

**Report of the
Comptroller and Auditor General of India**

on

Revenue Sector

for the year ended 31 March 2015

Government of Punjab
Report No. 3 of the year 2015

TABLE OF CONTENTS

Description	Reference to	
	Paragraphs	Page
Preface		v
Overview		vii-x
Chapter-I General		
Trend of revenue receipts	1.1	1
Analysis of arrears of revenue	1.2	4
Arrears in assessment	1.3	5
Evasion of tax detected by the Department	1.4	5
Refund Cases	1.5	6
Response of the Government/Departments towards audit	1.6	6
Departmental Audit Committee Meetings	1.6.2	8
Non production of records to audit for scrutiny	1.6.3	8
Response of the Departments to the draft audit paragraphs	1.6.4	9
Follow up on the Audit Reports – summarized position	1.6.5	9
Analysis of the mechanism for dealing with the issues raised by audit	1.7	10
Position of Inspection Reports	1.7.1	10
Recovery of accepted cases	1.7.2	11
Action taken on the recommendations accepted by the Departments/Government	1.8	11
Audit planning	1.9	12
Internal Audit	1.10	12
Results of audit	1.11	13
Position of local audit conducted during the year	1.11.1	13
Coverage of this Report	1.12	13

Description	Reference to	
	Paragraphs	Page
Chapter – II Taxes/VAT on Sales, Trade etc.		
Tax administration	2.1	15
Results of audit	2.2	15
Performance Audit on “SYSTEM OF ASSESSMENT UNDER VAT”	2.3	16-37
Other Compliance issues		
Excess allowance of Notional Input Tax Credit	2.4	37
Excess allowance of Input Tax Credit	2.5	38
Short levy of purchase tax	2.6	40
Short levy of penalty	2.7	41
Loss of revenue due to non adherence of appellate authority orders	2.8	41
Short levy of output tax	2.9	42
Loss of revenue due to inadmissible refund of entry tax on imported sugar	2.10	44
Excess allowance of refund	2.11	45
Excess refund to works contractors	2.12	47
Irregular allowance of provisional refund	2.13	49
Chapter-III State Excise		
Tax administration	3.1	51
Results of audit	3.2	51
Loss of revenue due to short realisation of license fee	3.3	51
Chapter-IV Stamp Duty		
Tax administration	4.1	53
Results of audit	4.2	53
Short levy of stamp duty and registration fee due to misclassification of properties	4.3	54
Irregular remission of stamp duty and registration fee	4.4	54
Non levy of social security fund and social infrastructure cess	4.5	55
Non levy of stamp duty and registration fee on mortgage deeds	4.6	56

Description	Reference to	
	Paragraphs	Page
Short levy of stamp duty and registration fee	4.7	57
Short levy of stamp duty	4.8	57
Cases referred to Collector under Section 47-A of the Indian Stamp Act, 1899	4.9	58
Delay in disposal of undervalued cases	4.9.1	59
Non-recovery of decided cases	4.9.2	60
Non-levy of interest on the deficient amount	4.9.3	60
Improper maintenance of records	4.9.4	61
Absence of provision regarding entry of deficient amount in revenue record	4.9.5	61
Non-preferring of appeal to the Divisional Commissioner	4.9.6	62
Chapter-V Taxes on Vehicles, Goods and Passengers		
Tax administration	5.1	65
Results of audit	5.2	65
Short/Non realisation of MVT from stage carriage big buses	5.3	65
Short deposit of MVT due to non application of revised rates	5.4	66
Short realisation of MVT on account of excess plying of kilometers against reciprocal agreement	5.5	67
Collection of revenue from outsourced activities in MVT	5.6	68
Non-deduction of TDS	5.6.1	69
Non-levy of penalty on BOOT operator due to delayed printing of registration certificates/driving licences	5.6.2	69
Non-delivery of DLs/RCs to citizens through couriers	5.6.3	70
Non-installation of electric sub meters	5.6.4	70
Non-providing of training to staff of the Department by BOOT operator	5.6.5	71
Non-fulfillment of the purpose for levying user charges by PSTS	5.6.6	71
Irregular retention of Government money out of Government Account	5.6.7	71

Description		Reference to	
		Paragraphs	Page
Chapter-VI Forest Receipts			
Tax Administration		6.1	73
Results of audit		6.2	73
Blockage of revenue due to non-felling of bamboos		6.3	73
Irregular adjustment of royalty		6.3.1	74
Non-realisation of interest on royalty		6.3.2	74
Chapter-VII Other Tax and Non Tax Receipts			
Tax Administration		7.1	77
Results of audit		7.2	77
Short realisation of marriage registration fee		7.3	78
Non eviction of Government land from the unauthorized occupants		7.4	79
Non-deduction of service charges		7.5	80
Appendices			
S.No.	Particulars	Reference to	
		Paragraphs	Page
I	Procedure for registration, assessment and recovery of tax revenue under PVAT Act, 2005	2.3.6	83
II	Excess claim of ITC	2.3.9.7	84-86
III	Short levy of tax due to suppression of sales/purchases	2.3.9.15	87-90

PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2015 has been prepared for submission to the Governor of Punjab under article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit done during the period 2014-15 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2014-15 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 'System of assessment under VAT' and 26 paragraphs relating to non/short levy of output taxes/central sales tax, refunds in VAT, short deposit of license fee, non/short levy of stamp duty and registration fee, non-levy of social infrastructure cess, evasion of stamp duty and registration fee on mortgage deeds, non/short levy of motor vehicle tax, short realisation of marriage registration fee, non-realisation of interest on royalty of trees, non-deduction of service charges etc. involving ₹ 339.99 crore.

1. Chapter –I

General

The total receipts of the State Government for the year 2014-15 were ₹ 39,022.85 crore. The Government raised ₹ 28,449.93 crore, comprising tax revenue of ₹ 25,570.20 crore and non-tax revenue of ₹ 2,879.73 crore. The State Government received ₹ 4,702.97 crore as State's share of divisible Union taxes and ₹ 5,869.95 crore as Grants-in-aid from the Government of India.

(Paragraph 1.1.1)

Test check of the records of 281 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Goods and Passengers, Forest Receipts and other Departmental offices conducted during the year 2014-15 showed under assessment/short levy/loss of revenue aggregating ₹ 2,494.57 crore in 35,362 cases. The Departments collected ₹ 18.26 crore in 4,459 cases during 2014-15, out of which ₹ 0.09 crore in 14 cases was for the year 2014-15 and ₹18.17 crore in 4,445 cases was of earlier years.

(Paragraph 1.11.1)

2. Chapter-II

Taxes/VAT on Sales, Trade etc.

Performance Audit on "System of assessment under VAT" showed the following:

Scrutiny of returns, which is the basis for selection of cases for assessment, was not done as per Act and Guidelines. In the absence of scrutiny, the identification of cases for assessment was not done scientifically.

(Paragraph 2.3.6.1)

The Department had no criteria for risk based selection of cases for assessment, in absence of which, the Department could raise additional demand upto ₹ 10,000 only in 68 to 90 *per cent* assessment cases during 2012-13 and 2013-14.

(Paragraph 2.3.6.2)

Assessing Authority allowed the benefit of transactions made on fake/non-genuine statutory declaration forms to a dealer amounting to ₹ 76.76 crore for the year 2009-10. The same dealer also submitted fake/non-genuine forms for ₹ 141.67 crore for the year 2008-09 and 2010-11.

(Paragraph 2.3.9.1)

Tax revenue of ₹ 4.16 crore in 14 cases was foregone due to failure of the Department to utilise information available in ICC data for cross verification of inter-state sale/purchase.

(Paragraph 2.3.9.2(a))

Assessing Authority had reversed ITC of ₹ 6.44 crore against the reversible ITC of ₹ 16.91 crore in 21 cases, which resulted in short reversal of ITC of ₹ 10.47 crore on account of branch transfer.

(Paragraph 2.3.9.3)

Tax exemption of ₹ 3.41 crore already availed by the dealers was not recovered from seven dealers, though they cancelled their RCs before completion of exemption period.

