the year ended March 2014 has been prepared for submission to the Governor of Punjab under Article 151 of the Constitution of India.

The Report contains significant results of the performance audit and compliance audit of the Departments of the Government of Punjab under the Economic/General and Social Services including Departments of Finance, Excise, Revenue, Transport, Stamps & Registration, Forest, Mining and Lottery.

The instances mentioned in this Report are those which came to notice in the course of test audit done during the period 2013-14 as well as those which came to notice in earlier years, but could not be reported in previous Audit Reports; instances relating to the period subsequent to 2013-14 have also been included, wherever necessary.

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

Overview

Overview

This report contains one performance audit on levy and collection of motor vehicle taxes and 21 paragraphs relating to non/short levy of output taxes/central sales tax, refunds in VAT, non/short levy of stamp duty and registration fee, non/short levy of motor vehicle tax, non-realisation of receipts of minor mineral etc. involving ₹ 221.22 crore.

1. General

The total receipts of the State Government for the year 2013-14 were ₹ 35,103.54 crore as compared to ₹ 32,051.15 crore of the previous year. Out of this, the Government raised ₹ 27,270.69 crore, comprising tax revenue of ₹ 24,079.19 crore and non-tax revenue of ₹ 3,191.50 crore. The State Government received ₹ 4,431.47 crore as State's share of divisible Union taxes and ₹ 3,401.38 crore as Grants-in-aid from the Government of India.

(Paragraph 1.1.1)

Test check of records of 324 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Goods and Passengers, Forest Receipts and other Departmental offices conducted during the year 2013-14 showed under assessment/short levy/loss of revenue aggregating ₹ 477.04 crore in 61,882 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 0.73 crore involved in 168 cases which were pointed out in audit during 2013-14. The Departments collected ₹ 5.09 crore in 1,245 cases during 2013-14, pertaining to the audit findings of previous years.

(Paragraph 1.11.1)

2. Taxes/VAT on Sales, Trade etc.

In four cases, excess notional input tax credit of ₹ 22.42 lakh was allowed due to non/short reversal on account of goods purchased and sold as zero rated/inter state sale/export.

(Paragraph 2.3)

Excess allowance of ITC of ₹ 267.94 lakh was allowed in 16 cases due to non/short reversal of ITC on branch transfer, incorrect calculation, non-reversal on entry tax, short reversal of tax free and non/short debit of ITC etc.

(Paragraph 2.8)

49 dealers were issued provisional refunds of ₹ 3.24 crore even after the mandatory deadline i.e. close of that financial year. Out of these, 39 dealers used 8 two wheelers¹ in 767 transactions on which goods worth of ₹ 4.53 crore were shown to have been transported to dealers in States like Tamil Nadu, Assam, Maharashtra, Jharkhand etc. which seems to be unjustified and needs investigation.

(Paragraph 2.9.2)

Excess refund of ₹ 64.34 lakh was issued due to short reversal of ITC on account of tax free exports.

(Paragraph 2.9.3 (a))

In 50 refund cases of 25 dealers, full entry tax paid on inter-state purchases was refunded whereas it should be allowed only to the extent by which the amount exceeds four *per cent*, resulted in inadmissible refund of ₹ 1.09 crore.

(Paragraph 2.9.4)

In two cases of refunds for the period 2012-13 and 2013-14 the dealers had sold goods at a loss of ₹ 8.17 crore, whereas full ITC was allowed resulting in excess allowance of ITC of ₹ 49.43 lakh in contravention to the provision of the Act *ibid*.

(Paragraph 2.9.5 (b))

3. State Excise

Low yield of spirit from molasses in five distilleries resulted in short collection of excise duty of ₹ 1.93 crore for the period 2010-11 to 2012-13.

(Paragraph 3.3)

4. Stamp Duty

Stamp Duty and Registration Fee of ₹ 2.53 crore was short levied in 58 instruments due to misclassification of residential properties as agricultural land.

(Paragraph 4.3)

Eleven instruments of transfer of immovable properties within five kilometres of the outer limit of Municipality/Corporation were registered in 2012-13 without payment of additional stamp duty, resulted in non-levy of additional stamp duty of ₹ 1.20 crore.

(Paragraph 4.4)

¹ Only those two wheelers which have been used in more than 50 transactions.

There was irregular remission of Stamp Duty and Registration Fee of ₹ 71.99 lakh to charitable Institution without obtaining proper certificate from the District Collector.

(Paragraph 4.5)

Social Infrastructure Cess (SIC) amounting to ₹ 48.89 crore at the rate of one *per cent* of total consideration of ₹ 4,889.14 crore on 49,370 deeds executed between 6 February 2013 to 31 March 2013 was not levied on the instruments as was required.

(Paragraph 4.7)

There was non/short levy of stamp duty and registration fee of ₹ 1.03 crore on loans amounting to ₹ 26.01 crore for construction of building, business, running of educational institution, cash credit limit, rural godown etc. by treating the same as agricultural purposes.

(Paragraph 4.9.1)

5. Taxes on Vehicles, Goods and Passengers

Performance Audit on “**Levy and Collection of Motor Vehicle Tax**” showed the following:

Motor Vehicle Tax amounting ₹ 7.18 crore pertaining to mini buses, educational institution buses, goods vehicles and All India Tourist Buses/Maxi cabs was neither paid by the vehicle owners nor demanded by the concerned transport authorities.

(Paragraphs 5.3.7 (i-vi))

Short realisation of MVT of ₹ 17.64 lakh on account of plying buses of other States in excess of permitted distance against reciprocal agreement.

(Paragraph 5.3.9)

The transport authorities did not ascertain the actual number of vehicles sold by dealers against which trade certificates were issued and recover the correct amount of trade fee which resulted in non-realisation of revenue of ₹ 6.05 crore.

(Paragraph 5.3.12)

The internal control mechanism in the department was weak as evidenced from lack of reliable centralized database, improper maintenance of registers and weak internal audit.

(Paragraph 5.3.13)

In STC office, the stock registers of receipt books, challans books and daily cash register were not maintained properly and no physical verification was conducted in the last five years period.

(Paragraph 5.3.13.1)

6. Other Tax and Non Tax Receipts

12 cinema proprietors did not deposit the withheld entertainment tax of ₹ 1.75 crore for the period of 2003-04 to 2007-08 despite dismissal of their writ petition by the Hon'ble Court even after the lapse of more than one year of the decision of Hon'ble Court as well as issuance of directions (September 2013) by Commissioner, Excise and Taxation.

(Paragraph 6.6)

718 BKO's in four Mining Offices for the period 2008-09 to 2012-13 had deposited the royalty after a delay ranging between one and 2,185 days but interest amounting ₹ 1.02 crore was not levied.

(Paragraph 6.7.1)

Chapter-I

General

CHAPTER-I General

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Punjab, during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table 1.1.1:**

**Table 1.1.1
Trend of revenue receipts**

(₹ in crore)						
Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1.	Revenue raised by the State Government					
	Tax revenue	12,039.48	16,828.18	18,841.01	22,587.56	24,079.19
	Non-tax revenue	5,652.70	5,330.17	1,398.45	2,629.21	3,191.50
	Total	17,692.18	22,158.35	20,239.46	25,216.77	27,270.69
2.	Receipts from the Government of India					
	Share of net proceeds of divisible Union taxes and duties	2,144.10	3,050.87	3,554.31	4,058.81	4,431.47
	Grants-in-aid	2,320.30	2,399.25	2,440.64	2,775.57	3,401.38
	Total	4,464.40	5,450.12	5,994.95	6,834.38	7,832.85
3.	Total revenue receipts of the State Government (1 and 2)	22,156.58	27,608.47	26,234.41	32,051.15	35,103.54
4.	Percentage of 1 to 3	80	80	77	79	78

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 27,270.69 crore) was 78 *per cent* of the total revenue receipts. The balance 22 *per cent* of the receipts during 2013-14 was from the Government of India as share of net proceeds of divisible Union taxes and duties and Grants-in-aid.

1.1.2 The details of the tax revenue raised during the period from 2009-10 to 2013-14 are mentioned in **Table 1.1.2:**

Table 1.1.2
Details of Tax Revenue raised

(₹ in crore)													
Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage Increase (+) or decrease (-) of	
		BE ¹	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual in 2013-14 over 2012-13	Actual over BE for 2013-14
1.	VAT/ Sales tax/Central sales tax	8,320.00	7,577.49	9,600.00	10,016.91	11,800.00	11,171.67	14,213.00	13,217.93	17,760.00	14,846.70	(+) 12.32	(-) 16.40
2.	State excise	2,000.83	2,100.92	2,520.00	2,373.07	3,250.00	2,754.60	3,800.00	3,331.96	4,180.00	3,764.72	(+) 12.99	(-) 9.93
3.	Stamp duty and registration fees	2,200.00	1,550.94	2,395.00	2,318.46	2,900.00	3,079.13	3,375.00	2,920.49	3,450.00	2,499.50	(-) 14.41	(-) 27.55
4.	Taxes and duties on Electricity	900.03	230.13	980.00	1,422.90	1,400.00	928.28	1,540.00	2,035.30	1,694.00	1,710.46	(-) 15.96	(+) 0.97
5.	Others ²	641.53	580.00	813.00	696.84	1,057.70	907.33	914.00	1,081.88	1,440.00	1,257.81	(+) 16.26	(-) 12.65
Total		14,062.39	12,039.48	16,308.00	16,828.18	20,407.70	18,841.01	23,842.00	22,587.56	28,524.00	24,079.19	(+) 6.60	(-) 15.58

The respective Departments reported the following reasons for variations:

VAT/Sales Tax: The increase of 12.32 *per cent* was attributed to the result oriented measures adopted by the Department and increase in number of dealers and growth of industry.

State Excise: The increase of 12.99 *per cent* was attributed to increase of quota of liquor, licence fee, application fee and the numbers of dealers.

Stamp Duty and Registration Fees: The decrease of 14.41 *per cent* was attributed to global recession leading to lower sale/purchase of properties.

Others (i) The increase of 15.18 *per cent* in Transport Department (others category) was attributed to revised rates of MVT, online collection of taxes and better fiscal management by the Department.

(ii) The increase of 14.35 *per cent* in Land Revenue Department (others category) was due to excess collection of mutation fee on account of transfer deed and division of ancestral property.

The other Departments despite being requested (May to August 2014) did not furnish the reasons for variations in receipts from that of the previous year (2012-13).

1.1.3 The details of the non-tax revenue raised during the period 2009-10 to 2013-14 are mentioned in **Table 1.1.3:**

¹ Budget Estimates (BE) are as per Annual Financial Statements of the Government of Punjab.

² Revenue Receipts of the three Departments i.e. Taxes on Vehicles (₹ 1,145.70 crore, which is 15.18 *per cent* higher than previous year), Other taxes and commodities on services (₹ 69.65 crore, which is 39.22 *per cent* higher than previous year) and Land Revenue (₹ 42.46 crore, which is 14.35 *per cent* higher than previous year) are less than five *per cent* of Total Tax Revenue Receipts, hence Revenue Receipts of these Departments have been merged in "Others".

Table 1.1.3
Details of Non-Tax revenue raised

(₹ in crore)													
Sl. No.	Head of Revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage Increase (+) or decrease (-) of	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual in 2013-14 over 2012-13	Actual over BE for 2013-14
1.	Miscellaneous general services	4,587.13	4,780.12	5,349.20	4,277.23	1,657.10	323.72	516.66	1,420.73	592.80	1,640.32	(+) 15.46	(+) 176.71
2.	Other non-tax receipts	463.39	486.88	562.66	559.19	644.48	627.12	731.90	680.88	1,293.42	886.00	(+) 30.12	(-) 31.50
3.	Interest receipts	137.76	164.69	143.00	169.37	176.62	170.16	182.17	170.47	183.02	174.68	(+) 2.47	(-) 4.56
4.	Others ³	244.34	221.01	593.85	324.38	648.03	277.45	762.93	357.13	666.62	490.50	(+) 7.34	(-) 25.82
Total		5,432.62	5,652.70	6,648.71	5,330.17	3,126.23	1,398.45	2,193.66	2,629.21	2,735.86	3,191.50	(+) 21.39	16.65

The respective Departments reported the following reasons for variations:

Miscellaneous General Services: The increase of revenue receipt of 35.27 *per cent* in Lottery Department was due to more sale of tickets of bumper and monthly schemes.

Others: (i) The decrease of 50.00 *per cent* in others category (Dairy Development Department) was due to less registration under compounded cattle feed order.

(ii) The decrease of 31.57 *per cent* in Police Department (others category) was due to non recovery of outstanding claims of the previous years.

(iii) The increase of 82.47 *per cent* in Non-ferrous mining and metallurgical industries Department (others category) during the year 2013-14 was due to auctioning of 49 mines and increase in the fees of certificate of approval.

The other Departments despite being requested (May to August 2014) did not furnish the reasons for variations in receipts from that of the previous year (2012-13).

³ Non-Tax Revenue Receipts of the nine Departments i.e. Medical and Public Health (₹ 151.97 crore, which is 92.07 *per cent* higher than previous year), Other Administrative Services (₹102.58 crore, which is 1.87 *per cent* higher than previous year), Major and Medium Irrigation (₹ 65.94 crore, which is 29.34 *per cent* higher than previous year), Police (₹ 55.26 crore, which is 31.57 *per cent* lower than previous year), Public Works (₹ 46.73 crore, which is 278.07 *per cent* higher than previous year), Non Ferrous Mining and Metallurgical Industries (₹ 43.83 crore which is 82.47 *per cent* higher than previous year), Forestry and Wildlife (₹ 20.69 crore, which is 257.96 *per cent* higher than previous year), Co-operation (₹ 3.44 crore, which is 4.56 *per cent* higher than previous year) and Dairy Development (₹ 0.06 crore, which is 50 *per cent* lower than previous year) are less than five *per cent* of Total Non-Tax Revenue Receipts, hence Non-Tax Revenue Receipts of these Departments have been merged in "Others".

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 in respect of principal heads of revenue amounted to ₹ 2,241.06 crore of which ₹ 534.93 crore was outstanding for more than five years, as mentioned in **Table 1.2:**

Table 1.2
Arrears of revenue

(₹ in crore)				
Sl. No.	Head of revenue	Amount outstanding as on 31 March 2014	Amount outstanding for more than five years as on 31 March 2014	Reply of the Department
1.	Taxes/VAT on sales, Trade etc.	2,038.95	477.97	Demands of ₹ 37.35 crore were covered by recovery certificate; arrears of ₹ 1,307.01 crore were stayed by the High Court/Judicial Authority; recovery stayed by Government/Department Authorities ₹ 445.42 crore; recovery due to rectification/review of application ₹ 2.03 crore; recovery of ₹ 10.51 crore due to insolvency of dealers; demands of ₹ 24.05 crore likely to be written off; demands of ₹ 41.19 crore were being recovered in instalments and balance amount of ₹ 171.39 crore was pending at different stages of action.
2.	Taxes on Vehicles	104.62	43.76	Recovery of ₹ 7.75 crore was stayed by the Government/Department and ₹ 96.87 crore was at different stages of action.
3.	Forests and Wildlife.	83.47	1.89	Demands of ₹ 0.72 crore were covered by recovery certificates; ₹ 0.12 crore was likely to be written off; ₹ 1.98 crore was being recovered in instalments; ₹ 0.58 crore was at different stages of action and ₹ 80.07 crore was to be recovered as royalty from Punjab State Forest Development Corporation Limited (PSFDC).
4.	State excise	14.02	11.31	Demands of ₹ 0.73 crore were covered by recovery certificates; recovery of ₹ 0.25 crore was stayed by the High Court/Judicial authorities; demands amounting to ₹ 7.75 crore was likely to be written off; ₹ 0.41 crore were being recovered in instalments; recovery of ₹ 0.05 crore was held up due to rectification and the balance of ₹ 4.83 crore was at different stages of action.
	Total	2,241.06	534.93	

The office of the Excise and Taxation Commissioner, Punjab, Patiala had informed that an amount of ₹ 6.33 crore was outstanding as arrear of Revenue relating to Sales Tax/VAT in respect of office of the Assistant Excise and

Taxation Commissioner (AETC), Ropar and no amount was outstanding for more than five years. However, during revalidation of data at the office of the AETC Ropar, it was noticed that the outstanding arrear as on 31 March 2014 at Ropar was ₹ 162.73 crore out of which ₹ 161.51 crore was outstanding for more than five years.

1.3 Arrears in assessment

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalization at the end of the year as furnished by the Sales Tax Department in respect of sales tax are mentioned in **Table 1.3:**

Table 1.3
Arrears in Assessment

Head of revenue	Opening balance	New cases due for assessment during 2013-14	Total assessments due	Cases disposed of during 2013-14	Balance at the end of the year	Percentage of disposal (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax	39,889	10,440	50,329	9,616	40,713	19.11

Out of total 19 units, there was an arrear in assessment in respect of 13 units of which data of four units⁴ i.e. 21.05 *per cent* was revalidated and found correct.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Sales Tax/VAT, State Transport and State Excise Department, cases finalised and the demand for additional tax raised as reported by the Department are mentioned in **Table 1.4:**

Table 1.4
Evasion of Tax

Sl. No.	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	No. of cases in which assessment investigation completed and additional demand with penalty etc. raised		No. of cases pending for finalization as on 31 March 2014
					No. of cases	Amount of demand (₹ in crore)	
1.	Taxes/VAT on sales, Trade etc.	2,767	2,640	5,407	3,972	298.54	1,435
2.	Taxes on Vehicles	21	--	21	--	--	21
3.	State Excise	17	--	17	--	--	17
Total		2,805	2,640	5,445	3,972	298.54	1,473

⁴ AETC Ropar, Fatehgarh Sahib, Moga and Mohali.

It would be seen from the table that the numbers of cases pending at the end of the year have reduced than number of cases pending at the start of the year. No case was finalized in respect of Taxes on vehicles and State Excise during the year 2013-14.

Out of total 24 units of Taxes/VAT on sales, Trade etc., cases were pending in 18 units. Data of four units⁵ i.e. 16.67 *per cent* was revalidated and found correct.

1.5 Refund Cases

The number of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2013-14 as reported by the Department are mentioned in **Table 1.5:**

Table 1.5
Details of refund cases

(₹ in crore)					
Sl. No.	Particulars	Sales tax/VAT		State Excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	3,611	380.28	133	1.11
2.	Claims received during the year	9,011	1,001.41	2	0.23
3.	Refunds made/rejected during the year	9,286	1,008.53	8	0.78
4.	Balance outstanding at the end of year	3,336	373.16	127	0.56

Punjab VAT Act provides for payment of interest at the rate of one *per cent* per month, if the excess amount is not refunded to the dealer within 60 days from the date of the order and thereafter at the rate of 0.5 *per cent* per month till the refund is made.

Out of total 30 units, refunds were pending in 28 units. Data of eight units⁶ i.e. 26.67 *per cent* was revalidated and found correct.

1.6 Response of the Government/Departments towards audit

The Principal Accountant General (PAG) Punjab conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to

⁵ AETC Ropar, Fatehgarh Sahib, Moga and Mohali.

⁶ AETC Ropar, Fatehgarh Sahib, Mohali and Moga (Excise and VAT).

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 PAG within four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued upto December 2013 disclosed that 12,608 paragraphs involving ₹ 2,918.31 crore relating to 5,328 IRs remained outstanding at the end of June 2014. This, alongwith the corresponding figures for the preceding two years are mentioned in **Table 1.6:**

Table 1.6
Details of pending Inspection Reports

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	5,004	5,126	5,328
Number of outstanding audit observations	7,640	11,755	12,608
Amount of revenue involved (₹ in crore)	7,329.25	7,330.98	2,918.31

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in **Table 1.6.1:**

Table 1.6.1
Department-wise details of pending IRs

(₹ in crore)					
Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	Taxes/VAT on sales, Trade etc.	1,871	4,094	751.51
		Entertainment and Luxury Tax	298	464	22.55
2.	Excise	State Excise	255	261	403.21
3.	Revenue	Land Revenue	662	1,316	399.64
4.	Transport	Taxes on motor vehicles	639	2,237	610.68
5.	Stamps and Registration	Stamp Duty and Registration Fee	1,315	3,781	311.58
6.	Director of Lotteries	State Lotteries	19	48	152.03
7.	Forest and Environment	Forestry and wild life	269	407	267.11
Total			5,328	12,608	2,918.31

Audit did not receive even the first replies from the Heads of offices within the stipulated time, for 306 IRs issued during 2013-14. This large pendency of IRs due to non-receipt of replies is indicative of the fact that the Heads of

offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

The Government may consider to have an effective system for prompt and appropriate response to audit observations.

1.6.2 Departmental Audit Committee Meetings

The Government sets up audit committees to monitor and expedite progress of the settlement of the audit observations contained in the IRs. No audit committee meeting was held during the year 2013-14. The Departments were requested to hold the audit committee meetings for expeditious settlement of the outstanding audit observations.

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

1.6.3 Non production of records to audit for scrutiny

The programme of local audit of Tax Revenue/Non-tax Revenue offices is drawn up and intimations are issued to the Departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2013-14 as many as 1,286 assessment/refund files of 16 units⁷ for VAT/Sales Tax were not made available to audit.

1.6.4 Response of the Departments to the draft audit paragraphs

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

Thirty eight draft paragraphs and one Performance audit were sent to the Principal Secretaries/Secretaries of the respective Departments by name between May to August 2014. The Principal Secretaries/Secretaries of the Departments did not send any reply despite issue of reminders (May to August 2014) and the same were included in the Report without their response. However, the replies from the concerned Departments have been received and incorporated suitably.

1.6.5 Follow up on the Audit Reports – summarized position

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the

⁷ 14 AETCs and two ETOs.

Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes (ATENs) thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 158 paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Punjab for the years ended 31 March 2009, 2010, 2011 and 2012 were placed before the State Legislature Assembly between 15 March 2010 and 19 March 2013. The ATENs from the concerned Departments on these paragraphs were received late with average delay of 25, 19, eight and seven months in respect of each of these Audit Reports, respectively. ATENs in respect of 55 paragraphs from eight Departments⁸ had not been received for the Audit Reports for the years ended 31 March 2009, 2010, 2011 and 2012 so far (August, 2014).

The PAC discussed 94 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2011-12 and its recommendations on 29 paragraphs⁹ were incorporated in their three Reports (2010-11, 2012-13 and 2013-14). However, no ATEN on the recommendations of the PAC on 29 paragraphs for the years 2008-09 and 2009-10 has been received from the Departments concerned.

1.7 Analysis of the mechanism for dealing with the issues raised by audit

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Report by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years in respect of Taxes on Vehicles, Goods and Passengers of the Transport Department, Punjab was evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 and 1.7.2 discuss the performance of the State Transport Commissioner under revenue head 0041-Taxes on Vehicles, Goods and Passengers and cases detected in the course of local audit during

⁸ Excise and Taxation, Revenue and Rehabilitation, Electricity, Industries and Commerce, Lotteries, Housing and Urban Development, State Transport, and Agriculture.

⁹ Excise and Taxation Department (14) + Transport Department (15).

the last 10 years upto 2013-14 and also the cases included in the Audit Reports for the years 2003-04 to 2012-13.

1.7.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and status of the same as on 31 March 2014 is mentioned in **Table-1.7.1:**

Table 1.7.1
Position of Inspection Reports

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2004-05	535	1,504	455.18	55	260	32.48	8	17	3.72	582	1,747	483.94
2005-06	582	1,747	483.94	38	147	10.11	0	0	0	620	1,894	494.05
2006-07	620	1,894	494.05	50	282	31.04	7	36	30.67	663	2,140	494.42
2007-08	663	2,140	494.42	46	133	72.98	24	167	96.34	685	2,106	471.06
2008-09	685	2,106	471.06	52	143	49.22	23	54	8.49	714	2,195	511.79
2009-10	714	2,195	511.79	58	204	12.95	5	35	0.82	767	2,364	523.92
2010-11	767	2,364	523.92	61	307	22.00	17	172	13.17	811	2,499	532.75
2011-12	811	2,499	532.75	32	219	6.78	251	655	13.38	592	2,063	526.15
2012-13	592	2,063	526.15	30	164	21.45	3	92	2.98	619	2,135	544.62
2013-14	619	2,135	544.62	27	206	78.13	0	36	1.23	646	2,305	621.52

The Government arranges Ad-hoc Committee meetings between the Department and PAG's office to settle the old paragraphs. As would be evident from the above table, against 535 outstanding IRs with 1,504 paragraphs as on start of 2004-05, the number of outstanding IRs increased to 646 with 2,305 paragraphs at the end of 2013-14. This is indicative of the fact that adequate steps were not taken by the Department in this regard resulting in increase of the outstanding IRs and paragraphs.

1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered is mentioned in **Table 1.7.2:**

Table 1.7.2

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year 2013-14	Cumulative position of recovery of accepted cases as of 31/03/2013
2003-04	2	2.36	----	-----	-----	PAC decided not to pursue these paras further.
2004-05	7	22.65	-----	-----	-----	-do-
2005-06	7	4.71	-----	-----	-----	-do-
2006-07	1	133.49	-----	-----	-----	-do-
2007-08	4	7.14	-----	-----	-----	-do-
2008-09	6	6.53	6	6.53	-----	1.85
2009-10	7	2.62	7	2.62	-----	1.02
2010-11	6	0.81	6	0.81	-----	0.65
2011-12	1	3.12	1	3.12	-----	Under discussion
2012-13	3	1.11	-----	-----	-----	No reply furnished by the Department.
Total	44	184.54	20	13.08	-----	3.52

It is evident from the above table that the progress of recovery even in accepted cases was very slow during the last 10 years and no recovery was made during 2013-14. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

1.8 Action taken on the recommendations accepted by the Departments/Government

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

The Review titled "Information Technology review on Computerization in the Motor Vehicle Department" on the Department of Transport, Punjab was featured in the Report of 2010-11 with eight recommendations. The Review is currently under discussion in the PAC.

1.9 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 the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in Government revenues and tax administration i.e. budget speech, white paper on State finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2013-14, there were 503 auditable units, of which 326 units (64.81 *per cent*) were planned and 324 units¹⁰ were audited.

Besides, the compliance audit mentioned above, one performance audit on “Levy and collection of Motor Vehicle Tax” was also taken up to examine the efficacy of the tax administration of these receipts.

1.10 Internal Audit

The Finance Department has an Internal Audit Cell under the charge of the Additional Director. This cell was to conduct test check of cases as per approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

During the year 2013-14, out of 2,300 units planned for audit, Internal Audit Cell audited 1,032 units (45 *per cent*) as detailed in **Table 1.8:**

Table 1.8
Internal Audit

Revenue Head	No. of units Planned	No. of units audited
0030 – Stamp Duty	220	63
0039 - Excise	262	53
0040 – VAT/Sales Tax	1,209	868
0041 – Motor Vehicle Tax	442	35
0045 – Entertainment Tax	167	13
Total	2,300	1,032

Department replied that the targets planned for audit could not be achieved for the year 2013-14 due to shortage of staff as well as conducting of special audit of VAT for the years 2004 to 2013.

¹⁰ Two units *viz.* PSFDC and Chief Electrical Inspector were transferred to Economic Sector (PSUs) during 2013-14.

1.11 Results of audit

1.11.1 Position of local audit conducted during the year

Test check of the records of 324 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Goods and Passengers, Forest Receipts and other Departmental offices conducted during the year 2013-14 showed under assessment/short levy/loss of revenue aggregating ₹ 477.04 crore in 61,882 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 0.73 crore involved in 168 cases which were pointed out in audit during 2013-14. The Departments collected ₹ 5.09 crore in 1,245 cases during 2013-14, pertaining to the audit findings of previous years.

1.12 Coverage of this Report

This Report contains 21 paragraphs and one performance audit on “**Levy and collection of Motor Vehicle Tax**” involving financial effect of ₹ 221.22 crore.

The Departments have accepted audit observations in 14 cases involving ₹ 70.97 crore out of which ₹ 11.07 crore in eight cases had been recovered/adjusted. The replies in the remaining cases have not been received (November 2014). These are discussed in the succeeding chapters II to VI.

Chapter-II

Taxes/VAT on Sales, Trade etc.

CHAPTER-II

Taxes/VAT on Sales, Trade etc.

2.1 Tax administration

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

2.2 Results of audit

Test check of the records of 44 units relating to Sales tax/VAT during 2013-14 showed under assessment of tax and other irregularities involving ₹ 118.48 crore in 341 cases under the following categories as mentioned in **Table 2.1**:

Table 2.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Excess claim/carry forward of Input Tax Credit	78	31.04
2.	Loss of revenue due to excess refund of VAT	92	17.22
3.	Non/short levy of sales tax/VAT	4	0.98
4.	Incorrect grant of exemption from tax	12	0.16
5.	Non/short levy of penalty	25	34.78
6.	Other irregularities	130	34.30
Total		341	118.48

In 2013-14, the Department informed audit that the audit observations of ₹ 1.33 crore in 38 cases were accepted, out of which ₹ 0.25 crore involved in five cases were pointed out in 2013-14 and rest in the earlier years. The Department further informed that they had recovered ₹ 1.32 crore in 38 cases, out of which ₹ 0.25 crore involved in five cases relates to the year 2013-14 and rest to the earlier years.

A few illustrative audit observations involving ₹ 61.53 crore are discussed in the succeeding paragraphs.

2.3 Excess allowance of Notional Input Tax Credit

Condition No. 5(4) of New Conditions regarding availment of Deferment and Exemption under Punjab VAT Act 2005 and the PGST (Deferment and Exemption) Rules, 1991 provides that if the goods purchased from an exempted unit are exported out of India, in that case, no notional input tax credit (NITC) shall be admissible. Condition No. 5(5)(ii) provides that if the goods are sold by way of inter-State sales, the NITC shall be available only to the extent of the Central Sales Tax chargeable under the Central Sales Tax Act of 1956.

Audit noticed (between September 2012 and May 2013) that in four cases in three circles, excess NITC of ₹ 22.42 lakh was allowed to four dealers in contravention of the provision mentioned *ibid* as detailed in **Table 2.2:**

Table 2.2

Sl. No.	Name of units	Period of Refund/ Assessment	Excess NITC (₹ in lakh)	Nature of Irregularities
1.	Mukatsar	2006-07	2.15	Excess allowance of NITC due to non-reversal on exported goods.
2.	Amritsar-I	2011-12	5.16	Excess allowance of NITC due to non/short reversal on account of goods purchased and sold as zero rated/inter State sale.
3.	Patiala	2008-09 and 2009-10	15.11	Excess allowance of NITC due to non/short reversal on account of goods purchased and sold as zero rated/inter State sale.
		Total	22.42	

The matter was reported to the Government/Department (between December 2013 and March 2014), their replies were awaited (November 2014).