(Paragraph 2.3.9.6)

Excess ITC of ₹ 8.19 crore was allowed in 18 cases due to suppression of purchase/sale, incorrect brought forward of ITC, non-debiting of exemption etc.

(Paragraph 2.3.9.7)

Assessing Authorities had accounted for less turnover in the assessment orders in respect of 21 dealers than the actual turnover worked out on the basis of trading account, which resulted in short levy of tax of ₹ 10.22 crore.

(Paragraph 2.3.9.15)

Transaction Audit

Non-restricting of Notional Input Tax Credit upto the limit of CST paid resulted in excess allowance of Notional Input Tax Credit of ₹ 21.93 lakh in one case, by AETC Ferozepur.

(Paragraph 2.4(a))

Application of incorrect rate of purchase tax of 2.75 *per cent* on the purchase of sugarcane between April 2011 to December 2011 against the actual rate of purchase tax of 5.5 *per cent* resulted in short levy of purchase tax of ₹ 19.91 lakh in one case of AETC Gurdaspur.

(Paragraph 2.6)

The Assessing Authority allowed the full benefit of TDS/Entry tax but the turnover corresponding to TDS/Entry tax was not accounted for correctly for the purpose of output tax. This resulted in short levy of output tax of ₹ 34.55 lakh.

(Paragraph 2.9)

3. Chapter-III

State Excise

Separate licenses were issued for each category to hotels/restaurants/bar owners but the Department charged fee for only one licence against the chargeable fee for all categories of licenses, resulting in short realisation of license fee of ₹ 3.24 crore in 238 cases.

(Paragraph 3.3)

4. Chapter-IV

Stamp Duty

Stamp duty and registration fee of ₹ 2.11 crore was short levied in 20 instruments either due to misclassification of residential/commercial properties as agriculture or non-application of actual rates.

(Paragraph 4.3)

Failure to comply with the Government instructions resulted into non levy of social infrastructure cess (SIC) and social security fund (SSF) of ₹ 1.71 crore in 32 cases.

(Paragraph 4.5)

Mortgage deeds were executed and registered for securing loan for development purposes (other than agriculture purpose) without levying Stamp Duty and Registration Fee of ₹ 12.06 crore in three cases.

(Paragraph 4.6)

Delay in referring the cases to the Collector resulted in non realisation of deficient amount of ₹ 1.57 crore. No action was taken by the Department to recover the deficient amount of ₹ 19.08 crore in 2,134 cases even after being decided by the Collector. Interest amounting to ₹ 34.64 lakh was not levied on the delayed recovery of deficient amount.

(Paragraph 4.9)

5. Chapter-V

Taxes on Vehicles, Goods and Passengers

Motor vehicle tax (MVT) of ₹ 33.12 lakh was non/short realised from stage carriage big buses of Punjab Roadways/PUNBUS, Batala in three DTOs.

(Paragraph 5.3)

Motor vehicles tax of ₹ 29.90 lakh was short realized from the stage carriage big buses of Himachal Road Transport Corporation/Punjab Roadways/PUNBUS plied under stage carriage in Punjab, due to non application of revised rates by two RTA/DTO.

(Paragraph 5.4)

Payment of ₹ 64.63 crore was made to the concessionaire for affixing HSRPs without deducting TDS, Penalty of ₹ 3.22 crore was not levied on BOOT operator for delayed printing of Registration Certificates/Driving Licences. Punjab State Transport Society (PSTS) collected medical charges from users without providing services of issuing medical certificate.

(Paragraph 5.6)

6. Chapter-VI

Forest Receipts

Non-harvesting of 9,500 clumps of bamboos due for harvesting, resulted in blockage of revenue of ₹ 67.83 lakh during 2012-14 in Hoshiarpur division.

(Paragraph 6.3)

Interest of ₹ 4.38 crore on account of late deposit of royalty was not recovered from Punjab State Forest Development Corporation.

(Paragraph 6.3.2)

7. Chapter-VII

Other Tax and Non Tax Receipts

Non-compliance of the Government instructions resulted in short realisation of marriage registration fee of ₹ 9.72 lakh in 736 cases.

(Paragraph 7.3)

No action was initiated by the revenue authorities to evict encroachers from the Gram Sabha/Gram Panchayat land measuring 7,668 acres, in two districts, despite the directives of the Apex Court and orders of the State Government.

(Paragraph 7.4)

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 2014-15, 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	2010-11	2011-12	2012-13	2013-14	2014-15
1.	Revenue raised by the State Government					
	Tax revenue	16,828.18	18,841.01	22,587.56	24,079.19	25,570.20
	Non-tax revenue	5,330.17	1,398.45	2,629.21	3,191.50	2,879.73
	Total	22,158.35	20,239.46	25,216.77	27,270.69	28,449.93
2.	Receipts from the Government of India					
	Share of net proceeds of divisible Union taxes and duties	3,050.87	3,554.31	4,058.81	4,431.47	4,702.97
	Grants-in-aid	2,399.25	2,440.64	2,775.57	3,401.38	5,869.95
	Total	5,450.12	5,994.95	6,834.38	7,832.85	10,572.92
3.	Total revenue receipts of the State Government (1 and 2)	27,608.47	26,234.41	32,051.15	35,103.54	39,022.85
4.	Percentage of 1 to 3	80	77	79	78	73

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹ 28,449.93 crore) was 73 per cent of the total revenue receipts. The balance 27 per cent of the receipts during 2014-15 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 2010-11 to 2014-15 are mentioned in **Table 1.1.2**:

Table 1.1.2
Details of Tax Revenue raised

(₹ in crore)													
Sl. No	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage increase (+) or decrease (-) of	
		BE ¹	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual in 2014-15 over 2013-14	Actual over BE for 2014-15
1	VAT/ Sales tax/Central sales tax	9,600.00	10,016.91	11,800.00	11,171.67	14,213.00	13,217.93	17,760.00	14,846.70	17,760.00	15,455.17	(+) 4.10	(-) 12.98
2	State excise	2,520.00	2,373.07	3,250.00	2,754.60	3,800.00	3,331.96	4,180.00	3,764.72	4,600.00	4,246.11	(+) 12.79	(-) 7.69
3	Stamp duty and registration fees	2,395.00	2,318.46	2,900.00	3,079.13	3,375.00	2,920.49	3,450.00	2,499.50	2,760.00	2,474.15	(-) 1.01	(-) 10.36
4	Taxes and duties on Electricity	980.00	1,422.90	1,400.00	928.28	1,540.00	2,035.30	1,694.00	1,710.46	1,860.00	1,875.23	(+) 9.63	(+) 0.82
5	Taxes on Vehicles	645.00	653.91	800.00	850.96	864.00	994.72	1350.00	1,145.69	1,350.00	1,393.32	(+) 21.61	(+) 3.21
6	Others ²	168.00	42.93	257.70	56.37	50.00	87.16	90.00	112.12	150.00	126.22	(+)12.59	(-)15.85
Total		16,308.00	16,828.18	20,407.70	18,841.01	23,842.00	22,587.56	28,524.00	24,079.19	28,480.00	25,570.20	(+) 6.19	(-) 10.22

The above table indicates that there was decrease in actual receipts over budget estimates during 2014-15 ranging between (-)7.69 to (-)15.85 *per cent* in respect of VAT/Sales Tax, State Excise, Stamp Duty & Registration Fee and other heads of revenue.

The Department of Taxes on Vehicles intimated that the increase of 21.61 *per cent* in actual receipts of 2014-15 over actuals of the previous year was due to revision of rates of MVT and better fiscal management by the Department. The other Departments despite being requested (July to August 2015) did not furnish the reasons for variations in receipts from that of the previous year (2013-14).

1.1.3 The details of the non-tax revenue raised during the period 2010-11 to 2014-15 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 two Departments i.e. Land Revenue (₹ 47.30 crore, which is 11.40 *per cent* higher than previous year) and other taxes and commodities on services (₹ 78.92 crore, which is 12.88 *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	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage increase (+) or decrease (-) of	
		BE	Actual	Actual in 2014-15 over 2013-14	Actual over BE for 2014-15								
1	Miscellaneous general services	5,349.20	4,277.23	1,657.10	323.72	516.66	1,420.73	592.80	1,640.32	950.00	1,473.47	(-) 10.17	(+) 55.10
2	Other non-tax receipts ³	562.66	559.19	644.48	627.12	731.90	680.88	1,293.42	886.00	915.80	694.77	(-) 21.58	(-) 24.13
3	Interest receipts	143.00	169.37	176.62	170.16	182.17	170.47	183.02	174.68	180.13	193.88	(+) 0.99	(+) 7.63
4	Others ⁴	593.85	324.38	648.03	277.45	762.93	357.13	666.62	490.50	737.07	517.61	(+) 5.53	(-) 29.77
Total		6,648.71	5,330.17	3,126.23	1,398.45	2,193.66	2,629.21	2,735.86	3,191.50	2,783.00	2,879.73	(-) 9.77	(+) 3.48

In Miscellaneous General Services, the actual receipt over budget estimates during 2014-15 was 55.10 *per cent* higher. The interest receipts also increased from ₹ 169.37 crore in 2010-11 to ₹ 193.88 crore in 2014-15.

The respective Departments reported the following reasons for variations:

Miscellaneous General Services: Overall decrease of actual receipt over previous year was mainly due to decrease in Guarantee Fees and Lottery receipts.

The Lottery Department replied that decrease of actual receipt over previous year was due to decrease in number of draws and change in schemes.

Other non-tax receipts: Overall decrease of actual receipt over previous year was mainly due to decrease in actual receipt in respect of Jails, Supplies and Disposals, Contributions and Recoveries towards Pension and Retirement Benefits, Family Welfare, Water Supply and Sanitation, Animal Husbandry, Industries and Tourism Departments.

The other Departments despite being requested (July to August 2015) did not furnish the reasons for variations in receipts from that of the previous year (2013-14).

³ The receipts which do not come under the Heads of revenue mentioned at Sr. No. 1, 3 and 4 of the table.

⁴ Non-Tax Revenue Receipts of the nine Departments [i.e. Medical and Public Health (₹ 116.50 crore, which is 23.34 *per cent* lower than previous year), Other Administrative Services (₹ 114.12 crore, which is 11.25 *per cent* higher than previous year), Major and Medium Irrigation (₹ 72.81 crore, which is 10.42 *per cent* higher than previous year), Police (₹ 77.23 crore, which is 39.76 *per cent* higher than previous year), Public Works (₹ 16.79 crore, which is 64.07 *per cent* lower than previous year), Non Ferrous Mining and Metallurgical Industries (₹ 86.44 crore which is 97.22 *per cent* higher than previous year), Forestry and Wildlife (₹ 19.45 crore, which is 5.99 *per cent* lower than previous year), Co-operation (₹ 14.16 crore, which is 311.63 *per cent* higher than previous year) and Dairy Development (₹ 0.11 crore, which is 83.33 *per cent* higher 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 2015 in respect of principal heads of revenue were ₹ 3,712.58 crore of which ₹ 518.17 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 2015	Amount outstanding for more than five years as on 31 March 2015	Reply of the Department
1.	Taxes/VAT on sales, Trade etc.	3,531.12	434.21	Arrears of ₹ 0.12 crore were pending in the Supreme Court, ₹ 1.92 crore in the High Court, ₹ 14.53 crore in VAT Tribunal, ₹ 53.93 crore with DETC (A) and ₹ 1,079.09 crore in various appellant courts/authorities, arrears of ₹ 207.29 crore was stayed by different appellant authorities/courts, arrears of ₹ 1.35 crore were demanded, arrears of ₹ 10.81 crore was recoverable and for arrears of ₹ 2,162.08 crore no reply was furnished by the Departments.
2.	Taxes on Vehicles	130.83	43.76	Recovery of ₹ 69.12 crore was stayed by the Government/Department; ₹ 61.71 crore was at different stages of action.
3.	Forests and Wildlife	24.11	24.11	Amount was outstanding against forest contractors.
4.	State excise	14.01	14.01	Demands of ₹ 58.46 lakh were likely to be written off and balance ₹ 13.43 crore was at different stages of action.
5.	Land revenue	12.51	2.08	In some of the cases, recoveries had been waived off by the State Government and in remaining cases recoveries were under process.
	Total	3,712.58	518.17	

The office of the Excise and Taxation Commissioner, Punjab, Patiala had informed that an amount of ₹ 1,950.21 crore was outstanding as arrears of revenue relating to Sales Tax/VAT in respect of six⁵ Assistant Excise and Taxation Commissioners (AETCs). However, during revalidation of data in these AETCs, it was noticed that the outstanding arrears as on 31 March 2015 was ₹ 1,797.28 crore.

⁵ AETC Fatehgarh Sahib, Ludhiana-I, Ludhiana-II, Patiala, Ropar and Sangrur.

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 2014-15	Total assessments due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxes/VAT on Sales/Trade etc.	40,713	22,280	62,993	16,035	46,958	25.46

Out of total 26 Excise Districts in the State, there was an arrear in assessment in respect of 17 Excise Districts, data of seven districts⁶ i.e. 26.92 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 2014	Cases detected during 2014-15	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 2015
					No. of cases	Amount of demand (₹ in crore)	
1.	Taxes/VAT on sales, Trade etc.	1,435	2,000	3,435	2,516	267.16	919
2.	Taxes on Vehicles	21	--	21	5	--	16
3.	State Excise	17	--	17	--	--	17
Total		1,473	2,000	3,473	2,521	267.16	952

It would be seen from the table that the number of cases pending at the end of the year has reduced than number of cases pending at the start of the year. No

⁶ AETC Fatehgarh Sahib, Ludhiana-I, Ludhiana-II, Mohali, Patiala, Ropar and Sangrur.

case was finalized in respect of State Excise during the year 2014-15. Further, no evasion of tax was detected by the Departments of State Transport and State Excise during the year 2014-15.

Out of total 26 units of sales tax/ VAT, cases of tax evasion were pending in 18 units. Data of six⁷ units was revalidated and found correct.

1.5 Refund Cases

The number of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15 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	3,336	373.16	132*	4.28*
2.	Claims received during the year	9,009	1,024.48	5	0.88
3.	Refunds made during the year	7,430	765.61	9	4.23
4.	Refunds rejected during the year	1,165	234.56	0	0
5.	Balance outstanding at the end of year	3,750	397.47	128	0.93

*Note: Includes five refund cases of ₹3.72 crore which were outstanding as on 31.3.2014 but inadvertently taken as 'nil' by the Department.

Out of total 26 Excise Districts in the State, refunds in respect of Sales tax/VAT were pending in 24 Excise Districts. Data of seven⁸ units 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 verifies 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 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

⁷ AETC Fatehgarh Sahib, Ludhiana-I, Ludhiana-II, Patiala, Ropar and Sangrur.

⁸ AETC Fatehgarh Sahib, Ludhiana-I, Ludhiana-II, Mohali, Patiala, Ropar and Sangrur.

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 up to December 2014 disclosed that 13,194 paragraphs involving ₹ 3,609.73 crore relating to 5,650 IRs remained outstanding at the end of June 2015. 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 2013	June 2014	June 2015
Number of IRs pending for settlement	5,126	5,328	5,650
Number of outstanding audit observations	11,755	12,608	13,194
Amount of revenue involved (₹ in crore)	7,330.98	2,918.31	3,609.73

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in **Table 1.6.1:**

Table 1.6.1
Department-wise details of pending IRs

Sl. No	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance	Taxes/VAT on sales, Trade etc.	1,934	3,879	997.68
		Entertainment and Luxury Tax	309	482	24.45
2.	Excise	State Excise	289	276	426.50
3.	Revenue	Land Revenue	688	1,354	441.40
4.	Transport	Taxes on motor vehicles	678	2,547	661.90
5.	Stamps and Registration	Stamp Duty and Registration Fee	1,453	4,187	532.79
6.	Director of Lotteries	State Lotteries	19	48	152.02
7.	Forest and Environment	Forestry and wild life	280	421	372.99
Total			5,650	13,194	3,609.73

Audit did not receive even the first replies from the Heads of offices within the stipulated time for 244 IRs issued during 2014-15. 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 2014-15. 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 2014-15 as many as 1,618 cases/items of auditable records pertaining to seven Departments were not made available to audit as mentioned in **Table 1.6.3**:

Table 1.6.3
Details of non-production of records

Name of the office/Department	Number of cases/items not audited
Sales Tax/VAT	430
Taxes on Vehicles	818
Stamps and Registration Fees	251
Land Revenue	51
State Excise	23
Forests and Wild life	22
Other Taxes and Duties on Commodities and Services	23
	1,618

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.