2.4 Short levy of tax due to suppression of sale

Audit noticed (between November 2011 and December 2013) in the 15 cases in seven circles for the years 2005-06 to 2011-12 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied output tax of ₹ 2.22 crore on account of suppression of turnover as per details given in **Table 2.4:**

Table 2.4

Sl. No.	Name of units	Period of Refund	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Mohali	2005-06	13.30	GTO of ₹ 82.46 crore taken in assessment order instead of ₹ 85.78 crore resulted in short levy of tax due to suppression of turnover.
2.	Mohali	2008-09	6.14	Gross sale was considered ₹ 18.99 crore instead of ₹ 19.48 crore as per profit and loss account which resulted in short levy of output tax.
3.	Jalandhar-II	2010-11	3.00	Inter-State purchases shown as ₹ 10.03 crore whereas inter State purchase corresponding to entry tax allowed comes to ₹ 10.79 crore resulting in short levy of tax.
4.	Amritsar-I	2008-09	47.00	Dealer claimed and DO allowed deduction on account of labour to the tune of ₹ 4.99 crore at the rate of 50 per cent instead of admissible 15 per cent to the tune of ₹ 1.23 crore.
5.	Amritsar-II	2007-08	3.39	Suppression of sale due to non accountal of opening stock of ₹ 27.50 lakh in certified trading account resulted in short levy of output tax.
6.	Fatehgarh Sahib, Ludhiana-I and Ludhiana-III	2006-07, 2007-08, 2008-09, 2011-12	116.79	In nine cases , Inter-State purchases shown as ₹ 90.25 crore whereas inter State purchase corresponding to entry tax allowed comes to ₹ 119.48 crore.
7.	Ludhiana-III	2011-12 (14.2.13)	32.40	Gross deemed sale was considered ₹ 11.91 crore instead of ₹ 15.80 crore as per attached TDS certificates and also availed benefit of sales return ₹ 2.00 crore twice resulted in short levy of tax.
	Total		222.02	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

2.5 Short levy of tax on works contracts

Audit noticed (between November 2011 and December 2013) in four cases in four assessment circles for the years 2006-07 to 2010-11 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied output tax of ₹ 43.18 lakh due to excess/inadmissible deductions from gross receipts as per details given in **Table 2.5:**

Table 2.5

Sl. No.	Name of units	Period of Refund	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Mohali	2007-08	16.00	Tax was not levied on the material valuing ₹ 4.00 crore supplied by contractee to the contractor.
2.	Jalandhar-II	2009-10	3.99	Short levy of tax due to excess allowance of deduction of ₹ 99.66 lakh on account of labour and services.
3.	Jalandhar-II	2010-11	4.29	Irregular allowance of deduction from GTO under Rule 15(4) on account of GSB (Granual Sub Base) of ₹ 77.95 lakh in works contract resulted in short levy of output tax.
4.	Fatehgarh Sahib	2006-07	18.90	i) Tax of ₹ 11.96 lakh was not levied on the material valuing ₹ 299.12 lakh consumed in job work. ii) Suppression of inter State purchases of ₹ 173.48 lakh and consequently short levy of tax of ₹ 6.94 lakh.
	Total		43.18	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

2.6 Short levy of tax due to mis-classification of material

Audit noticed (between November 2011 and December 2013) in the seven cases in seven assessment circles for the years 2006-07 to 2010-11 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied output tax of ₹ 82.40 lakh due to mis-classification of materials as per details given in **Table 2.6:**

Table 2.6

Sl. No.	Name of units	Period of Refund/ Assessment	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Jalandhar-II	2007-08	17.89	Bidi and Cigarette taxable at the rate of 12.5 <i>per cent</i> purchased prior to Registration Certificates were not considered for tax purpose resulting in non-levy of output tax of ₹ 17.89 lakh.
2.	Kapurthala	2008-09	2.33	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on unclassified items such as Scooter and spare parts, Mobil oil, DVD player etc. of ₹ 27.44 lakh resulting in short levy of output tax.
3.	Moga	2010-11	4.11	Tax on Cement, an unclassified item was calculated at the rate of 5.5 <i>per cent</i> instead of 13.75 <i>per cent</i> on ₹ 49.84 lakh.
4.	Faridkot	2008-10	21.96	Tax at the rate of four <i>per cent</i> was not levied on sale of raw material i.e. chemical worth ₹ 548.94 lakh.
5.	Ludhiana-I	2006-07	18.95	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on Cement of ₹ 222.97 lakh.
6.	Ludhiana-II	2006-08	5.10	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on Hardware of ₹ 60.03 lakh.
7.	Ludhiana-III	2007-08	12.06	Tax at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> was levied on hardware goods of ₹ 141.93 lakh.
	Total		82.40	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

2.7 Short levy of Central Sales Tax

Audit noticed (between November 2011 and December 2013) in the two assessment cases for the year 2008-09 that the designated officer while finalizing the assessments (between September 2010 and April 2013) short levied CST of ₹ 9.75 lakh due to irregular allowance of concessions in absence of statutory declarations as per details given in **Table 2.7**:

Table 2.7

Sl. No.	Name of units	Period of Refund/ Assessment	Short levy of tax (₹ in lakh)	Nature of Irregularities
1.	Mohali	2008-09	5.35	Levy of CST at concessional rate in two cases without production of declaration in Form 'C' resulted in short levy of CST.
2.	Jalandhar-II	2008-09	4.40	
	Total		9.75	

The matter was reported to the Government/Department (January 2014 to July 2014), their replies were awaited (November 2014).

2.8 Excess allowance of Input Tax Credit

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

Audit (between September 2012 and December 2013) noticed in 16 cases of assessments for the period 2005-12 showed that the dealers were allowed excess claim of ITC of ₹ 267.94 lakh in contravention to the various provisions of the Act as per details given in **Table 2.8:**

Table 2.8

Sl. No.	Name of units	Period of Refund	Excess ITC (₹ in lakh)	Nature of Irregularities
1.	Mohali	2007-08	6.43	Excess claim of ITC of ₹ 14.44 lakh in two cases due to non/short reversal of ITC on account of branch transfer.
2.	Jalandhar-II	2008-09	3.56	
		2009-10	4.45	
3.	Mohali	2008-09	9.00	Non reversal of ITC in two cases on account of entry tax and non-apportionment in respect of branch transfer.
4.	Hoshiarpur	2007-08	33.40	
5.	Mohali	2008-09	6.87	ITC of ₹ 139.93 lakh was allowed instead of ₹ 133.06 lakh resulting in excess allowance of ITC.

Sl. No.	Name of units	Period of Refund	Excess ITC (₹ lakh) in	Nature of Irregularities
6.	Mohali	10/2009 to 06/2010	12.91	Excess allowance of ITC on purchases due to incorrect calculation.
7.	Mohali	2010-12	34.45	Excess claim of ITC due to non-reversal of ITC on account of entry tax.
8.	Jalandhar-II	2008-09	10.54	Excess allowance of ITC in two cases due to short reversal of ITC on account of tax free sale.
9.	Faridkot	2007-08	7.63	
10.	Jalandhar-II	2010-11	2.49	Non reversal of ITC on account of manufacturing of tax free goods of ₹ 54.50 lakh resulting in excess allowance of ITC.
11.	Moga	2008-09	2.21	Excess allowance of ITC on account of TDS of ₹ 22.35 lakh instead of ₹ 20.14 lakh.
12.	Fatehgarh Sahib	2005-07	46.77	<ul style="list-style-type: none">Excess allowance of ITC of ₹ 8.84 lakh due to short debit against refund allowed.ITC of ₹ 115.46 lakh was adjusted against available ITC of ₹ 108.50 lakh.Refund of ₹ 30.97 lakh was claimed and allowed for the year 2006-07 but not deducted from the available ITC during assessment.
13.	Ludhiana-I	2008-09	10.66	Excess allowance of ITC due to short reversal on account of branch transfer.
14.		2007-08	40.03	The exempted unit was not entitled for ITC on account of entry tax paid on inter State purchases.
15.		2009-10	14.64	Excess allowance of ITC in two cases was allowed due to short reversal on account of tax free sale.
16.		2010-11	21.90	
Total			267.94	

The matter was reported to the Government/Department (November 2013 to March 2014). In case of Hoshiarpur at Sl. No. 4, the Department accepted

the audit objection and created additional demand of ₹ 163.30 lakh. Final recovery awaited (November 2014). Reply in respect of other cases awaited (November 2014).

2.9 Refunds in VAT

Under Section 39(1) of the Act, the Commissioner or the designated officer shall, in such manner and within such period, as may be prescribed, refund to a person, the amount of tax, penalty or interest, if any, paid by such person in excess of the amount due from him and also the excess of input tax credit (ITC) over output tax payable under this Act. Sub Section 1-A of Section 39 provides that provisional refund can be applied on the basis of monthly and quarterly return. Rule 52-A of PVAT Rules, 2005 provides that where a refund is being allowed provisionally under Sub Section (1-A) of Section 39 on account of excess ITC, the provisions of Sub Rule 4 of Rule 52 shall not apply till 31 March following the close of financial year, for which refund is issued, or till the time provisional refund exceeds one crore, whichever is earlier provided that only those taxable persons shall be eligible to apply for provisional refund, who have deposited the statutory declaration forms as specified under Sub Rule 4 of Rule 52 for all the previous financial years or have deposited the tax due on account of their failure to submit the said forms, for the said previous years. Further, Sub Rule 5 of Rule 52-A provides that the designated officer shall maintain a register of provisional refund (taxable person wise) in Form VAT 60 from which a designated officer can check admissibility of provisional refund to a dealer.

Audit was conducted (April to June 2014) for the period of 2011-12 to 2013-14 and covered six offices of AETCs¹ selected on the basis of statistical sampling based on probability proportionate to size method. The findings also contain cases of similar nature of other districts which came to the notice during compliance audit.

2.9.1 Trend of Refunds

Audit noticed that the Department issued refunds of ₹ 661.61 crore, ₹ 616.70 crore and ₹ 391.96 crore during 2011-12, 2012-13 and 2013-14 respectively. Thus, refund showed decreasing trend in this period. Test check of records relating to refunds showed the following:

¹ Bathinda, Fatehgarh Sahib, Ludhiana-I, II, III and Patiala.

2.9.2 Irregular refund

Rule 52-A of PVAT Rules, 2005 provides that where a refund is being allowed provisionally under Section 39(1-A) on account of excess input tax credit, the provisions of Sub Rule 4 of Rule 52 shall not apply till 31 March following the close of financial year, for which refund was issued, or till the time provisional refund exceeds one crore, whichever is earlier provided that only those taxable persons shall be eligible to apply for provisional refund, who have deposited the statutory declaration forms as specified under Sub Rule 4 of Rule 52 for all the previous financial years or have deposited the tax due on account of his failure to submit the said forms.

Further, Sub Rule 5 of Rule 52-A provides that the Designated Officer (DO) shall maintain a register of provisional refund (taxable person wise). This register shall be in Form VAT-60 from which a DO can check regarding admissibility of provisional refund to a dealer.

Further, Sub Section 1-A of Section 39 provides that provisional refund can be applied on the basis of monthly and quarterly return. Non-compliance of terms and conditions prescribed for provisional refund attracts penalty at the rate of two *per cent* per month and interest in accordance with the provisions under Section 32.

During test check of cases/registers of refund issued during 2011-12 to 2013-14 in three AETC offices², Audit noticed in 532 cases of 167 dealers, that the DO allowed provisional refunds in contravention of the rules/provisions *ibid* as given below:

1. In 134 cases, provisional refunds of ₹ 3.24 crore were issued to 49 dealers relating to transactions for the financial years after 31 March of the year following the close of the respective financial year. The DO allowed provisional refunds in these cases even after the expiry of mandatory deadline for furnishing of the statutory forms i.e. one year after the close of the financial year.
2. Provisional refunds of ₹ 6.62 crore were issued in 37 cases to 32 dealers on the basis of annual returns. Whereas, no provision in PVAT Act exists to allow provisional refunds after filing the annual returns.
3. In case of one dealer, provisional refund of ₹ 1.009 crore for a financial year was issued.
4. Audit found (July 2014) that provisional refunds of ₹ 37.96 crore in respect of 111 dealers covering 360 cases were issued without ensuring whether complete 'C' forms of previous financial years were received in time or not, as in case complete 'C' forms were not

² Ludhiana-I, Ludhiana-III and Patiala.

received, due tax for non-submission of 'C' forms was required to be levied. However, none of the AETCs³ maintained VAT-60 to check the admissibility of subsequent provisional refunds. Thus, statutorily prescribed internal control was not maintained, in the absence of which the Department could not ensure the receipt of complete 'C' forms of previous financial years. Without ensuring the same, the provisional refunds issued to the dealers were in contravention to the provisions of the PVAT Act and were irregular.

AETCs⁴ replied (November 2014) that 'the data was voluminous and due to shortage of staff, whole of the record could not be made available. But, the assessment proceedings in these cases had been started. The assessment would be framed and in respect of the interstate sales for which 'C'/other statutory forms could not be submitted, would be taxed accordingly'. The reply of AETCs makes it clear that the Department does not satisfy itself about submission of statutory 'C' forms for previous financial years before issuing provisional refund of a financial year.

Further, complete 'C' forms only in respect of 11 dealers covering 59 cases were produced to Audit (November 2014). Even in these cases, the Department did not maintain prescribed records in VAT-60 to ensure receipt of statutory declarations in time.

Audit cross verified inter State and export sales of dealers who were granted provisional refunds with ICC data of the Department. Further, cross verification of ICC data with the office of DTO Ludhiana in respect of registration details of vehicles used in inter State sales showed that:

- i) 39 dealers who had taken provisional refunds used 8 two wheelers⁵ in 767 transactions on which goods worth of ₹ 4.53 crore were shown to have been transported to dealers in States like Tamil Nadu, Assam, Maharashtra, Jharkhand etc.
- ii) Seven dealers out of 39 above mentioned dealers, had transported goods worth of ₹ 1.50 crore on two wheelers and had also submitted statutory declarations.

The above transactions regardless of the fact whether 'C' forms had been submitted or not, were involved in transportation of goods such as iron and steel, cycle parts, motor parts etc. over long distances on two wheelers. Since the same two wheelers were shown to have been used for multiple transactions, the matter needs further investigation.

³ Bhatinda, Fatehgarh Sahib, Ludhiana I, II and III and Patiala.

⁴ Ludhiana-I, III.

⁵ Only those two wheelers which have been used in more than 50 transactions.

2.9.3 Excess refund due to short reversal of ITC on account of manufacturing tax free goods

Section 13 of PVAT Act provides that a taxable person shall be entitled to input tax credit (ITC), in such manner and subject to such conditions, as may be prescribed, in respect of input tax on taxable goods, including capital goods, purchased by him from a taxable person within the State during the tax period. Further, Section 17 of PVAT Act 2005 provides that 'where any taxable goods are exported outside the territory of India or are supplied in the course of such export falling within the scope of Section 5 of the Central Sales Tax Act 1956, such sales shall be zero-rated. On such sale, no output tax is payable by any person provided that a taxable person making zero-rated sale shall be eligible for input tax credit in relation to such sales'.

(a) The dealer had gross purchases of ₹ 122.90 crore, gross sale of ₹ 130.31 crore and total export of ₹ 114.26 crore. As per ICC data, there was export of ₹ 42.43 crore out of which ₹ 20.72 crore was tax free against which the DO reversed ITC of ₹ 4.86 lakh against the actual reversal of ₹ 69.20 lakh. It resulted into excess refund of ₹ 64.34 lakh.

The matter was brought to the notice of the Government/Department (July 2014), AETC Ludhiana-II denied the audit observations and stated that the commodity sold by the dealer was baby blanket which was taxable and since commodity master of ICC data was not updated, the same was entered as blanket. The reply of the Department was not acceptable, since as mentioned in Schedule 'A' of P VAT Act blanket was tax free.

(b) Audit noticed from the records of two AETC offices⁶ that in two refund cases for the period 2010-11, ITC of ₹ 37.13 lakh was short reversed on account of manufacturing of tax free goods.

The matter was reported to the Government/Department (between March and July 2014). In case of Ludhiana-III, the Department admitted the observation and initiated assessment proceeding. Final action and the reply of the Government were awaited (November 2014).

2.9.4 Inadmissible refund due to wrong allowance of ITC on entry tax

Section 13 A of PVAT Act provides that 'subject to the provisions of this Act, a taxable person shall be entitled to ITC in respect of the tax, paid by him under the Punjab tax on entry of goods into local area Act, 2000, if such goods are for sale in the State or in the course of inter State trade or

⁶ Ludhiana-I and III.

commerce or in the course of export or for use in the manufacturing, processing or packing of taxable goods’.

Section 13(4) of PVAT Act provides that input tax credit on furnace oil, transformer oil, mineral turpentine oil, water methanol mixture, naphtha and lubricants, shall be allowed only to the extent by which the amount of tax paid in the State exceeds four *per cent*.

In three AETCs⁷, audit noticed in 50 refund cases of 25 dealers that the DOs allowed refund of full entry tax paid on inter State purchases of goods covered under Section 13(4) and 13(5) of PVAT Act 2005. Whereas it should be allowed only to the extent by which the amount of tax paid exceeds four *per cent*. This resulted in inadmissible refund of ₹ 1.09 crore.

The matter was reported to the Government/Department (July 2014); their replies were awaited (November 2014).

2.9.5 Excess allowance of refund

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

In six AETCs⁸, audit noticed (between September 2012 and May 2014) that in 14 cases of refunds for the period 2006-07 to 2012-13, the dealers were allowed excess refund of ₹ 258.12 lakh due to short reversal of ITC on account of schedule 'H' goods, non-debit of exemption and short computation of taxable turn over in contravention of the provision of the Act *ibid*.

The matter was brought to the notice of the Government/Department (between November 2013 and July 2014). In three cases of AETC Ludhiana-III the Department admitted the objection and in one case of AETC Faridkot created (June 2014) an additional demand of ₹ 1.09 crore including interest. Final action of the Department and replies of the Government were awaited (November 2014).

b) Rule 21(2-A) provides that ITC shall be allowed to a taxable person to the extent of tax payable on the resale value of good or sale value of

⁷ Fatehgarh Sahib, Ludhiana-I and III.

⁸ Faridkot, Ludhiana-III, Moga, Mohali, Patiala and Sangrur.

manufacturing goods where such goods are sold at a price lower than the purchase price of such goods in the case of resale. Further, readymade garments are taxable as per Schedule B of PVAT Act.

Audit noticed (May 2014) in two cases of refunds in AETC, Ludhiana III for the period 2012-13 and 2013-14 that the dealers had sold goods at a loss of ₹ 8.17 crore resulting in excess allowance of ITC of ₹ 49.43 lakh in contravention to the provision of the Act *ibid*.

The matter was brought to the notice of the Government/Department (July 2014), the Department while admitting the observation, initiated the assessment proceedings under Section 29(2). Final action of the Department and replies of the Government were awaited (November 2014).

2.9.6 Excess refund due to evasion of tax

Section 51 of Punjab VAT Act 2005 provides that if, with a view to prevent or check avoidance or evasion of tax under this Act, the State Government considers it necessary so to do, it may by notification, direct for the establishment of an information collection centre at such places, as may be specified in the notification. The incharge of the goods vehicle entering the limit or leaving the limit of the State shall stop the vehicle and keep it stationary and shall furnish in triplicate declaration alongwith the document in respect of the goods carried and allow the officer incharge of the ICC to check the contents in the vehicle by breaking open the package or packages, if necessary and inspect all records relating to the goods carried. The officer incharge shall return a copy of the declaration duly verified by him to the owner of the goods vehicle.

In 10 cases of three assessment circles⁹ for the period of 2010-11 to 2013-14, audit verified status of some vehicles as available in the ICC data of the Department with District Transport Office. These vehicles were used in transportation of goods of ₹ 3.94 crore like Readymade Garments and Iron and Steel etc. in the course of inter State sale/intra State purchase and were found to be vehicles like motorcycle, car and scooter.

The above transactions were not probable and it seems that no such transactions took place out of the State and the entries at the barrier were made in the ICC data merely to pay concessional CST and avoid tax liability against sale of goods within the State. Thus, there were sufficient grounds to disclaim the inter State sales and export shown at least in these transactions. Possibilities of forged claim of refunds at a larger scale also cannot be ruled

⁹ Ludhiana-I, Ludhiana-II and Ludhiana-III.

out. This resulted in excess refund due to suspected evasion of tax of ₹ 13.78 lakh.

The matter was brought to the notice of the Government/Department (July 2014), the Assessing Authority Ludhiana-I, while accepting the audit observation issued notices to the dealers. Final action and replies in remaining cases were awaited (November 2014).

2.9.7 Short levy of output tax due to suppression of sales/purchase

Sub Section (zc) of Section 2 of PVAT Act provides that “return” means a true and correct account of business pertaining to the return period in the prescribed form.

Audit noticed (May 2014) in six cases of refunds that the dealers were allowed excess refund of ₹ 68.47 lakh in contravention to the provision of the Act *ibid* as per details given in **Table 2.9**:

Table 2.9

Sl. No.	Districts	Period	Excess allowance of refund (₹ in lakh)	Remarks
1.	Ludhiana-I	2010-11	3.74	Inter State purchases shown as ₹ 37.84 lakh, whereas inter State purchase corresponding to entry tax allowed comes to ₹ 1.31 crore resulting in excess allowance of refund on suppression of sales.
2.	Ludhiana III	7/2013 to 9/2013	24.11	The assessee as well as DO calculated output tax liability on ₹ 11.17 crore instead of ₹ 15.16 crore resulting in short levy/excess allowance of refund.
3.	Bathinda	2009-10	5.82	The contractor claimed and allowed by the DO irregular deduction of ₹ 76.93 lakh from Deemed TTO on account of sale of cement/brick.
4.	Bathinda	7/2012 to 6/2013	9.58	The contractor had not paid tax on profit margin of ₹ 1.58 crore on sub-let the contract to the sub-contractor.

Sl. No.	Districts	Period	Excess allowance of refund (₹ in lakh)	Remarks
5.	Fatehgarh Sahib	7/2009 to 12/2009	25.22	In two cases, Inter State purchases shown as ₹ 60.30 crore whereas inter State purchase corresponding to entry tax allowed comes to ₹ 66.61 crore resulting in excess allowance of refund due to suppression of sales.
	Total		68.47	

The matter was brought to the notice of the Government/Department (between November 2013 and July 2014), the Department stated that objection raised by audit has been examined and notice has been issued to concerned dealers to explain the deficiencies pointed out by the audit. Final action of the Department and replies of the Government were awaited (November 2014).

2.9.8 Excess refund due to non/short levy of Central Sales Tax

Sub Section 3 and 4 of Section 5 of Central Sales Tax Act 1956 provides that a transaction shall not be treated as indirect export unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exporter to whom the goods are sold in a prescribed form obtained from the prescribed authority.

Further, Sub Section 1 and 4 of Section 8 of Central Sales Tax 1956 provides that 'inter State sale to a registered dealer will be taxed at the rate of two *per cent* or the rate applicable to the sales tax law of the State whichever is lower only if the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority'.

Audit noticed (May 2014) in four refund cases that the dealers were allowed excess refund of ₹ 22.43 lakh in contravention to the provision of the Act *ibid* as per details given in **Table 2.10**:

Table 2.10

Sl. No.	Districts	Excess refund (₹ in lakh)	Remarks
1.	Ludhiana I	4.37	The DO had calculated output CST at the rate four <i>per cent</i> on ₹ 2.91 crore instead of 5.5 <i>per cent</i> without production of declaration in Form C.
2.	Ludhiana III	13.14	The dealer had claimed and allowed deduction on account of Zero rated sale for ₹ 2.17 crore on supporting documents i.e. invoices alongwith shipping bills which did not pertain to the period of refund.
3.		2.16	The dealer claimed and allowed indirect export of ₹ 6.36 crore against the actual indirect export of ₹ 5.97 crore resulted in excess allowance of exemption amounting to ₹ 39.00 lakh as verified from ICC data.
4.	Fatehgarh Sahib	2.76	The dealer had claimed and the DO allowed concessional rate of tax on ₹ 2.17 crore against actual amount of interstate sale of ₹ 78.93 lakh.
Total		22.43	

The matter was brought to the notice of the Government/Department (between February and July 2014), the Department admitted the para in three cases (Sl. nos. 1 to 3) and stated that notice has been issued and for Sl. No. 4 no reply was furnished. Final replies were awaited (November 2014).

Thus, the system to monitor provisional refunds by maintaining a dealer wise ledger in VAT-60 was not being implemented. Provisional refunds were allowed to dealers without verifying genuineness of transactions and admissibility of refund. Audit also found cases of non-reversal of ITC/excess allowance of refunds etc. Refunds of a financial year were granted without finalizing the tax liability of previous financial year as prescribed in Act and Rules.

The above points were reported to the Government (July 2014); the reply was awaited (November 2014).

Chapter-III

State Excise

CHAPTER-III

State Excise

3.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. The administration of the Punjab Excise Act, 1914 is carried out by Additional Excise and Taxation Commissioner at Patiala and six Deputy Excise and Taxation Commissioners (DETCs) at Amritsar, Faridkot, Ferozepur, Jalandhar, Ludhiana and Patiala. Twenty four Assistant Excise and Taxation Commissioners (AETCs), assisted by Excise and Taxation Officers (ETOs) and other allied staff monitor the work at the district level.

3.2 Results of audit

Test check of the records of 47 units relating to State Excise receipts during 2013-14 showed irregularities involving ₹ 16.47 crore in 49 cases, which broadly fall under the following categories:

Table 3.1

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	Revenue loss due to sub normal yield of spirit from molasses	5	14.29
2.	Short/Non levy of renewal fee	3	0.21
3.	Other irregularities	41	1.97
	Total	49	16.47

In 2013-14, the Department accepted the observations in 14 cases and recovered an amount of ₹ 4.53 lakh, out of which ₹ 0.05 lakh was for the year 2013-14 and rest in the earlier years.

A few illustrative cases involving ₹ 2.03 crore are discussed in the succeeding paragraphs.

3.3 Loss of Revenue due to sub normal yield of spirit from molasses

The Punjab Distillery Rules, 1932 provide that one quintal of molasses should yield 36.61 proof litres of spirit. Further, as per Punjab Excise Fiscal Orders, 1932, the excise duty in respect of spirit removed from any of the licensed distillery will be leviable between ₹ 4.00 to ₹ 25.00 per proof litre (PL).

Audit noticed (December 2011, February 2012, March 2012, June 2013 and January 2014) from the records of five distilleries¹ that 1,046.51 lakh PL of spirit was produced during 2010-11 to 2012-13 from 29.90 lakh quintals of

¹ M/s Patiala Distillers & Mfrs Ltd. Patiala; M/s Chandigarh Distillers & Bottlers Ltd. Banur, Mohali; M/s A.B.Sugar Ltd. Randhawa, Dasuya; M/s Piccadily Distillery, Patran, Patiala and M/s Rana Sugar Ltd. Louhka, Tarn Taran.

molasses as against the envisaged yield of 1,094.72 lakh PL of spirit. Had the prescribed norms of yield of spirit from molasses been achieved, the Government could have earned additional excise duty of ₹ 1.93 crore.

Similar para was printed in the Stand Alone Report titled "Working of State Excise Department for the year ended 31 March 2011", which was settled in PAC in light of Punjab Government notification (18 March 2011). After careful perusal of this notification, it was noticed that revised norms for the yield of spirit from grains only were notified and provided *inter alia* that if the licensee fails to maintain the revised norms, he will be liable to recovery of differential loss in the form of excise revenue. However, revised norms for the yield of spirit from molasses are yet to be notified by the Government.

The matter was brought to the notice of Government/Department (March and April 2014). The Excise & Taxation Commissioner, Punjab replied in the meeting (May 2014) in respect of M/s Chandigarh Distillers and Bottlers Ltd., Banur that after discussion with the stakeholders, neighboring states and subject experts final decision will be taken. Final action was awaited (November 2014).

3.4 Short deposit of renewal fee of Distillery Licence (D-2)

The Punjab Distillery Rules, 1932 read with Excise Policy for the year 2011-12 provides that an application for the renewal of D-2 license² shall be made by the licensee to the Excise Commissioner so as to reach him at least 90 days before the expiry of old license. The renewal fee is also required to be deposited likewise. The renewal fee for D-2 license was enhanced to ₹ 20 lakh in excise policy for the year 2011-12 from ₹ 10 lakh prescribed for the year 2010-11.

Audit noticed (June 2013 and February 2014) from the records relating to the renewal of the licenses in the offices of Excise & Taxation Officers, Patiala Distillers and Manufacturers Limited Patiala and Malbros International Private Limited Ferozepur for the years 2010-11 and 2011-12, that D-2 Licenses of these distilleries were renewed for the period from 15 October 2010 to 14 October 2011 and from 12 September 2010 to 11 September 2011 respectively. Since the licenses of these distilleries were renewed for the broken period of 2010-11 and 2011-12, the licensees were required to deposit the licence fee of ₹ 29.89 lakh i.e. proportionately with reference to amount of license fees fixed for financial year 2010-11 and 2011-12 against which licence fee of ₹ 20 lakh only was deposited by them. This resulted in short deposit of renewal fee amounting to ₹ 9.89 lakh.

The matter was brought to the notice of Government/Department (March 2014); their replies were awaited (November 2014).

² D-2 license is a license granted under Section 21 of Punjab Excise Act I of 1914 to establish a distillery in which spirit may be manufactured.

Chapter-IV

Stamp Duty

CHAPTER-IV

Stamp Duty

4.1 Tax administration

The State Government exercises control over the Registration of instruments through the Inspector General of Registration, who is assisted by the Deputy Commissioners (Collectors), Tehsildars and Naib-Tehsildars acting as Registrars, Sub-Registrars (SRs) and Joint Sub-Registrars (JSRs) respectively. The Registrar exercises Superintendence and Control over the SRs and JSRs of the district. For the purpose of levy and collection of Stamp Duty and Registration Fee, the State has been divided into five divisions and 22 districts having 22 Registrars, 82 SRs and 87 JSRs.

4.2 Results of audit

Test check of the records of 112 units relating to Stamp Duty and Registration Fee during 2013-14 showed irregularities involving ₹ 101.01 crore in 54,760 cases, which broadly fall under the following categories:

Table 4.1

(₹ in crore)

Sl.No.	Categories	Number of cases	Amount
1.	Non/short levy of stamp duty and registration fee due to misclassification of instruments	506	21.37
2.	Non/short levy of stamp duty and registration fee on mortgage deeds, lease deeds and charitable deeds.	838	3.11
3.	Non levy of social infrastructure cess (SIC)	51,818	51.97
4.	Other irregularities	1,598	24.56
	Total	54,760	101.01

In 2013-14, the Department accepted non/short levy of stamp duty and registration fee and other deficiencies of ₹ 409.63 lakh in 1,344 cases and issued demand, out of which ₹ 8.77 lakh involved in 114 cases were pointed out in 2013-14 and rest in the earlier years. The Department further informed in 2013-14 that they had recovered ₹ 193.32 lakh in 636 cases pertaining to the earlier years.

A few illustrative cases involving ₹ 62.99 crore are discussed in the succeeding paragraphs.

4.3 Short levy of stamp duty and registration fee due to misclassification of properties

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

Audit noticed (February 2013 to January 2014) from the records of 20 Sub Registrars¹ (SRs) and three Joint Sub Registrars² (JSRs) that 58 instruments of transfer of properties valuing ₹ 24.14 crore were registered at the value set forth in these instruments instead of ₹ 60.17 crore computed on the basis of minimum market rate of properties fixed by the respective DC for residential/commercial and particular locality/khasra numbers for which separate/higher rates were fixed during the relevant years. The reasons for omission were misclassifying the properties as agriculture instead of residential/commercial as well as higher rates not being applied for particular khasra numbers. This resulted in short levy of stamp duty and registration fee of ₹ 2.53 crore.