Twenty six draft paragraphs and one Performance Audit were sent to the Principal Secretaries/Secretaries of the respective Departments by name between May to August 2015. The Principal Secretary/Secretary of the concerned Departments did not send replies to 25 draft paragraphs and one Performance Audit despite issue of reminders (May to August 2015) and the same were included in the Report without their response. However, the replies from the concerned Departmental authorities wherever received have been 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 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. 195 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 to 2014 were placed before the State Legislature Assembly between 15 March 2010 and 20 March 2015. The ATENs from the concerned Departments on these paragraphs were not received in respect of Audit Reports for the years ended 31 March 2013 and 2014. However, ATENs were received late with average delay of 35, 29, 16, and 15 months in respect of Audit Reports for the years ended 31 March 2009 to 2012 respectively. ATENs in respect of 51 paragraphs from six Departments⁹ had not been received for the Audit Reports for the years ended 31 March 2010 to 2014 (August 2015).

The PAC discussed 115 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2011-12 and its recommendations on

⁹ Excise and Taxation, Forestry and Wild Life, Housing and Urban Development, Industries, Revenue & Rehabilitation and State Transport.

36 paragraphs¹⁰ were incorporated in their four Reports (2010-11, 2012-13, 2013-14 and 2014-15). However, no ATEN on the recommendations of the PAC on 13 paragraphs for the years 2008-09 has been received from the Department (Excise and Taxation) 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 Stamp Duty and Registration Fee of the Revenue Department, Punjab was evaluated and included in this Audit Report.

The succeeding paragraph 1.7.1 and 1.7.2 discuss the performance of the Revenue Department under revenue head 0030-Stamp Duty and Registration Fee and cases detected in the course of local audit during the last 10 years up to 2014-15 and also the cases included in the Audit Reports for the years 2004-05 to 2013-14.

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 2015 is mentioned in **Table-1.7.1:**

Table 1.7.1

Position of Inspection Reports

Year	(₹ in crore)											
	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
2005-06	862	1,008	67.86	102	600	2.51	55	160	0.09	909	1,448	70.28
2006-07	909	1,448	70.28	108	575	3.36	40	300	0.61	977	1,723	73.03
2007-08	977	1,723	73.03	110	475	9.92	10	200	1.02	1,077	1,998	81.93
2008-09	1,077	1,998	81.93	124	371	10.13	39	134	0.25	1,162	2,235	91.81
2009-10	1,162	2,235	91.81	93	285	23.90	116	136	7.22	1,139	2,384	108.49
2010-11	1,139	2,384	108.49	155	764	55.05	40	202	56.28	1,254	2,946	107.26
2011-12	1,254	2,946	107.26	81	565	66.08	32	185	3.92	1,303	3,326	169.42
2012-13	1,303	3,326	169.42	103	473	23.13	191	453	11.49	1,215	3,346	181.06
2013-14	1,215	3,346	181.06	114	568	152.00	16	214	9.25	1,313	3,700	323.81
2014-15	1,313	3,700	323.81	115	576	170.21	5	173	8.64	1,423	4,103	485.38

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 862 outstanding IRs with 1,008 paragraphs as on start of 2005-06, the number of outstanding IRs increased to 1,423 with 4,103 paragraphs at the end of 2014-15. 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.

¹⁰ Excise and Taxation Department (16) + Transport Department (20).

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 under the Head 0030-Stamp Duty and Registration Fee 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 money value paragraphs accepted	Money value of accepted paragraphs	Amount recovered upto 31/03/2014	Amount recovered during the year 2014-15	Cumulative position of recovery of accepted cases as of 31/03/2015
2004-05	10	10.64	----	----	----	----	PAC decided not to pursue Paras up to the year 2007-08.
2005-06	2	0.20	-----	-----	-----	-----	-do-
2006-07	6	8.97	-----	-----	-----	-----	-do-
2007-08	11	44.08	-----	-----	-----	-----	-do-
2008-09	7	34.82	5	2.13	0.22	0.08	0.30
2009-10	1	29.20	1	29.20	-----	1.63	1.63
2010-11	9	3.99	9	3.99	0.26	-----	0.26
2011-12	15	14.69	15	14.69	1.12	-----	1.12
2012-13	5	15.25	----	-----	-----	-----	No reply furnished by the Department.
2013-14	10	65.60	----	-----	-----	-----	-do-
Total	76	227.44	30	50.01	1.60	1.71	3.31

It is evident from the above table that the progress of recovery even in accepted cases was very slow during the last six years. 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 "Levy and Collection of Stamp Duty and Registration Fee" on the Revenue Department, Punjab featured in the Report of 2009-10 with six recommendations. Out of 31 ATENs due, 30 ATENs were received on

Review and other paragraphs and all the recommendations of the Performance Audit were accepted by the Government/Department.

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 2014-15, there were 502 auditable units, of which 281 units (55.98 *per cent*) were planned and audited.

Besides, the compliance audit mentioned above, one performance audit on “System of Assessment under VAT” and three thematic audits i.e. (i) Cases referred to the Collector under Section 47-A of Indian Stamp Act, 1899 (ii) Collection of revenue from outsourced activities in MVT and (iii) Receipt from Timber/Trees and Bamboos were also taken up to examine the efficacy of the Departments concerned in realization of revenue 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 2014-15, out of 2,564 units planned for audit, Internal Audit Cell audited 1,419 units (55 *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	333	156
0039 – Excise	318	164
0040 – VAT/Sales Tax	1,254	1,030
0041 – Motor Vehicle Tax	519	69
0045 – Entertainment Tax	140	--
Total	2,564	1,419

Department replied that the targets planned for audit could not be achieved for the year 2014-15 due to acute shortage of staff as well as conducting of special audit on priority as per orders of higher authorities from time to time. However, the results of these special audits were not provided to audit.

1.11 Results of audit

1.11.1 Position of local audit conducted during the year

Test check of the records of 281 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Goods and Passengers, Forest Receipts and other Departmental offices conducted during the year 2014-15 showed under assessment/short levy/loss of revenue aggregating ₹ 2,494.57 crore in 35,362 cases. The Departments collected ₹ 18.26 crore in 4,459 cases during 2014-15, out of which ₹ 0.09 crore in 14 cases was for the year 2014-15 and ₹18.17 crore in 4,445 cases was of earlier years.

1.12 Coverage of this Report

This Report contains 26 paragraphs and one performance audit on “**System of Assessment under VAT**” involving financial effect of ₹ 339.99 crore. The Departments have accepted audit observations in seven cases involving ₹ 5.40 crore, out of which ₹ 0.13 crore in three cases had been recovered/adjusted. The replies in the remaining cases have not been received (November 2015). These are discussed in the succeeding Chapters II to VII.

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 42 units relating to Sales Tax/VAT during 2014-15 showed under assessment of tax and other irregularities involving ₹ 460.26 crore in 383 cases under the following categories as mentioned in **Table 2.1**:

Table 2.1

			(₹ in crore)
Sl. No.	Categories	No. of cases	Amount
1.	<i>Performance Audit titled "System of assessment under VAT"</i>	1	281.40
2.	Excess /Inadmissible allowance of refund	78	92.89
3.	Non/Short levy of output tax	125	50.00
4.	Excess/Inadmissible allowance of ITC	103	24.75
5.	Non levy of penalty	5	0.30
6.	Non recovery of exemption availed	5	3.41
7.	Other irregularities	66	7.51
Total		383	460.26

In 2014-15, the Department accepted the audit observations in 2014 cases pertaining to the earlier years and recovered an amount of ₹ 10.23 crore there against.