The matter was reported to the Government/Department (March to April 2014); their replies were awaited (November 2014).

4.4 Non levy of additional stamp duty

As per notification (February 2005), Punjab Government levied additional stamp duty at the rate of three *per cent* under the Indian Stamp Act on an instrument, if such an instrument is for transfer of properties situated within the jurisdiction of a Municipality/Corporation or within the area of five kilometres from the outer limit of the Municipality/Corporation, as the case may be, as may be specified by the Collector. The Government also clarified vide notification dated 6 May 2005 that additional stamp duty is not exempted in the cases where the levy of stamp duty is exempted by Government from time to time.

Audit noticed (between April 2013 and November 2013) from the records of three SRs³ and two JSRs⁴ that 11 instruments of transfer of immovable properties were registered in 2012-13 with consideration of ₹ 39.91 crore without charging additional stamp duty. As these instruments were for transfer

¹ Amritsar-I(2), Amritsar-II(2), Bathinda (7), Budhlada (2), Chamkaur Sahib (11), Derabassi (1), Ferozepur (1), Hoshiarpur (1), Kharar (3), Ludhiana (C) (2), Ludhiana (E) (1), Ludhiana (W) (2), Moga (3), Mohali (2), Mukerian (9), Phillaur (1), Rampuraphul (1), Samana (1), Sangrur (2) and Tarn Taran (1).

² Dinanagar (1), Makhu (1) and Sahnewal (1).

³ Jalandhar-II, Ludhiana (West) and Ludhiana (East).

⁴ Dhariwal and Sahnewal.

of properties which were either situated within Municipality/Corporation or within five kilometres of the outer limit of Municipality/Corporation, an additional stamp duty was required to be levied on the transactions as per notification *ibid*. This resulted in non-levy of additional stamp duty of ₹ 1.20 crore.

The matter was reported to the Government/Department (between February 2014 and April 2014); their replies were awaited (November 2014).

4.5 Irregular remission of stamp duty and registration fee

Punjab Government remitted (February 1981) stamp duty and registration fee chargeable on instruments of conveyance by sale or gift in favour of the charitable institutions for charitable purposes. In order to rule out the mis-utilisation of this exemption by the charitable institutions, the Government issued instructions vide 16/27/08/ST/2/ 8070-90 dated 26 May 2010 that such remission was to be confirmed by the District Collector (DC) whether the transfer of immovable property in favour of the charitable institution is eligible for exemption from the levy of stamp duty/registration fee or not. Further, under Section 3C of the Indian Stamp Act 1989, Social Security Fund in the form of additional stamp duty leviable at the rate of three *per cent* is also chargeable in respect of every instrument of immovable properties falling within the municipal limit.

Audit noticed (between March 2013 and February 2014) from the offices of seven SRs⁵ and four JSRs⁶ that 15 instruments of transfer of immovable property were registered with consideration of ₹ 9.72 crore as set forth in the deeds. These instruments were registered during 2011-13 in favour of charitable institutions without charging stamp duty/registration fee, treating the transfer as it were for charitable purposes. The prior certification of the DC required to be obtained in such cases was not obtained, which was a contravention of Government instructions stated *ibid*. This resulted in irregular remission of stamp duty and registration fee of ₹ 71.99 lakh.

The matter was reported to the Government/Department (February to March 2014). The Financial Commissioner Revenue (FCR) in his reply (April 2014) stated that it is a procedural irregularity which cannot lead to the automatic inference that loss to Government revenue has been caused. However, audit is of the view that such cases cannot be treated merely as procedural lapses and DC, while allowing such exemption to the charitable institutions should have certified that the organization to which exemption was granted was indeed eligible for grant of such exemption as was required in the

⁵ Banur (1), Barnala (2), Ludhiana (E) (1), Ludhiana (W) (1), Moonak (1), Patiala (1) and Samrala (1).

⁶ Banga (3), Gardiwal (1), Goniana Mandi (2) and Maur (1).

Government instructions *ibid*. In two cases of Sub Registrar Banga, the concerned Collector had ordered (April 2014) to recover the stamp duty and Registration fee of ₹ 28.09 lakh. FCR, further stated (May 2014) that guidelines would be issued to the Sub-Registrars to help them to arrive at a reasoned decision about grant of exemption to such institutions. Further action was awaited (November 2014).

4.6 Short levy of stamp duty and registration fee

Under the Punjab Stamp (Dealing of Under-valued instruments) Rules, 1983 as amended in 2002, the Collector of a district in consultation with the Committee of Experts fixes the minimum market rate of land/properties locality wise and category wise in the district for the purpose of levying of stamp duty. While fixing the minimum rates of the property for the year 2012-13, the respective District Collectors⁷ clarified that the transfer of property less than two kanals per purchaser (if purchasers are more than one) will be registered at the residential rates.

Audit noticed (May 2013, January and February 2014) from the office of the two SRs⁸ and JSR Sri Hargobindpur that 20 instruments of the transfer of property were executed and registered treating the property as agricultural. The area of land per share purchased in each instrument was less than two kanals. Stamp duty of ₹ 9.89 lakh and registration fee of ₹ 1.33 lakh was charged on the consideration of ₹ 130.18 lakh set forth in the instrument against the leviable duty of ₹ 50.24 lakh and Registration fee of ₹ 4.88 lakh worked out by audit on the consideration of ₹ 650.56 lakh, on the minimum market rates fixed by the respective District Collectors for the residential property. Application of incorrect rate for valuation of the property as agriculture land resulted in short levy of stamp duty and registration fee of ₹ 43.91 lakh (₹ 40.35 lakh + ₹ 3.56 lakh).

The matter was reported to the Government/Department (March/April 2014); their replies were awaited (November 2014).

4.7 Non levy of social infrastructure cess (SIC)

Punjab Government vide notification (6 February 2013) amended the Indian Stamp Act, 1899, in its application to the State of Punjab by inserting Section 3-D which provided *inter alia*, that every instrument mentioned in entry 23 of Schedule 1-A chargeable with duty under Section 3 and additional duty under Sections 3-B and 3-C, shall, in addition to such duty be also chargeable with such Cess at the rate of one *per cent*, as is specified in Schedule 1-C. The Cess shall be paid by means of Stamp or Stamp papers bearing the

⁷ Gurdaspur and Ludhiana.

⁸ Ludhiana (W) and Raikot.

inscription "Social Infrastructure Cess" (SIC) and was required to be levied at once.

Audit noticed (April 2013 to March 2014) from records of 57 SRs and 32 JSRs for the year 2012-13 that SIC amounting to ₹ 48.89 crore at the rate of one *per cent* of total consideration of ₹ 4,889.14 crore of 49,370 deeds executed between 6 February 2013 to 31 March 2013 was not levied on the instruments as was required to be levied as per the notification mentioned *ibid*. It resulted in non-levy of SIC amounting to ₹ 48.89 crore.

On this being pointed out, Sub-Registrar Rajpura and Gurdaspur replied that recovery of ₹ 41.07 lakh⁹ in respect of 627 cases has been made. Remaining Sub-Registrars stated that they received the notification late or that action would be taken up as per rules.

4.8 Short levy of stamp duty and registration fee due to misclassification of conveyance deeds into development agreements/agreements

Section 2 (10) of the Indian Stamp Act (Act), provides that 'conveyance' includes conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule 1-A of the Act. Further, Section 54 of the Transfer of Property Act, 1882 defines "sale" as transfer of ownership in exchange for a price paid or promised or part paid and part promised. The classification of an instrument depends upon the nature of the transaction recorded therein.

a) Audit noticed (May 2013) from the records of the office of SR, Mohali that a development agreement was registered (June 2012) in respect of land on which stamp duty of ₹ 0.02 lakh was levied as applicable in the case of an agreement not involving sale of land. Scrutiny of the agreement showed that the owner of the land authorized the developer to take possession of the land with the right to construct, develop and deal with the land in accordance with the terms and conditions of the agreement. In exchange of the land, the owner of the land was entitled to take a part of the developed land. The developer was entitled to dispose of his share of developed land in such a manner as may deemed fit without requiring any consent from the owner. Hence, the development agreement was conveyance of right to develop, construct and sell the property and was liable to pay Stamp Duty (as applicable to conveyance deed) in respect of developers' share of land.

Total value of land transferred to the developer worked out to ₹ 7.04 crore on which Stamp Duty of ₹ 56.34 lakh was leviable. However, the registering authority misclassified the instrument as development agreement charging

⁹ SR Rajpura ₹ 31.47 lakh (in 430 cases) + Gurdaspur ₹ 9.60 lakh (in 197 cases).

Stamp Duty of ₹ 0.02 lakh instead of ₹ 56.34 lakh. It resulted in short levy of Stamp Duty of ₹ 56.32 lakh and Registration Fee of ₹ 0.30 lakh.

The matter was reported to the Government/Department (August 2014); their replies were awaited (November 2014).

b) Audit noticed (June 2013) from the records of the office of JSR, Majri that an agreement was registered (July 2011) in respect of land on which stamp duty of ₹ 0.02 lakh was levied as applicable in the case of an agreement not involving sale of land. Scrutiny of the agreement showed that the owner of the land sold his land measuring 5.9 acre and given the possession to the developer after taking the consideration of ₹ 8.00 lakh. Further, the agreement contained all the ingredients of conveyance and was not stamped accordingly. The executor of the agreement instead of executing conveyance deed sold the property on the basis of agreement only and evaded the stamp duty and registration fee of ₹ 9.25 lakh calculated on the basis of circle rates.

The matter was reported to the Government/Department (August 2014); their replies were awaited (November 2014).

4.9 Evasion of Stamp Duty and Registration Fee on mortgage deeds

Incorrect grant of remission of stamp duty on mortgage deeds for securing loan for other than agriculture purpose resulted in short levy of stamp duty of ₹ 1.03 crore. Application of pre-revised rates for stamp duty in mortgage deeds resulted in short levy of stamp duty of ₹ 1.59 crore.

Registration of the documents attracts levy of stamp duty and registration fee. The levy of stamp duty on various types of the instruments namely conveyance, exchange, mortgage and lease etc., is governed by the Indian Stamp Act, 1899 (Stamp Act) and the Rules framed thereunder. The duty is paid by the executors of instruments either by using impressed stamps or by affixing stamps (non-judicial) of proper denomination. The levy of registration fee on the instruments presented for registration is regulated by the Indian Registration Act, 1908 and the Rules framed thereunder.

"Mortgage Deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfer, or creates, to, or in favour of, another, a right over or in respect of specified property. The State Government is empowered under the Act to reduce or remit prospectively or retrospectively, the levy of stamp duty and/or registration fees.

An audit on 'Levy of Stamp Duty and Registration Fee on mortgage deeds' covering the period of 2010-13 was conducted between March 2014 to

June 2014 through test check of records of four districts¹⁰ consisting of 30 units selected through statistical sampling on the basis of random selection method as per maximum mortgage deeds registered in each district. In addition, irregularities of similar nature noticed during audit of units other than the selected ones, for the period 2012-13 and 2013-14 were also incorporated. The following are the audit findings:

4.9.1 Non/short levy of stamp duty and registration fee

Punjab Government exempted (June 2001) stamp duty and registration fee leviable on instruments executed by a person for securing loan from bank, co-operative society or banking institution to meet the expenditure on any of the items specified in connection with agricultural purposes or purposes allied to it. Further, as per Section-78 of the Registration Act, 1908, registration fee is to be fixed by the State Government for the purposes enumerated in clauses (a) to (i). In case the State Government wants to remit the fees payable in respect of any of the matters enumerated in clauses (a) to (i), provision for the same is required to be made under Section 78 by an Act.

Audit noticed (May 2014 and June 2014) from the records of eight SRs/JSRs¹¹ that 11 mortgage deeds were executed and registered for securing loans of ₹ 26.01 crore from commercial/banking institutions for the construction of building, business, running of educational institution, cash credit limit, commercial dairy, rural godown and extension of cattle feed plant without levying/short levying of stamp duty and registration fee. As the loans were secured for the purposes other than those specified in the notification *ibid*, the remission of stamp duty and registration fee was not admissible. Further, exemption of registration fee was not in order as no provision under Section 78 of the Act mentioned *ibid* was made by the Government before issuing the notification. Incorrect grant of remission resulted in non/short levy of stamp duty and registration fee amounting to ₹ 1.03 crore.

Further, audit noticed (May 2014 and June 2014) from the records of 21 SRs/JSRs¹² that 28,256 mortgage deeds were executed during the year 2012-13 by the agriculturists for securing loans of ₹ 1,954.60 crore from the banks/banking institutions. The Registration Fee was remitted on the basis of notification issued under Sections 78 and 79 of the Registration Act, 1908. Remission of Registration Fee was irregular because Government was not empowered to remit/exempt the fee under these Sections. *A mention was also*

¹⁰ Bathinda, Ferozepur, Ludhiana and Patiala.

¹¹ Dera Bassi, Fatehgarh Churian, Ludhiana (East), Ludhiana (West), Maur Mandi, Nabha, Sahnewal and Talwandi Sabo.

¹² Bathinda, Dehlon, Dera Bassi, Ghanour, Khanna, Koom Kalan, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Maloud, Mullanpur Dakha, Patiala, Payal, Rajpura, Rampura Phool, Sahnewal, Samralla, Sidhwan Bet, Talwandi Sabo and Zira.

made in paragraph 5.6.7 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 (Revenue Receipts) Government of Punjab for considering appropriate amendment in the Act providing for remission of fee, as has been done in some other States, which was still awaited (November 2014).

4.9.2 Short levy of stamp duty and registration fee due to application of pre-revised rates of duty

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

Audit noticed (May 2014 and June 2014) from the records of 29 SRs/JSRs¹³ that 573 instruments of mortgage deeds were executed and registered by individuals during 2010-13 for securing loans of ₹ 79.70 crore from the commercial/banking institutions after charging stamp duty of ₹ 1.60 crore at the pre-revised rate of two *per cent* against the leviable duty of ₹ 3.20 crore at the revised rate of four *per cent*. Application of pre revised rate of stamp duty resulted in short levy of stamp duty of ₹ 1.59 crore.

4.9.3 Non levy of stamp duty on agreements by deposit of title deed

Article Six of Schedule IA appended to Punjab Act provides for levy of stamp duty at the rate of ₹ 25.00 per ten thousand or part thereof in excess of 30 thousand on instruments of agreements of deposit of title deeds, pawn or pledge evidencing security for the repayment of money advanced or to be advanced. Instruments of pawn or pledge, if unattested, are exempted from stamp duty.

Audit noticed (May and June 2014) from the records of eight SRs/JSRs¹⁴ and information gathered from the suvidha-centres that 3,933 equitable mortgage deeds for securing loans of ₹ 2,372.43 crore were executed during the years 2012-13 and 2013-14, but the stamp duty amounting to ₹ 5.93 crore on agreement relating to deposit of title deeds was not levied as per provisions *ibid*.

The above points were reported to the Government/Department (July 2014); their replies were awaited (November 2014).

¹³ Adampur, Bathinda, Bhakta Bhaika, Dehlon, Ghanour, Goniana Mandi, Jagraon, Kalanaur, Khanna, Koom Kalan, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Maloud, Maur Mandi, Moga, Mohali, Mullanpur Dakha, Patiala, Payal, Rampura Phool, Raikot, Rajpura, Samrala, Sahnewal, Sidhwan Bet, Talwandi Sabo and Zira.

¹⁴ Bathinda, Maloud, Patiala, Payal, Rajpura, Rampura Phool, Talwandi Sabo and Zira.

Chapter-V

Taxes on Vehicles, Goods and Passengers

CHAPTER-V Taxes on Vehicles, Goods and Passengers

5.1 Tax administration

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

5.2 Results of audit

Test check of the records of 28 units relating to taxes on vehicles during 2013-14 showed irregularities involving ₹ 142.95 crore in 4,524 cases, which broadly fall under the following categories as mentioned in **Table 5.1**:

Table 5.1

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	<i>Performance audit on 'Levy and Collection of Motor Vehicle Tax'</i>	1	85.13
2.	Short/Non recovery of MVT	3,051	35.94
3.	Short/Non deposit of Government receipt	8	0.64
4.	Other irregularities	1,464	21.24
	Total	4,524	142.95

In 2013-14, the Department informed audit that they have accepted, by issuing demand notices in cases of short/non recovery, short/non deposit of Government receipt and other deficiencies, ₹ 2.16 crore involved in 475 cases, out of which ₹ 38.95 lakh involved in 48 cases were pointed out in 2013-14 and rest in the earlier years. The Department further informed that they had recovered ₹ 128.46 lakh in 185 cases, out of which ₹ 32.11 lakh involved in 27 cases related to the year 2013-14 and rest for the earlier years.

Performance audit on 'Levy and Collection of Motor Vehicle Tax' involving ₹ 85.13 crore is discussed in the succeeding paragraphs.

5.3 Performance Audit on “LEVY AND COLLECTION OF MOTOR VEHICLE TAX”

Highlights

Motor Vehicle Tax amounting to ₹ 7.18 crore pertaining to mini buses, educational institution buses, goods vehicles and All India Tourist Buses/Maxi cabs was neither paid by the vehicle owners nor demanded by the concerned transport authorities.

(Paragraphs 5.3.7 (i-vi))

Short realization of MVT of ₹ 17.64 lakh on account of plying buses of other States in excess of permitted distance against reciprocal agreement.

(Paragraph 5.3.9)

The transport authorities did not ascertain the actual number of vehicles sold by dealers against which trade certificates were issued and recover the correct amount of trade fee which resulted in non-realisation of revenue of ₹ 6.05 crore.

(Paragraph 5.3.12)

The internal control mechanism in the Department was weak as evidenced from lack of reliable centralized database, improper maintenance of registers and weak internal audit

(Paragraph 5.3.13)

In STC office, the stock registers of receipt books, challans books and daily cash registers were not maintained properly and no physical verification was conducted in the last five years period.

(Paragraph 5.3.13.1)

5.3.1 Introduction

The functioning of the Transport Department and the levy and collection of taxes and fees in the State are governed by the Central Motor Vehicles Act, 1988 (CMV Act), the Central Motor Vehicles Rules, 1989 (CMVR), the Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act) and the Punjab Motor Vehicles Rules, 1989 (PMVR). The main source of revenue in the Department comprises tax on the motor vehicles and fee for registration, grant of driving licences, issue of fitness certificates, road permits *etc.*, apart from fines and penalties for default.

5.3.2 Organisational Set-up

At the apex level, the State Transport Commissioner (STC), Punjab is the Head of the Department and is responsible for the administration of the Acts. The State has been divided into four regions and 22 districts which are controlled by the Secretaries of the Regional Transport Authorities (RTAs) and the District Transport Officers (DTOs) respectively. They are assisted by the Motor Vehicles Inspectors (MVIs) in discharging their duties.

5.3.3 Audit Objectives

The performance audit was conducted with a view to ascertain whether:

- the budget estimates prepared by Department were realistic ;
- the motor vehicle tax (MVT), fees and fines except receipts from outsourced activities were properly assessed, collected as per prescribed rates and deposited into treasury;
- the provisions of the CMV Act, PMVT Act and Rules made there under were being adhered to;
- an internal control mechanism existed within the Department and was adequate and effective to check leakage of revenue.

5.3.4 Scope and Methodology of Audit

The performance audit (PA) was conducted through test check of the records from May 2013 to January 2014 and information gathered subsequently from the office of the STC, Punjab, two¹ out of four RTAs and 10² out of 22 DTOs for the period 2008-09 to 2012-13 by selecting the units based on simple stratified sampling method. PA also contains cases of similar nature which came to notice during compliance audit for period 2008-09 to 2012-13.

An entry conference was held (May 2013) with Principal Secretary to the Government of Punjab, Department of Transport and STC in which the scope and methodology of audit was discussed.

The Performance Audit was forwarded to the Department/Government in July 2014. The exit conference was not held by the Department despite several reminders. However, replies to the Audit Paras as furnished by the Department have been incorporated in the Performance Audit. Replies of the Government were awaited (November 2014).

5.3.5 Audit Criteria

The audit findings were benchmarked against the criteria derived from the following sources:

- Central Motor Vehicles Act, 1988, Central Motor Vehicles Rules, 1989;
- Punjab Motor Vehicles Taxation Act 1924, Punjab Motor Vehicles Rules, 1989;
- Punjab Motor Transport Vehicles (Toll) Act, 1992 and Rules made thereunder; and
- Administrative instructions, Department notifications and circulars issued regarding levy and collection of MVT.

¹ Jalandhar and Patiala.

² Amritsar, Gurdaspur, Jalandhar, Ludhiana, Mansa, Moga, Mohali, Sri Muktsar Sahib, Patiala and Ropar.

5.3.6 Trend of Revenue

As per provisions of the Punjab Budget Manual, estimates of revenue receipts are required to be prepared by each field office keeping in view the amount expected to be realized in a year including any arrears due for the past years and probability of their realization during the year. The estimates so obtained from field offices are required to be analysed, compiled and consolidated at the head office and then sent to the Finance Department for further action.

5.3.6.1 The budget estimates and actual realisation there against during 2008-09 to 2012-13 are exhibited in **Table-1**:

Table-1

(₹ in crores)

Year	Budget estimates	Actual Receipts	Variation excess (+)/ Shortfall (-)	Percentage of Variation
2008-09	576.00	524.09	(-)51.91	(-)9.01
2009-10	610.56	554.74	(-)55.82	(-)9.14
2010-11	645.00	653.91 ³	(+)08.91	(+)1.38
2011-12	800.00	850.06	(+)50.06	(+)6.26
2012-13	864.00	994.72 ⁴	(+)130.72	(+)15.13
2013-14	1,350.00	1,145.69	(-)204.31	(-)15.13

(Source: Annual financial statements of the Government of Punjab and Finance Accounts)

It was seen from the above table that there was variation between the budget estimates and actual receipts which indicated that preparation of budget estimates were not realistic, reasons for which were not furnished by the Transport Department. However, no budget estimates regarding revenue receipts were being sent to Finance Department on yearly basis. This indicates that the budgets estimates were being prepared on presumptive basis at the level of Finance Department itself.

5.3.6.2 Late deposit of receipt into treasury

Rule 2.4 of Punjab Financial Rules Volume-I provides that receipt collected during the day shall be deposited into the Government account on the same day or the very next day. Further, STC authorised (March 2012) RTAs and DTOs to deposit the amount collected under receipt head “0041-taxes on vehicles” in account of Punjab State Transport Society (PSTS) and then transfer the same immediately on-line in the relevant receipt head.

In six⁵ DTOs and one RTA, audit noticed that revenue receipt of ₹ 5.55 crore was collected between May 2011 and March 2013 and the same was deposited

³ Rates of MVT and fee were enhanced under various categories in August 2010.

⁴ Rates of MVT and fee were enhanced under various categories in August and October 2012.

⁵ Amritsar, Gurdaspur, Ludhiana, Patiala, Jalandhar and Muktsar, RTA Jalandhar.

late into Government account with delay ranging between 10 and 186 days in contravention of rules *ibid*.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that the delay was due to non-availability of net-banking facility with the PSTS accounts earlier. The reply of the Department is not acceptable as internet facility was available with the Department from the commencement of on-line fee deposit system i.e. July-August 2012.

5.3.6.3 Non reconciliation with treasury

The Rule 2.2(v) of Punjab Financial Rules, Volume-I provides that each Head of the office is required to prepare a list of amounts remitted into treasury every month and reconcile these amounts of remittances with the records of treasury office.

In STC, two⁶ RTAs and nine⁷ DTOs, the remittances amounting to ₹ 689.57 crore were collected and deposited into treasury during the period April 2008 and March 2013 but the same were not reconciled with the treasury.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that Integrated Financial Management System (IFMS) has been implemented. Each DDO can check/verify all the receipts and payments through on-line system. Hence, now onwards there is no need to manually verify the receipts and payments from treasuries.

The reply of the Department has to be viewed in the light of the fact that IFMS was implemented during 2012-13, but no reconciliation of deposits had been done by the Department even for the period prior to 2012-13.

5.3.7 Non/short realisation of Motor Vehicle Tax

(i) Stage Carriage Buses

As per the Section 3 of PMVT Act, as amended from time to time, there shall be levied and paid to Government, Motor Vehicle Tax (MVT) on stage carriages at the rate per kilometre/per day as may be specified by Government from time to time by the end of every month on the entire distance permitted to be covered. Further, as per Section 11-A, failure to pay tax within the prescribed period attracts simple interest at the rate of one and half *per cent* per month following the due date, till the default continues and also penalty not exceeding ₹ 5,000 but not less than ₹ 1,000 per default.

Audit noticed from the records relating to MVT registers and lists of permitted kilometers of nine⁸ DTOs and information received from the Director, State

⁶ Jalandhar and Patiala.

⁷ Amritsar, Gurdaspur, Ludhiana, Jalandhar, Mansa, Moga, Sri Muktsar Sahib, Patiala and Ropar.

⁸ Barnala, Bathinda, Faridkot, Jalandhar, Ludhiana, Mansa, Moga, Muktsar and Patiala.

Transport, that MVT of ₹ 25.34 crore was collected against ₹ 65.98 crore worked out on the basis of permitted kilometers operated by the Pepsu Road Transport Corporation (PRTC), six⁹ depots of Punjab Roadways and 27 private transport companies during the period 2008-09 to 2012-13. Thus, there was non/short realisation of MVT of ₹ 40.64 crore besides interest of ₹ 23.66 crore and minimum penalty of ₹ 6.31 lakh was also leviable as detailed in **Table 2:**

Table-2

(₹ in lakh)

Name of transporter	Period	MVT due	MVT paid	MVT short paid	Interest (upto 31 March 2013)	Penalty	Total short
PRTC	2011-12 & 2012-13	4,330.02	1,454.39	2,875.62	2,347.87	0.24	5,223.73
Punjab Roadways	2008-09 to 2012-13	2,070.06	979.34	1,090.72	0	2.52	1,093.24
Private Transport companies	-do-	197.63	99.98	97.65	18.09	3.55	119.29
Total		6,597.71	2,533.71	4,063.99	2,365.96	6.31	6,436.26

On this being reported (March/July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 10.50 crore has been recovered from PRTC and in case of Punjab Roadways buses, figures are being reconciled and the remaining MVT would be recovered. Further, MVT amounting to ₹ 34.01 lakh has also been recovered from private transport companies and remaining amount would be recovered in due course of time. However, the recovered amount in respect of PRTC could not be verified in audit as no supporting document/details were supplied by the Department. Further, in case of private companies, only ₹ 4.36 lakh could be verified as part payment of one company.

(ii) Mini Bus Operators

Under the provisions of the PMVT Act, for mini buses¹⁰, plying on hire and used for transporting passengers, MVT is leviable on lump sum basis per annum and payable quarterly or annually in advance.

In eight¹¹ DTOs, Audit noticed that 301 mini bus operators did not pay or short paid MVT of ₹ 1.67 crore for the period 2008-09 to 2012-13. This resulted in non/short realisation of MVT of ₹ 1.67 crore, besides minimum penalty of ₹ 21.56 lakh was also leviable.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 0.65 lakh in

⁹ Amritsar-I, Chandigarh, Jagraon, Jalandhar-I, Moga and Muktsar.

¹⁰ having seating capacity of not more than 30 passengers including driver and conductor.

¹¹ Amritsar, Gurdaspur, Jalandhar, Ludhiana, Mansa, Moga, Muktsar and Ropar.

six cases has been recovered and further stated that most of the vehicles have been transferred to other districts/educational institutes.

The reply is not acceptable as the Department neither furnished details of vehicles which were transferred to other district/educational institutes nor any details regarding transfer were found on record.

(iii) Educational Institutions

As per PMVT Act, MVT is leviable on school, college/other educational institute buses running upto 50 Kms from the place of registration, at the rates prescribed by Government from time to time. MVT is payable quarterly or annually in advance.

In nine¹² DTOs, audit noticed that 499 buses of educational institutes did not pay or short paid MVT amounting to ₹ 2.58 crore for the period 2008-09 to 2012-13. This resulted in non/short realisation of MVT of ₹ 2.58 crore, besides minimum penalty of ₹ 47.19 lakh was also leviable.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 5.66 lakh in eight cases have been recovered and remaining amount would be recovered in due course of time. Recovery in remaining cases is awaited.

(iv) Goods Vehicles

Under Section 3 of PMVT Act, the Government specified MVT on gross vehicle weight (GVW) in respect of goods vehicles registered in the State of Punjab. MVT is payable quarterly or annually in advance.

In eight¹³ DTOs, audit noticed that 788 goods vehicles did not pay MVT of ₹ 1.62 crore including penalty of ₹ 73.10 lakhs for the period 2008-09 to 2012-13.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 0.88 lakh in 27 cases has been recovered and remaining amount would be recovered in due course of time. Recovery in remaining cases is awaited.

(v) All India tourist buses and maxi cabs

As per the PMVT Act, there shall be levied and paid to the State Government MVT on tourist buses and maxi cabs at the rates prescribed by Government from time to time. The MVT is to be collected by the STC, monthly, quarterly or annually in advance.

In STC office, audit noticed that four transport companies having 11 All India tourist buses and 53 tourist maxi cabs registered in the State of Punjab with valid permits up to 31 March 2013 did not pay or paid short MVT

¹² Amritsar, Gurdaspur, Ludhiana, Jalandhar, Patiala, Mansa, Mohali, Muktsar and Ropar.

¹³ Amritsar, Gurdaspur, Jalandhar, Mansa, Moga, Mohali, Muktsar and Ropar.

amounting to ₹ 19.63 lakh including minimum penalty of ₹ 1.59 lakh during the period 2008-09 to 2012-13.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 1.54 lakh in five¹⁴ cases has been recovered and remaining amount would be recovered in due course of time.

(vi) Private Service Vehicles

MVT is leviable on lump sum basis per annum and payable quarterly or annually in advance on private service vehicle used for trade and business. Further, the State Government revised (August 2010) the rates of MVT on the basis of seating capacity.

In STC office and four¹⁵ DTOs, audit noticed that MVT amounting to ₹ 47 lakh including minimum penalty of ₹ 0.91 lakh was not realized/short realized in respect of 38 vehicles used for trade and business during the period 2008-09 to 2012-13.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 0.26 lakh in two cases has been recovered and remaining amount would be recovered in due course of time.

5.3.8 Non deposit of MVT by closed companies

As per Section 81 of the Motor Vehicles Act, 1988, the permit is granted for a period of five years at a time and thereafter its renewal is required from time to time. Further, Rule 80 (3) of the PMV Rules provides that a holder of the permit shall deliver the permit to the State Transport Authority by which it was issued within fourteen days of the expiry of the permit by efflux (passage) of time and the transport authority which granted a permit may cancel or suspend the permit for such period as it thinks fit if the holder of the permit ceases to own the vehicles covered by the permit.

In three¹⁶ DTOs, Audit noticed that 53 permits granted to 33 private transport companies to cover 12,565 kms per day in the State had expired but existed in the RTA list. Out of this, only six transport companies holding 15 permits were regularly paying MVT during 2008-09 to 2012-13 despite expiry of their permits but no MVT was paid by remaining 27 transport companies holding 38 permits. No action was taken by the DTOs to realize the MVT or cancel the permits as exhibited from the records of DTOs.

The chances of buses being plied by the other private companies on these routes/timings could not be ruled out.

¹⁴ part payment of tourist buses.