A few illustrative audit observations involving ₹ 297.59 crore are discussed in the succeeding paragraphs.

2.3 Performance Audit on “SYSTEM OF ASSESSMENT UNDER VAT”

Highlights

- ❖ Scrutiny of returns, which is the basis for selection of cases for assessment, was not done as per Act and Guidelines. In the absence of scrutiny, the identification of cases for assessment was not done scientifically.
(Paragraph 2.3.6.1)
- ❖ The Department had no criteria for risk based selection of cases for assessment, in absence of which, the Department could raise additional demand upto ₹ 10,000 only in 68 to 90 *per cent* assessment cases during 2012-13 and 2013-14.
(Paragraph 2.3.6.2)
- ❖ Assessing Authority allowed the benefit of transactions made on fake/non-genuine statutory declaration forms to a dealer amounting to ₹ 76.76 crore for the year 2009-10. The same dealer also submitted fake/non-genuine forms for ₹ 141.67 crore for the year 2008-09 and 2010-11.
(Paragraph 2.3.9.1)
- ❖ Tax revenue of ₹ 4.16 crore in 14 cases was foregone due to failure of the Department to utilise information available in ICC data for cross verification of inter-state sale/purchase.
(Paragraph 2.3.9.2(a))
- ❖ Assessing Authority had reversed ITC of ₹ 6.44 crore against the reversible ITC of ₹ 16.91 crore in 21 cases, which resulted in short reversal of ITC of ₹ 10.47 crore on account of branch transfer.
(Paragraph 2.3.9.3)
- ❖ Tax exemption of ₹ 3.41 crore already availed by the dealers was not recovered from seven dealers, though they cancelled their RCs before completion of exemption period.
(Paragraph 2.3.9.6)
- ❖ Excess ITC of ₹ 8.19 crore was allowed in 18 cases due to suppression of purchase/sale, incorrect brought forward of ITC, non-debiting of exemption etc.
(Paragraph 2.3.9.7)
- ❖ Assessing Authorities had accounted for less turnover in the assessment orders in respect of 21 dealers than the actual turnover worked out on the basis of trading account, which resulted in short levy of tax of ₹ 10.22 crore.
(Paragraph 2.3.9.15)

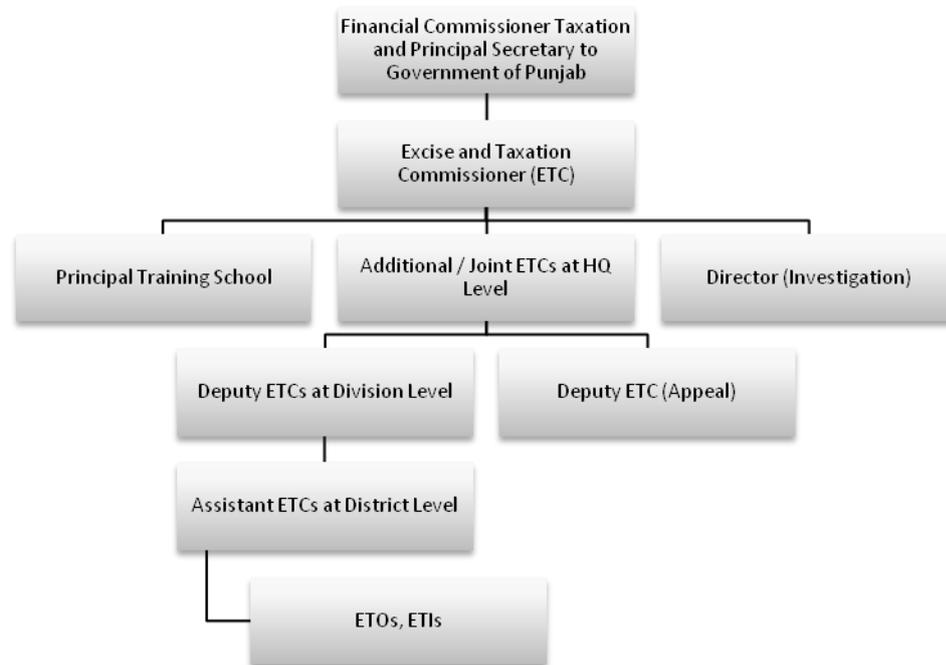
2.3.1 Introduction

Government of Punjab introduced Value Added Tax with effect from April 2005. The Punjab Value Added Tax (PVAT) Act, 2005 and Rules made there under (PVAT Rules, 2005) govern levy and collection of Value Added Tax (VAT) in Punjab at every point of sale. The Act aims at a hassle-free system for the dealers to declare the tax on self-assessment basis. VAT is a multi stage tax levied at every stage of sale in the supply chain within the State and simultaneously, tax paid if any, at the earlier stages is allowed as Input Tax Credit (ITC), by deduction from the tax payable at the subsequent stage.

2.3.2 Organisational Set-up

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department and assisted by Additional ETCs, JETCs, DETCs, AETCs and ETOs.

Organogram of Excise and Taxation Department



2.3.3 Audit Objectives

The performance audit was conducted to assess whether:

- there was an adequate set of statutory provision in the Act, Rules made thereunder and notification issued by the Government;
- the selection of cases for audit of returns/assessment were made as per the prescribed criteria and the scrutiny and assessment were done according to provisions of the Act, Rules and orders; and

- there exists an adequate system of monitoring and control mechanism in the Department.

2.3.4 Scope of Audit and Methodology

The Performance Audit (PA) covering the assessment cases done during the period from 2009-10 to 2013-14 was conducted between October 2014 and June 2015 in 12¹ out of 26 Excise Districts of the State selected on the basis of probability proportional to size (PPS) method on the basis of accumulative revenue collection.

In addition, data of COVIS² for the period from April 2009 to March 2014 maintained by the Department was analysed by using a Computer Aided Audit Tool namely Interactive Data Extraction and Analysis (IDEA). Besides, similar cases noticed during regular audit of other districts have also been included in the Performance Audit report. An entry conference (January 2015) with Financial Commissioner Taxation and Principal Secretary to the Government of Punjab, was held wherein the scope and methodology of audit was discussed. Audit findings of the PA were reported to Government in August 2015. The report was discussed with the Department in the exit conference held on 16 September 2015 and the replies furnished by the Department have been considered and appropriately incorporated in the PA. We acknowledge the co-operation extended by the Department.

2.3.5 Audit Criteria

The above criteria were derived from the following sources:

- PVAT Act and Rules, 2005 and amendments made there under;
- CST Act, 1956;
- CST (Punjab) Rules, 1956 and CST Rules, 1957;
- Punjab Deferment & Exemption (D & E) Rules, 1991; and
- Orders/notifications issued by the Government/Department from time to time.

2.3.6 System deficiencies

Procedure for registration, assessment and recovery of tax revenue under PVAT Act, 2005 for the purpose of effecting recovery of Government dues is given in *Appendix-I*. Some systemic deficiencies which adversely affected

¹ Amritsar, Bathinda, Hoshiarpur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Mohali, Muktsar, Patiala, Ropar and Sangrur.

² Computerisation of Value Added Tax Information System.

the procedure of recovery of Government dues are listed in the following paragraphs:

2.3.6.1 Non scrutiny of returns

Rule 43 of PVAT Rules, 2005 provides that the DO shall scrutinize every return filed by the dealer under Section 26 of the Act. If during scrutiny of return, it is found that less tax has been paid than the tax actually payable as per the return, the DO shall serve a notice upon the person concerned directing him to rectify the same and to pay the amount of tax less paid. Further, the Department issued guidelines stipulating 100 *per cent* scrutiny of returns (June 2010).

We noticed in 12 AETCs (selected districts) that scrutiny of returns was not done as per Act and Guidelines and records relating to scrutiny such as scrutiny registers, files etc. were not maintained in any of the selected district.

An effective system of scrutiny of returns is a key requirement for effective tax administration which in turn forms a strong foundation for selection of cases for assessment. In the absence of scrutiny, it is apparent that the Department has no scientific basis for identification of cases for assessment.

The Department in the exit conference (September 2015) stated that 100 *per cent* returns were not scrutinised due to shortage of manpower. Moreover, four³ AETCs replied that due to shortage of well trained staff, 100 *per cent* scrutiny was not possible. AETC, Ludhiana-I replied that to ensure 100 *per cent* scrutiny of all returns, the Department had developed a strong mechanism of 25 points scrutiny module in which all parameters were considered to filter the tax evaders. However, 100 *per cent* scrutiny was not being carried out as no record relating to scrutiny was produced during audit in any of the selected districts.

2.3.6.2 Absence of proper criteria for selection of dealers for assessment

Section 29 of PVAT Act, 2005 provides that the Commissioner on his own motion or on the basis of information received by him may, by an order in writing, direct the DO to make an assessment of the amount of the tax payable by any person or any class of persons to the best of his judgment and determine the tax payable by him as per provisions of the Act. The Department had started using COVIS application from April 2005 but had not implemented the assessment module, which captures the proceedings, penalty and demand raised and realized in case of assessment of returns.

³ Hoshiarpur, Ludhiana-II, Muktsar and Sangrur.

The Department issued instructions from time to time for selection of certain type of cases viz. exempted units and export oriented units, dealers who deal with schedule 'H' goods and dealers engaged in bogus billing apart from cases pertaining to prominent trade (commodity wise) in respective districts for assessment. We noticed the following:

a) The percentage of assessments made during the period 2009-10 to 2013-14 in test checked districts was ranging between 3.97 and 21.06 *per cent*. There was a declining trend in the assessments made in Ludhiana-I which were 2,944 (15.79 *per cent*) in 2009-10 and then reduced to 692 (3.09 *per cent*) in 2013-14.

b) Insignificant demands were raised in 68 to 90 *per cent* cases assessed during the years 2012-13 to 2013-14 by eight⁴ AETCs as shown in **Table 2.2:**

Table 2.2

Sl. No.	Name of District	Year in which assessment made	No. of assessments made during the year	No. of assessments where the demand was 'Nil'	No. of assessments where demand was up to ₹10,000 (excluding 'Nil')	No. of assessments where demand was either 'Nil' or up to ₹ 10,000 (5)+(6)	percentage of cases where demand was either 'Nil' or up to ₹ 10,000
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Amritsar I	2012-2013	340	31	240	271	79.71
		2013-2014	273	44	170	214	78.39
2	Bhatinda	2012-2013	741	403	151	554	74.76
		2013-2014	1,237	604	317	921	74.45
3	Hoshiarpur	2012-2013	346	41	247	288	83.24
		2013-2014	306	10	202	212	69.28
4	Jalandhar II	2012-2013	1,369	383	851	1,234	90.14
		2013-2014	834	98	501	599	71.82
5	Ludhiana II	2012-2013	733	57	520	577	78.72
		2013-2014	962	93	583	676	70.27
6	Muksar	2012-2013	238	64	141	205	86.13
		2013-2014	225	9	146	155	68.89
7	Ropar	2012-2013	322	46	233	279	86.65
		2013-2014	422	35	336	371	87.91
8	Sangrur	2012-2013	692	106	430	536	77.46
		2013-2014	1,039	66	644	710	68.33
	Total		10,079	2,090	5,712	7,802	

⁴

Amritsar-I, Bathinda, Hoshiarpur, Jalandhar-II, Ludhiana-II, Muksar, Ropar and Sangrur.

It could be seen from the table that the percentage of assessed cases in which Department raised additional demand of upto ₹ 10,000 was ranging between 68 per cent to 90 per cent during 2012-13 and 2013-14. The Department had neither any criteria for risk based selection of cases for assessment nor any comprehensive guidelines were issued to the DOs for follow up during assessments.

Had the Department implemented the assessment module of COVIS it would have a control mechanism of capturing the proceeding related to assessment of dealer, additional demand raised and realized.

The Department in exit conference (September 2015) accepted the audit observation regarding non-availability of criteria for selection of cases for assessment and stated that rules in this regard will be framed.

2.3.6.3 Non framing of parameter for Audit of Returns

Section 28 of PVAT Act, 2005 provides that DO with a view to ascertain the correctness of the returns in general and admissibility of various claims may audit or cause to be audited any of the returns filed, documents or information or statutory forms submitted by a person. Rule 44 of Punjab VAT Rules provides that the Commissioner shall select, on the basis of the parameters as may be laid down by him, a certain number of persons for audit under Section 28 of PVAT Act, 2005.

We observed that the Department had neither framed any parameters for selection of returns for conducting audit under the Act nor carried out any audit of returns.

The Department in the exit conference (September 2015) accepted the audit observation and stated that rules in this regard would be framed.

2.3.7 Non fulfilling of statutory requirements

2.3.7.1 Non scrutiny of returns of cancelled dealer

Rule 13 of PVAT Rules, 2005 provides that the dealer shall make an application for cancellation of registration within a period of thirty days of the occurrence of the events mentioned under Sub Section (1) of Section 24 and shall submit the documents i.e. Registration Certificate (RC) and copies thereof, unused statutory forms, returns, if any, due for submission, a statement showing the value of goods imported or manufactured by him during the immediately preceding two years *etc.* along-with the application.

Further, Section 26(8) provides that a taxable person or a registered person, whose registration is cancelled under Section 24, shall file such final return, as may be prescribed, within thirty days from the date of cancellation by the DO, as the case may be and as per Rule 43 of PVAT Rules, 2005, the DO

shall scrutinize every return filed under Section 26 of the Act.

We noticed from the information provided by 11⁵ AETCs that registration of 11,526 dealers was cancelled during 2009-14.

(a) Data analysis of cancelled dealers in respect of 10⁶ AETCs for the period from 2009-10 to 2010-11 showed that 117⁷ out of 5,612 dealers had not filed return(s) prior to cancellation of their RCs. These dealers made intra-state sales to other dealers who further claimed ITC on such purchases to the tune of ₹ 9.94 crore. Since these dealers had started defaulting in submitting returns, the possibility of non-deposit of tax could not be ruled out.

The Department failed to keep a watch on the business activities of dealers who had started defaulting on returns prior to cancellation of their RCs and could not ensure the deposit of tax involved in these sales against which purchasing dealers had claimed ITC.

AETC, Hoshiarpur and Patiala replied that assessments proceedings are in progress, Sangrur replied that RCs of these dealers were cancelled due to non-filing of returns under Section 24 of PVAT Act but the reply was silent about deposit of tax due. Other districts did not furnish any reply. However, Department in the exit conference (September 2015) assured to check the records.

(b) Rule 13(5) of PVAT Rules, provides that cancellation of registration shall be effective from the date of order of cancellation, issued in this behalf by the DO.

We noticed from the data analysis of COVIS in eight⁸ AETCs that registrations of 101 dealers were cancelled by the Department from the date prior to the date of request for cancellation ranging between two and 1,538 days.

These dealers were doing business during the intervening period. This action of the Department was not only illegal but also created a situation in which all the ITC claims of purchasing dealers stood automatically rejected because the selling dealer did not have valid registration.

⁵ Amritsar-I, Bathinda, Hoshiarpur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Mohali, Muktsar, Ropar and Sangrur.

⁶ Amritsar-I, Bathinda, Hoshiarpur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Mohali, Patiala and Sangrur.

⁷ 49 dealers requested for cancellation and 68 were cancelled by the Department.

⁸ Bathinda, Hoshiarpur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Patiala and Sangrur.