¹⁵ Amritsar, Ludhiana, Mohali and Patiala.

¹⁶ Amritsar, Gurdaspur and Mansa.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 9.22 lakh in one case has been recovered by DTO Amritsar and remaining amount would be reconciled/recovered in due course of time.

5.3.9 Short realisation of MVT on account of plying buses in excess of permitted kilometers against reciprocal agreement

The Government vide notification (October 2012) revised the rates of MVT for stage carriage buses of other States plying in State of Punjab having permits which were countersigned under reciprocal agreement and the permits which were not countersigned under reciprocal agreements.

In RTA, Jalandhar, Audit noticed from reciprocal agreement and MVT payments records that six¹⁷ Depots of Himachal Roadways Transport Corporation (HRTC) had plied 14,685 kilometres in excess of permitted kilometers under the reciprocal agreements between September 2012 and March 2013 and had not paid MVT as per rate mentioned in the notification *ibid*. This resulted in short realisation of MVT of ₹ 17.64 lakh including interest and penalty.

5.3.10 Non-application of revised rates

The Government vide notification (October 2012) revised the rates of MVT leviable on mini buses, stage carriage buses plying within State of Punjab and buses coming from other States.

In RTA, Jalandhar and two¹⁸ DTOs, Audit noticed that 11¹⁹ depots of HRTC, one depot each of Punjab Roadways and PUNBUS and 14 mini bus transport companies did not pay the MVT on the revised rates between the period October 2012 and March 2013. This resulted in short deposit of MVT of ₹ 34.34 lakh including interest and penalty as detailed in **Table 3:**

Table-3

(₹ in lakh)

Sl. No.	Name of RTA/DTO	Name of Transport Company	Short paid
1.	RTA, Jalandhar	HRTC	27.89
2.	DTO, Ludhiana	Punjab Roadways and PUNBUS, Ludhiana Depot	2.84
3.	DTO, Jalandhar	Punjab Roadways and PUNBUS, Jalandhar Depot	2.86
		Mini Buses	0.75
	Total		34.34

¹⁷ Bilaspur, Dehra, Dharamshala, Mandi, Nalagarh and Una.

¹⁸ Jalandhar and Ludhiana.

¹⁹ Beserha, Chamba, Dehra, Hamirpur, Keylong, Nahan, Nalagarh, Palampur, Rampur Mandi, Sarkaghat, Sunder Nagar and Una.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that an amount of ₹ 6.98 lakh²⁰ has been recovered and remaining amount would be recovered in due course of time.

5.3.11 Challaned cases not sent to court

Section 200 of CMV Act provides that any offence punishable under Chapter XIII may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as may be specified by the State Government on this behalf. Further, according to Section 468 of the Criminal Procedure Code, 1973, the Court will not take cognizance of the offences, which are punishable with fine only, after expiry of six months from the date of commencement of the offence.

In RTA, Jalandhar and seven²¹ DTOs, Audit noticed that 379 cases of offences where compounding fees were not affected were not sent to the Court within the specified period during 2012-13 and still pending with the concerned transport authorities. This resulted in loss of revenue in the shape of compounding fee leviable under the Act.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that all the DTOs had been directed to send the challaned cases to concerned Courts without further loss of time.

The reply is not acceptable as the Court will not take cognizance of the offences, after expiry of six months from the date of commencement of the offence.

5.3.12 Non realisation of trade fee

Rule 34 of the CMVR, 1989 provides that an application for the grant or renewal of a trade certificate shall be made by the dealer in Form 16 and shall be accompanied by the appropriate fee²² as specified in Rule 81. The fee is chargeable for each vehicle sold by the dealer.

In three²³ districts, audit noticed from the information furnished by the DTOs and STC that 7,16,410²⁴ vehicles were registered under different categories between April 2008 and March 2013. However, the dealers had not deposited the requisite trade fee or deposited less trade fee than that prescribed. The transport authorities did not ascertain the actual number of vehicles sold by each dealer against which trade certificates were issued and recover the correct amount of trade fee. This resulted in non-realisation of revenue of ₹ 6.05²⁵ crore.

²⁰ ₹ 6.53 lakh in respect of HRTC (RTA Jalandhar), ₹ 0.45 lakh in 18 cases of mini buses in respect of DTO Jalandhar.

²¹ Gurdaspur, Ludhiana, Mansa, Mohali, Muktsar, Patiala and Ropar.

²² ₹ 50 for two wheeler and ₹ 200 for four wheeler.

²³ Ludhiana, Patiala and Ropar.

²⁴ 528736 (two wheeler), 187674 (four wheeler).

²⁵ ₹ 6.40 crore (Due) – ₹ 0.35 crore (paid) = ₹ 6.05 crore.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that trade certificate was the requirement of the dealer who sold vehicles and necessary for purchaser of vehicle.

The reply does not address the issue of non-recovery of trade fee prescribed under the CMVR, 1989.

5.3.13 Internal Control Mechanism

Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, safeguarding resources against the irregularities, adhering to laws, regulations and management directives and developing and maintaining reliable data. The following deficiencies were noticed in the internal control mechanism:

5.3.13.1 Improper maintenance of Registers

The Financial Rules²⁶ provide that stores and stock accounts should be kept in good and efficient condition. All the quantities received in or issued are entered in stock register in order of occurrence on the dates of transactions taking place. Rules further provide that a physical verification should be made once in every year.

In STC and two²⁷ DTOs, it was noticed that the stock registers of receipt books, challan books and daily cash register were not maintained properly. Further, no physical verification was conducted between April 2008 and March 2013.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that in future stock register would be maintained in prescribed form.

5.3.13.2 Non-maintaining of centralised database

(i) In STC office, audit noticed that the Department did not maintain any centralized database in respect of field offices which were under the Control of STC and in the absence of centralized database, information desired for any conclusion could not be derived from the records. The STC office did not provide any information²⁸ in respect of field offices except registration of vehicle and stated that no such information was being compiled at head office level and these could be got from the concerned field office.

(ii) Further, cross verification of the statements furnished by the STC with the statements furnished by three²⁹ DTOs in respect of vehicles registered during the year 2008-09 to 2012-13 disclosed that 45,491 vehicles registered were shown less in DTO Patiala and 43,748 vehicles registered were shown

²⁶ Rule 15.7 and Rule 15.6 of Punjab Financial Rules, Volume-I

²⁷ Jalandhar and Mansa.

²⁸ Permit issued/expired/cancelled, mechanical fitness certificate due/issued/shortfall, Collection of revenue, renewal of registration certificates etc.

²⁹ Ludhiana, Patiala and Ropar

excess in DTO Ludhiana and Ropar as per statement furnished by the STC office.

The above discrepancies also indicated lack of monitoring to ensure that reliable data/information was available to the higher authorities.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that the Transport Department established its own data centre in 2012 and all the records of vehicles and licences are consolidated at the data centre. Further, stated that since then there were no discrepancies of records in the field offices and STC office.

The reply is not acceptable as the Department did not furnish any other centralised data except registration of vehicles to audit and there were differences in each year in the information provided by the STC office and field offices.

5.3.13.3 Absence of departmental manual

In order to ensure proper functioning of the various wings of the Department, it is essential that a Departmental manual is prepared outlining the process required to be followed by different levels of staff.

It was, however, noticed in audit that there was no such manual in the Department. In the absence of a manual in the Department, the controls which were required to be exercised and its efficacy could not be exercised by the higher authorities.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that the working of Transport Department is based on CMV Act, CMVR and PMVT Act.

Although the working of Department is based on Acts/Rules, Audit is of the view that there is still a need for Departmental manual for effective implementation of these Acts/Rules.

5.3.13.4 Non-renewal of fitness certificates

Section 56 of the CMV Act provides that a transport vehicle³⁰ shall not be deemed to be validly registered unless it carries a certificate of fitness. As per Rule 62 of the CMVR, fitness certificate granted under the Act in respect of a newly registered transport vehicle is valid for two years and thereafter required to be renewed every year after payment of prescribed fee. Further, the Punjab State falls in the high accidental (road accident) prone area as per report issued by the National Crime Records Bureau, Ministry of Home Affairs on Accidental Deaths and Suicides in India 2012.

³⁰ "Transport vehicle" means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle.

As per the information supplied by the five³¹ DTOs, audit noticed that 5,14,016 transport vehicles were due for mechanical inspection during the period 2008-09 to 2012-13, against which only 2,81,528 fitness certificates were issued. Non-inspection of remaining motor vehicles had not only resulted in huge number of vehicles plying without valid fitness certificates but also deprived government revenue on account of inspection fee of ₹ 6.97 crore in respect of 2,32,488 un-inspected vehicles as calculated at the average rate of ₹ 300³² per inspection per vehicle.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that though every transport vehicle is required to get fitness certificate at regular intervals, yet some vehicles did not get it in time. Moreover, there is no such other mechanism to trap vehicle owners who are not presenting their vehicles for fitness test and during routine checking such vehicles are challaned and impounded. The fact remains that there is no system to ensure that the vehicles are plying with the fitness certificates.

5.3.13.5 Internal Audit

Internal audit is one of the most vital tools of the internal control mechanism. In STC office, internal audit wing headed by Deputy Controller of Finance and Accounts was set up in 1992. In each DTO, there was one section officer who applied audit checks with reference to financial rules and Departmental instructions. However, no section officer was posted in the offices of RTAs.

With a view to plug the various loopholes leading to leakage of revenue and to tone up the quality of assessment and collection of major revenue earning Departments in Punjab, an Internal Audit Organization (IAO) under the Finance Department, Government of Punjab was set up in October 1981. The audit of two³³ RTAs and eight³⁴ DTOs was not conducted by the IAO during the period 2008-13.

This indicated that the Department had no means of ascertaining the areas of malfunctioning of system and avail the opportunity of taking appropriate remedial action.

On this being reported (July 2014) to the Government/Department, the Department replied (September 2014) that no internal audit wing was in existence in the Department. Internal Audit is being conducted by the IAO since 2004-05 on regular basis.

³¹ Amritsar, Gurdaspur, Jalandhar, Ludhiana and Ropar.

³² ₹ 200 inspection fee + ₹ 100 fitness certificate renewal fee.

³³ Jalandhar and Patiala.

³⁴ Amritsar, Gurdaspur, Ludhiana, Jalandhar, Mansa, Moga, Sri Muktsar Sahib and Ropar.

The reply is not acceptable as no audit report of IAO was supplied to Audit. Moreover, all RTAs/DTOs pointed out in the para also stated that IAO did not conduct the audit during the period 2008-09 to 2012-13.

5.3.14 Conclusion

There were cases of non/short realisation of MVT from operators of stage carriages buses, mini buses, educational institution buses, goods vehicles, All India Tourist buses/taxis, vehicles used for trade and business. The transport authorities did not ascertain the actual number of vehicles sold against which trade certificates were issued. The Department also did not have a Manual for a more effective delivery of its mandate. The internal control mechanism in the Department was weak as evidenced from lack of reliable centralized database, improper maintenance of registers and weak internal audit.

5.3.15 Recommendations

The State Government may consider to:

- (i) devise a mechanism to monitor and recover the huge outstanding amount against the defaulters;
- (ii) strengthen enforcement wing to ensure timely realisation of revenue by adopting special modes of recovery e.g. impounding vehicles of the tax defaulters, cancelling permits of defaulters etc.
- (iii) prescribe a periodical return to be furnished by the dealers indicating sale of vehicles and trade fee payable thereon which may be cross checked with the records of registration of vehicles;
- (iv) strengthen internal control mechanism such as maintenance of registers, reliable centralized database, internal audit etc.

Chapter-VI

Other Tax and Non Tax Receipts

CHAPTER - VI

Other Tax and Non Tax Receipts

6.1 Tax Administration

This chapter consists of receipts from Land Revenue, State Lotteries, Entertainment and Luxury Tax, Forest and Mining Receipts etc. The tax administration is governed by Acts and Rules framed separately for each Department.

6.2 Results of audit

Test check of records relating to Land Revenue, Entertainment and Luxury Tax, State Lotteries, Forest and Mining etc. during 2013-14 showed irregularities involving ₹ 190.46 crore in 2,210 cases, which fall under the following categories as per details mentioned in **Table 6.1**:

Table 6.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A : Other Tax Receipts			
(i) Land Revenue			
1.	Non/short recovery of chowkidara tax	24	1.78
2.	Non recovery of arrears declared as land revenue	43	4.91
3.	Loss to the Government Exchequer	13	0.14
4.	Non recovery of rent from unauthorised occupants	9	0.13
5.	Non recovery of service charges	65	0.37
6.	Non recovery of Abiana/Tawan	22	5.85
	TOTAL	176	13.18
(ii) Other taxes and duties on commodities and services			
1.	Non/short levy of entertainment and luxury tax	173	3.04
2.	Non/short levy of interest and penalty	110	0.05
	TOTAL	283	3.09
B : Non- tax Receipts (State Lotteries)			
1.	Loss of revenue due to ill planning in framing policy of fortnightly lottery scheme	1	0.54
2.	Loss of revenue to State Exchequer due to non conducting of monthly lottery draw	1	0.14
	TOTAL	2	0.68
C : Forest Receipts			
1.	Non recovery of Government dues	1,349	6.08
2.	Outstanding amount of royalty/interest	15	68.16
3.	Non deposit of revenue into Government account	292	88.80
4.	Loss of revenue	92	3.27
	TOTAL	1,748	166.31

Sl. No.	Categories	No. of cases	Amount
	D: Mining Receipts		
1.	Receipts from Minor Minerals	1	7.20
	TOTAL	1	7.20
	GRAND TOTAL	2,210	190.46

In 2013-14, the Entertainment and Luxury Tax Department informed audit that they have accepted, by issuing demand notices in 27 cases for recovery amounting to ₹ 1.18 crore for earlier years. The Department further informed in 2013-14 that they had recovered ₹ 1.03 crore in 19 cases pertaining to the earlier years. In 2013-14, Forest and Wildlife Department informed audit that they have accepted and recovered, an amount of ₹ 5.30 lakh in 386 cases pertaining to the earlier years.

A few illustrative cases involving ₹ 9.54 crore are discussed in succeeding paragraphs.

6.3 Short realisation of chowkidara tax

Rule 4.1 of Punjab Financial Rules (PFR) provides that it is the duty of the Revenue or the Administrative Department concerned, to see that dues of Government are correctly and promptly assessed, collected and paid into the treasury. As per Rule 33 of the Punjab Chowkidar Rules 1876, amended from time to time, the remuneration to the village chowkidar (watchman) was payable @ ₹ 800 per month w.e.f. 1 June 2010 and as per Rule 35, the amount payable by any village for the remuneration of watchman shall be levied and collected from all occupants or owners of houses of general category in the village equally with due regard to the views and opinions of the headman of the village. The Patwari shall prepare an assessment of the chowkidara tax and after proper attestation by the Revenue Officer concerned send it to the Deputy Commissioner (DC) for approval. Further, Rule 41 provides that if such chowkidara collections are not deposited, the Tehsildar shall, subject to orders of the DC take measures to enforce payment of the remuneration due and for this purpose, the DC and Tehsildar shall have the powers respectively as they now possess for the recovery of land revenue due to Government.

Audit noticed (January to March 2014) that:

- a) in three Tehsildars¹, against the approved demand of chowkidara tax of ₹ 43.87 lakh recoverable from the villagers of General category for the period 2010-13, only ₹ 5.09 lakh was recovered by the Department leaving a balance of ₹ 38.78 lakh.

¹ Gurdaspur, Jalandhar-I and Jalandhar-II.