AETC Hoshiarpur stated that scrutiny of the cases is under process; Ludhiana-I and Ludhiana-II stated that directions had been issued to the officers to cancel RC from date of cancellation only; Patiala stated that in rare cases RCs were cancelled prior to the date of submission of application where there was any information regarding involvement of a particular dealer in nefarious activities; Sangrur stated that RCs of dealers were cancelled immediately i.e. from the date from which the dealer had started making bogus sale/purchase in their returns. Replies were not convincing as in all these cases request for cancellation of RCs had come from the dealers. However, the Department in exit conference (September 2015) assured to check the records.

(c) Section 13(15) of PVAT Act provides that the onus to prove that the VAT invoice on the basis of which ITC is claimed, is *bona fide* and is issued by a taxable person, shall lie on the claimant.

We noticed from the data analysis of COVIS in respect of 11⁹ AETCs for the period from 2009-10 to 2010-11 that 944 dealers made intra state purchases from cancelled dealers (after cancellation of their RCs) as declared by the buyers in Form VAT 24. The buyers also claimed ITC of ₹ 16.25 crore on these purchases.

AETC Patiala stated that assessment proceedings have been initiated, AETC Muktsar and Ropar stated that verification of the cases is pending. However, the Department in the exit conference (September 2015) assured to check the cases and recover the amount, if any.

2.3.7.2 Absence of mechanism to track the business activities of dealers who defaulted in filing returns

Section 29(2) provides that DO may, on his own motion or on the basis of information made by him, order or make an assessment of the tax, payable by a person to the best of his judgement and determine the tax payable by him where a person fails to file a return under Section 26. Rule 51A of PVAT Rules provides that if any person fails to furnish a return or returns or annual statement by the prescribed date or has filed incomplete or incorrect return, the DO may lock his Tax Identification Number (TIN).

a) We noticed from the data analysis of COVIS for the years 2009-10 and 2010-11 in respect of 12 AETCs that 13,807 and 24,596 dealers failed to file their quarterly and annual returns respectively. AETC Patiala, Ludhiana-I, Ludhiana-II and Hoshiarpur stated that TIN of the dealers are locked in case of non-filing of returns. Reply is not convincing as locking of TIN only

⁹ Amritsar-I, Bathinda, Hoshiarpur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Muktsar, Patiala, Ropar and Sangrur.

restricts interstate transactions and not intra-state transactions. Also the system locks TIN only in case of non-filing of quarterly returns and not in case of annual returns.

b) Data analysis of these dealers further showed that 223 dealers in 11¹⁰ AETCs who failed to file quarterly as well as annual returns were in-fact carrying business during 2009-11 and were issuing taxable invoices to purchasers who had also availed ITC of ₹ 18.42 crore there against. Tax amount deposited by these dealers (return defaulters) was called for but no reply was furnished. Moreover, COVIS database does not contain information on the status of assessments of dealers. In view of non-receipt of any assurance from the Department, chances of non-deposit of tax by non-filer of returns cannot be ruled out.

The TINs of these 223 dealers were also blocked for inter-state transactions. However, even after blocking of TIN there is no check on the intra-state transactions of the dealers despite having a database to monitor dealers who were carrying business without filing returns.

AETCs Muktsar, Patiala and Ropar stated that the cases were pending for verification. Final action and replies in respect of other districts were awaited.

2.3.7.3 Non assessment of cases selected by Commissioner

Section 29(3) of PVAT Act, 2005, provides that the Commissioner on his own motion or on the basis of information received by him may, by an order in writing, direct the DO to make the assessment of the amount of tax payable by any person or any class of person for such period, as may be specified in this order.

The Department listed 53,007 cases in 12 AETCs for assessment for the years 2005-06 to 2008-09 under PVAT Act 2005, and the same were uploaded on the Department's website. The ETC issued instructions (October 2010 and June 2011) regarding timely disposal of assessment cases and maintenance of records. In three¹¹ AETCs, we noticed that out of 12,818, only 8,043 assessments were framed. We further observed that 3,814 cases which pertain to Ludhiana II and Muktsar have become time barred and for remaining 41,150 cases, no information was provided by *nine* districts regarding assessments completed and time barred cases.

¹⁰ Amritsar-I, Bathinda, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Mohali, Muktsar, Patiala, Ropar and Sangrur.

¹¹ Ludhiana-II, Hoshiarpur and Muktsar.

The Department in the exit conference (September 2015) accepted the audit observation and stated that the issue would be examined.

2.3.8 Non- existence of timeline for deciding appeal cases

Sub Section 4 of Section 18A of CST Act, 1956 provides that the highest appellate authority of a State may, as far as practicable, hear and decide such appeal within a period of six months from the date of filing of the appeal.

We noticed in 10¹² AETCs that VAT demands amounting to ₹ 84.28 crore in 180 cases and CST demands of ₹ 19.08 crore in 72 cases were raised as per assessment disposal registers/assessment files assessed during the year 2009-10 to 2013-14 but could not be realized due to non finalisation of appeal cases by appellate authorities within six months.

We observed that no time line was fixed for disposal of appeal cases, although Section 35(4A) of Central Excise Act provides that the Commissioner (Appeals) shall, wherever it is possible to do so, hear and decide the appeal within six months from the date on which it is filed. Similar provision also exists in Section 128A (4A) of Customs Act.

AETC, Muktsar stated (September 2015) that seven (out of eight) cases were under appeal in various courts and in one case, recovery proceedings had been initiated and AETC Ludhiana-I stated that the recommendation under consideration. However, Department, in the exit conference (September 2015) accepted the audit observation and stated that timeline in this regard would be framed.

2.3.9 Compliance deficiencies

2.3.9.1 Inter-state transactions against fake statutory forms

Section 8 of CST Act, 1956 read with Section 6A provides that every dealer, who in the course of inter-state trade or commerce sells to a registered dealer, shall be liable to pay tax at concessional rate. For this purpose, he may furnish to the assessing authority declarations in prescribed forms.

In AETC, Bathinda, we noticed from the records relating to assessments framed during the year 2014-15 for the financial year 2009-10 that a dealer made inter-state sale and branch transfer of ₹ 151.23 crore against Forms C and F. The Economic Intelligence Unit (EIU) had cross-verified from respective States, the status of dealers and genuineness of the statutory declarations forms C and F as submitted by the dealer and found that out of ₹ 151.23 crore sale, the forms worth ₹ 84.70 crore were fake/non-genuine.

¹² Bathinda, Hoshiarpur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Mohali, Muktsar, Ropar and Sangrur.

However, the DO at the time of assessment allowed transactions of ₹ 76.76 crore.

We further cross verified declaration forms from respective Commercial Tax Departments of the issuing States to this dealer wherein we found that the statutory forms worth ₹ 141.67¹³ crore for the years 2008-09 and 2010-11 were fake since these were not issued by the respective Tax Departments.

The matter was brought to the notice of the Government/Department (August 2015). Reply was awaited.

2.3.9.2 Short levy of output tax due to non-verification of sales/purchases with ICC data

Rule 51A of PVAT Rules provides that if any person, who is registered under Section 21 of the PVAT Act, has filed incomplete or incorrect return or has conducted huge transactions as per Information Collection Centre (ICC) data available in the computer system but has not filed corresponding returns, DO may lock his Tax Identification Number, without prejudice to other action which may be taken against him under the Act or the Rules.

(a) We noticed in 14 cases of seven¹⁴ AETCs for the period from 2009-10 to 2013-14 that there were differences in inter-state purchase of ₹ 51.77 crore and inter-state sale of ₹ 40.62 crore between those shown in assessment orders and ICC data. In these cases, the Department neither utilized the information available in ICC data to cross verify/reconcile the inter-state sales and inter-state purchases at the time of assessment nor recorded anything contrary about ICC transactions in assessment orders. The difference of sales/purchases had tax implication of ₹ 4.16 crore. Hence the very objective of assessment was not met in these cases.

(b) We further noticed from data analysis in respect of 11 AETCs for the period 2009-10 and 2010-11 that in 1,124 returns out of 3,67,167 returns, there was difference of more than ₹ two crore in inter-state sale reported at ICC and that declared in inter-state sales in VAT-20, in each return. Similarly, in 918 returns out of 3,67,167 returns, there was difference of more than ₹ two crore in each return between inter-state purchase reported at ICC and that declared in inter-state purchases in VAT-20.