- b) in Tehsildar, Fatehgarh Sahib, demand of chowkidara tax of ₹ 9.36 lakh was approved instead of actual demand of ₹ 11.90 lakh for the year 2010-11, out of which only ₹ 0.24 lakh were recovered leaving a balance of ₹ 11.66 lakh.
- c) in District Revenue Officer, Shahid Bhagat Singh Nagar, demand of chowkidara tax of ₹ 8.39 lakh was approved instead of actual demand of ₹ 11.19 lakh for the year 2010-13, out of which only ₹ 4.20 lakh were recovered leaving a balance of ₹ 6.99 lakh.
- d) in Tehsildars, Ludhiana (West) and Fatehgarh Sahib, no demand was raised for the period of 2010-13 and 2011-13 against salaries amounting to ₹ 18.84 lakh and ₹ 16.61 lakh paid to chowkidars of Ludhiana (West) and Fatehgarh Sahib respectively.

Short realisation of chowkidara tax of ₹ 57.43 lakh from the villagers resulted in not only loss of revenue but also burdened the State exchequer for making payment of remuneration to the headmen who were responsible for the collection of chowkidara tax.

The matter was brought to the notice of the Government/Department (May 2014); their replies were awaited (November 2014).

6.4 Non accountal of mutation fee

Rule 2.4 of PFR Vol-I provides that while signing the cash book, the head of the office should see that the departmental receipts collected during the day, the utilisation of which towards expenditure is strictly prohibited under the Punjab Treasury Rules, are credited into the treasury on the same day or next working day at the earliest and that there should be a corresponding entry on the payment side of the cash book.

Audit noticed (February 2014) from the mutation fee register of Tehsildar, Samrala that against mutation fee collection of ₹ 6.05 lakh by Tehsildars and Naib Tehsildars during April 2010 to September 2013, only ₹ 4.54 lakh was deposited in the treasury leaving balance of ₹ 1.51 lakh which was neither accounted for in Daily Collection Registers nor deposited into treasury. It resulted in non accountal of mutation fee of ₹ 1.51 lakh lying with the concerned Tehsildar/Naib Tehsildar. Mis-appropriation of money could not be ruled out in audit.

The matter was brought to the notice of the Government/Department (May 2014); their replies were awaited (November 2014).

6.5 Non eviction of Gram Sabha/Gram Panchayat land from illegal/unauthorised occupants

Punjab Government laid down (September 2007) a policy for disposal of rural/urban evacuee land² at the rate of ₹ 15,000 per acre for general category

² land meant for common use of villagers.

and ₹ 12,000 per acre for schedule caste and backward categories. The unauthorised occupants were to apply to the concerned Tehsildar within a period of three months for the transfer of land in their name as per terms and conditions of the policy. Hon'ble Supreme Court of India declared (January 2011) this policy invalid and directed the State Government to prepare a scheme for eviction of illegal/unauthorised occupants of land meant for common purposes of villagers. Further, State Government forwarded (April 2011) a copy of the above decision of the Apex Court to all the District Collectors for compliance.

Audit noticed (March 2014) from the records of Tehsildars Jalandhar-I and Jalandhar-II for the year 2013-14 that an area measuring 383 Acre 6 Kanal of common land pertaining to the Gram Sabha/Gram Panchayat etc. was occupied illegally/unauthorisedly. Despite the directions of the Apex Court and the State Government, no action was initiated by the revenue authorities to ensure eviction of common land from encroachers in Jalandhar district even after the lapse of more than three years. The minimum value of the encroached land was ₹ 36.46 crore (calculated at the minimum prevailing Collector rates of agricultural land for the year 2012-13 in Jalandhar II).

Non eviction of illegal/unauthorised occupants of Gram Sabha/Gram Panchayat land by framing a scheme/policy as directed by the Apex Court was not only violative of the orders of the Apex Court but also rendered undue advantage to the encroachers.

Tehsildar, Jalandhar-I in his reply stated (June 2014) that no scheme has been prepared to evacuate the land.

The matter was brought to the notice of the Government/Department (June 2014); their replies were awaited (November 2014).

6.6 Non - realisation of entertainment tax from the cinema proprietors

As per provisions contained in Section 7 (1) and (2) of the Punjab Entertainment Tax (Cinematograph Shows) Rules 1954, every proprietor shall be required to furnish a return in the prescribed form and manner in respect of his cinema house, every fortnight within a period of seven days of the close of the fortnight. Before any proprietor furnishes the return as required under Sub-Section (1), he shall deposit into the concerned treasury, the full amount of tax payable by him, for the period covered by the return.

A proposal was made by the Punjab Government in the annual budget for the year 2003-04 that if the entertainment tax is deposited in lump sum, a concession of 33 *per cent* will be given to cinema proprietors in entertainment tax. The cinema proprietors accordingly started depositing entertainment tax availing rebate of 33 *per cent* whereas no notification was issued by the Punjab Government. A demand was raised by the Department (September 2004) for depositing the remaining 33 *per cent* tax. Cinema

proprietors filed writ petition in 2005 in Punjab and Haryana High Court against the demand raised by the Department which was dismissed (7 May 2013) by the Hon'ble Court. Accordingly, the cinema proprietors were required to deposit 33 *per cent* of remaining entertainment tax which was allegedly withheld by the cinema proprietors for the period of 2003-04 to 2007-08. The Entertainment Tax was, however, abolished by Punjab Government in April 2008.

Audit noticed (February 2014) from the records of Assistant Excise and Taxation Commissioner, Entertainment (AETC) Ludhiana-1 that 12 cinema proprietors did not deposit the allegedly withheld entertainment tax of ₹ 1.75 crore for the period of 2003-04 to 2007-08 despite dismissal of their writ petition by the Hon'ble Court mentioned *ibid*. Even after the lapse of more than one year of the decision of Hon'ble Court as well as issuance of directions (September 2013) by Commissioner, Excise and Taxation, Punjab, no action was initiated by AETC to recover the balance amount of entertainment tax from the defaulters. Non realisation of entertainment tax not only deprived of the State exchequer to earn revenue of ₹ 1.75 crore but also extended undue benefit to the defaulters to retain State revenue for no reasons. Besides, penalty under Section 14 (1) may also be levied after giving a reasonable opportunity of being heard to the defaulters.

The matter was brought to the notice of the Government/Department (April 2014); their replies were awaited (November 2014).

6.7 Receipts from Minor Minerals

Receipts from Minor Minerals consist of application fee, licence fee, permit fee, royalty, fines and penalties, interest on delayed payment(s) etc.

Minerals are divided into two categories **Major Minerals**-which are further classified as hydrocarbons or energy minerals (such as coal, lignite etc.), atomic minerals, metallic and non-metallic minerals and **Minor Minerals**-which include building stone, flagstone, ordinary clay, ordinary sand and any other mineral notified by the Central Government.

Management of mineral resources is the responsibility of both the Central Government and the State Governments in terms of Entry 54 of the Union List (List I) and Entry 23 of the State List (List II) of the Seventh Schedule of the Constitution of India. So long as the Parliament does not make any law in exercise of its powers, the powers of the State Legislature in Entry 23 would subsist.

Scrutiny of records of six³ out of 18⁴ District Mining Offices pertaining to the years 2008-13 were selected, which showed cases of short payment of

³ Amritsar, Hoshiarpur, Ludhiana, Mansa, Mohali/Ropar and Patiala.

⁴ Amritsar, Batala, Bathinda, Faridkot, Ferozepur, Hoshiarpur, Jalandhar, Kapurthala, Ludhiana, Mansa, Mandi Gobindgarh, Malerkotla/Sangrur/Barnala, Moga, Mohali/Ropar, Muktsar/Fazilka, Pathankot, Patiala and Shahid Bhagat Singh Nagar.

royalty, non-levy of penalty, interest, loss of revenue due to non-observance of the provisions of the Act/Rules as discussed in the following paragraphs:

6.7.1 Non recovery of interest on royalty from Bricks Kiln Owners

As per Clause 11 of Form 'K' prescribed under Rule 24 of Punjab Minor Mineral Concession (First Amendment) Rules, 2008 notified by Government of Punjab, Department of Industries and Commerce (March 2008), half yearly installment of royalty by the Brick Kilns Owners (BKO) shall be paid in advance. In case the advance half yearly royalty is not paid on the date specified, the permit holder shall be liable to pay an interest at the rate of 18 *per cent* per annum on the due amount, till the amount is paid. Further, as per Section 12 of Mines and Minerals (Development & Regulation) Act 1957, the State Government shall cause to be maintained the registers of permits, licenses etc.

Audit noticed (between May and June 2014) from the records of four Mining Offices⁵ for the period 2008-09 to 2012-13 that 718 BKOs had deposited the royalty amount after a delay ranging between one and 2,185 days for which interest at the rate of 18 *per cent* per annum was required to be levied and recovered from the BKOs on delayed payments as per rules *ibid*. However, the Department had not levied the same. This resulted in non-recovery of interest amounting to ₹ 1.02 crore.

In the office of the Mining Officer, Mohali/Ropar records/register in respect of BKOs for the period 2008-13 were not maintained. In the absence of proper records pending royalty and interest on delayed payments could not be worked out.

6.7.2 Non-realisation of royalty for excess extraction of Sand/Gravel

As per Rule 28 (2) of the Punjab Minor Minerals Concession Rules 1964 (PMMC Rules), no contractor shall remove any quantity of minor minerals in excess of the quantity worked out on the basis of contract with respect to rates of royalty shown in the first schedule.

Audit noticed (June 2014) from the records of two Mining Offices⁶ that contract for 113 quarries was initially granted to six contractors for three years w.e.f. 16 June 2006 which was subsequently extended upto 15 May 2010. Scrutiny of returns (Form 'N') showed that the contractors paid royalty for extraction of 19.14 lakh metric ton (MT) of sand/gravel, whereas they actually extracted 23.70 lakh MT resulted in extra extraction of 4.56 lakh MT of sand/gravel during the extended period of the contract in contravention to the Rules *ibid*. This resulted in non-realisation of revenue amounting to ₹ 1.15 crore as detailed in the **Table 6.2**:

⁵ Amritsar, Hoshiarpur, Ludhiana and Mansa.

⁶ Amritsar and Mohali/Ropar.

Table 6.2

No. of contractors/quarries	Name of district	Period	Actual quantity of sand/gravel extracted (lakh MT)	Allotted quantity of sand/gravel to be extracted (lakh MT)	Excess extraction of sand/gravel (lakh MT)	Rate of sand/gravel (₹ per MT)	Loss of revenue due to excess extraction (₹ in lakh)
1/73	Ropar	16.6.06 to 15.5.10	14.77	11.13	3.64	24.00	87.36
4/14	Amritsar	1.4.09 to 15.5.10	6.70	6.24	0.46	30.00	13.80
1/26	Mohali	1.2.10 to 15.5.10	2.23	1.77	0.46	30.00	13.80
6/113		Total	23.70	19.14	4.56		114.96

6.7.3 Short levy of royalty due to application of pre-revised rates

Government of Punjab, Department of Industries and Commerce vide auction notice dated 11 April 2005 (further revised on 1 June 2006), auctioned 26 quarries in Mohali district and 73 quarries in Ropar district for extraction of sand/gravel for the period of three years i.e. 16 June 2006 to 15 June 2009. As per condition No.1 of the auction notice and further clause-13 of the contracts, the contracts were subject to all rules and regulations which may from time to time be issued by the Government regulating the working of quarries. Further, Punjab Government vide notification (April 2008) revised the rates of royalty of sand w.e.f. 1 April 2008 from ₹ 20.00 to ₹ 30.00 per MT and gravel from ₹ 16.00 to ₹ 24.00 per MT.

Audit noticed (June 2014) from the record of the Mining Office, Mohali/Ropar that two contracts for 26 quarries in Mohali and 73 quarries in Ropar for extraction of sand/gravel were granted to a contractor initially for the period of three years from 16 June 2006 to 15 June 2009 for the royalty amounting to ₹ 1.30 crore and ₹ 3.40 crore per annum respectively. The royalty was worked out on the basis of minimum rates given in the Schedule-I of Punjab Minor Mineral Concession Rules, 1964. The contract was further extended upto 15 May 2010. However, the rates of royalty on sand and gravel in the said contracts were not revised as per condition 1 of the auction notice and clause-13 of the contract. This resulted into short levy of royalty amounting to ₹ 4.99 crore.

6.7.4 Non recovery of royalty from Brick Kiln Owners

As per Rule 3 (Clause 6) of Punjab Minor Mineral Concession (Second Amendment) Rules, 2008, the royalty on bricks manufactured by BKO's shall be paid at the rates prescribed in First Schedule.

Audit noticed (June 2014) from the registers of BKO's in Mining Office, Hoshiarpur that royalty of ₹ 3.72 lakh for the year 2012-13 was due from the 25 BKO's. No demand notice was issued by the Mining Officer to the concerned BKO's for outstanding royalty.

6.7.5 Non-auction of quarries

As per Department of Industries and Commerce, Punjab auction notice (June 2008), 66 quarries were put for auction held on 10 July 2008 in Hoshiarpur district.

Audit noticed (June 2014) from record of the Mining Office, Hoshiarpur that out of 66 quarries, 44 quarries were allotted on contract. The Mining Officer, Hoshiarpur sent a proposal (August 2008) to the Directorate to conduct the auction of 16 quarries excluding six pertaining to forest area. Despite sending this proposal, no auction was conducted by the Directorate in respect of 16 quarries.

6.7.6 Non furnishing of returns by the contractors

As per Rule 54-B of PMMC Rules, every assessee shall furnish a monthly return in Form 'N' showing the production and disposal of minor minerals during the month latest by 10th of the following month. Further, as per condition 16 of the Form 'L' (Agreement) prescribed under Rule 33 of PMMC Rules, in case of default in due observance of terms and conditions of the contract, the contract may be terminated by the Government and forfeiture of security deposit by the contractor.

Audit noticed (June 2014) from the contract documents in the Mining Office, Mohali/Ropar that no return was furnished by the contractors in respect of 55 quarries in Mohali and 63 quarries in Ropar auctioned on 16 July 2010 in contravention to the rule mentioned *ibid*. In the absence of returns, possibility of excess extraction of minor minerals by the contractors could not be ruled out which might have caused revenue loss to the Government.

6.7.7 Non reconciliation of remittance made into treasury

Rule 2.2(v) of PFR Vol. 1 read with para 12.3 (3) of the Punjab Budget Manual provides that at the end of every month, the head of office should prepare a consolidated list of all remittances made into treasury during the month in prescribed form and forward the same to the treasury officer for his signature in token of confirmation. The Treasury Officer would compare the list with the records maintained by him and return the verified list by 15th of the following month duly signed by him in token of acceptance or pointing out discrepancies, if any.

Audit noticed (May 2014 and June 2014) in the four mining offices⁷ for the period 2008-09 to 2012-13 that an amount of ₹ 80.61 crore was deposited into the treasury on account of royalties etc. under the head "0853-Non Ferrous Metallurgical Industries" for which no reconciliation was made with the treasury. Non reconciliation of deposits may lead to misappropriation/fraud/embezzlement of Government money which may remain undetected.

⁷ Hoshiarpur (₹ 3.88 crore), Ludhiana (₹ 24.89 crore), Mohali/Ropar (₹ 51.54 crore) and Patiala (₹ 0.30 crore).

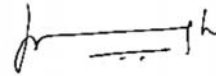
6.7.8 Internal Audit

Internal audit is a vital component of the internal control mechanism and is generally defined as control of all controls. The Department informed that no internal audit system existed in the Department. This indicated that no mechanism existed to plug loopholes and take timely remedial measures.

Interest on delayed payment of royalty by the Brick Kilns Owners were not levied and recovered by the Department. Royalty for excess extraction of Sand/Gravel was not realized from the contractors. No returns were furnished by the contractors and in the absence of returns, possibility of excess extraction of minor minerals could not be ruled out.

The above points were reported to the Government/Department (July 2014); their replies were awaited (November 2014).

Chandigarh :
The



(JAGBANS SINGH)
Pr. Accountant General (Audit), Punjab

Countersigned



New Delhi :
The

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India