AETC, Hoshiarpur in its reply stated that such differences were due to incorrect punching of data. The reply was not convincing as the Department

¹³ 2008-09: ₹ 124.21 crore and 2010-11: ₹ 17.46 crore.

¹⁴ Fatehgarh Sahib, Jalandhar-II, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Sangrur.

was making use of this basic data in all their scrutiny and other modules. AETCs Sangrur and Ropar agreed to take up the cases for assessment. Reply in remaining cases was awaited.

2.3.9.3 Non/short reversal of ITC on account of branch transfer

Section 13A of PVAT Act 2005 provides that subject to provisions of the Act, a taxable person shall be entitled to ITC in respect of 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 commerce or in the course of export or for use in the manufacturing, processing and packing of taxable goods for sale within the State or in the course of inter-state trade or commerce or in the course of export. Further, Rule 24 of PVAT Rules provides that where a taxable person makes branch transfer and identification of goods involved in branch transfer is not possible, the amount of ITC shall be reduced proportionately.

We noticed in 21 cases of nine¹⁵ AETCs that against branch transfer of ₹ 1,035.38 crore, ITC of ₹ 16.91 crore was to be reversed whereas ITC of only ₹ 6.44 crore was reversed which was in contravention to the provisions *ibid*. This resulted in excess allowance of ITC of ₹ 10.47 crore.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.9.4 Non/short reversal of ITC on account of manufacturing of tax free goods

Section 13(5) (h) provides that a taxable person shall not qualify for ITC in respect of tax paid on purchase of goods used in manufacturing, processing or packing of goods specified in Schedule 'A'. Further, Rule 24 of Punjab VAT Rules provides that where a taxable person has used the goods purchased, partially for taxable sales but is unable to maintain accounts as provided in Rule 23, and the sales made by him includes sale of tax free goods and taxable goods or consignment or branch transfers, then it shall be presumed that the goods so purchased during the tax period have been used in proportion of turnover of sales of tax free goods, taxable goods and consignment or branch transfer of the tax period or return period and accordingly ITC shall be claimed in that proportion.

We noticed in 11 cases of five¹⁶ AETCs that ITC of ₹ 1.45 crore was required to be reversed against tax free sale. However, ITC of only

¹⁵ Bathinda, Jalandhar-II, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali, Muktsar, Patiala and Sangrur.
¹⁶ Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Sangrur.

₹ 0.34 crore was reversed. This resulted into excess allowance of ITC of ₹ 1.11 crore.

AETC Ludhiana-III in its reply accepted the audit observation in three cases. Reply in remaining cases was awaited.

2.3.9.5 Inadmissible allowance of ITC on account of entry tax

Section 13 A of PVAT Act provides that 'subject to the provisions of the 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 commerce or in the course of export or for use in the manufacturing, processing or packing of taxable goods'. Further, Section 13(4) of PVAT Act provides that ITC 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*.

We noticed in 17 cases of seven¹⁷ AETCs that the DOs allowed ITC of entry tax of ₹ 1.20 crore on purchases of such goods on which no ITC was allowable as per the provisions *ibid*. This resulted into inadmissible allowance of ITC of ₹ 1.20 crore.

AETC Ludhiana-II in its reply accepted the audit observation in *one* case. Reply in remaining cases was awaited.

2.3.9.6 Non recovery of exemption/incentive availed

Rule 8(1) (ii) of D&E Rules, 1991 provides that the deferment or exemption certificate granted in respect of a unit shall be liable to be cancelled if the unit has closed its business during the period of deferment or exemption. Further, Rule 9(5) provides that on the cancellation of eligibility certificate before it is due for expiry, the entire amount of tax exempted shall become payable immediately, in lump sum and the provision relating to recovery of tax, interest and imposition of penalty under the Act, shall be applicable in such cases.

We noticed in seven cases under three¹⁸ AETCs, that dealers were allowed the benefit of exemption of ₹ 3.41 crore and got their RCs cancelled before completion of exemption period. The exemption availed by these dealers was required to be recovered immediately in lump sum on cancellation of their RCs as required under the Rule *ibid*.

¹⁷ Fatehgarh Sahib, Hoshiarpur, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Ropar.
¹⁸ Bathinda, Ludhiana-II and Mohali.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.9.7 Excess claim of ITC

Section 13 of PVAT Act 2005 provides that a taxable person shall be entitled to 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.

We noticed in 18 cases in seven¹⁹ AETCs that DOs allowed excess ITC of ₹ 8.19 crore due to suppression of purchases/sales, incorrect brought forward of ITC, non-debit to exemption etc. as detailed in **Appendix-II**.

AETC Sangrur in its reply stated that three cases had been taken for re-assessment. Final outcome in these cases and reply in remaining cases was awaited.

2.3.9.8 Non-reversal of Notional Input Tax Credit in respect of concessional CST Sale

Clause (ii) of Sub condition (5) of condition No.5 of New Conditions for Concessions under the Punjab VAT Act, 2005 provides that Notional Input Tax Credit (NITC) of four *per cent* can be utilized by the taxable person, purchasing goods from an exempted unit for discharging its output liability under CST Act, 1956 if the goods are sold by way of inter-state sales. The NITC shall be available only to the extent of CST chargeable under the said Act of 1956.

We noticed in eight cases in two²⁰ AETCs that dealers had made purchases from exempted units and sold as inter-state sales at concessional rate of two *per cent* but while assessing these cases, DO allowed excess NITC of ₹ 0.89 crore due to non restriction of credit of NITC to the extent of CST chargeable. This resulted into non/short reversal of NITC of ₹ 0.89 crore.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.9.9 Non-reversal of purchase tax in respect of concessional CST Sale

Section 19 (5)(b) of PVAT Act provides that ITC, on goods specified in schedule 'H' or the products manufactured there-from, when sold in the course of inter-state trade or commerce, shall be available only to the extent of CST, chargeable under the CST Act 1956.

¹⁹ Bathinda, Jalandhar-II, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Sangrur.
²⁰ Ludhiana-I and Mohali.

We noticed in seven cases of five²¹ AETCs that goods worth ₹ 98.15 crore, manufactured from schedule 'H' goods, were sold at concessional rates in the course of inter-state trade or commerce. ITC of ₹ 1.35 crore was required to be reversed in view of provisions *ibid*, whereas ITC of ₹ 0.34 crore only was reversed. This resulted in non/short reversal of purchase tax of ₹ 1.01 crore.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.9.10 Non/short reversal of ITC/Purchase Tax in respect of Procurement Agencies

Rule 21(2) of PVAT Rules 2005 provides that ITC availed on the goods, which are lost, destroyed or damaged beyond repair, shall be reversed immediately on occurrence of such event.

Further, Rule 21(6) provides that where ITC has already been availed of by a taxable person against the purchase of goods, a part of which is either used in manufacturing the goods specified in Schedule 'A' or disposed of otherwise than by way of sale, the ITC so availed for such part of goods will be deducted from ITC for the relevant period of use or disposal referred to above.

We noticed in 11 cases of three²² AETCs that the dealer purchased paddy from other than taxable persons and sent it to rice miller for milling, but the miller, after milling paddy, transferred only rice which was 67 per cent (as per established millings norms of paddy, 67 per cent rice is produced from paddy and 33 per cent is by-products) of paddy and there was no account of 33 per cent by-products *viz.* broken rice, rice kani, phuk, husk *etc.* Neither purchase tax availed in respect of by-products was reversed nor tax was levied on sale of by-products while calculating ITC of paddy. This resulted into non reversal of purchase tax of ₹ 4.41 crore.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.9.11 Non retention of ITC/Purchase Tax

Section 19 (4) of PVAT Act, provides that purchase tax paid by a taxable person shall not be admissible as ITC, unless the goods are sold within the State or are used for manufacturing of taxable goods in the State for sale or

²¹ Bathinda, Ludhiana-I, Mohali, Muktsar and Patiala.
²² Bathinda, Ludhiana-II and Muktsar.

are sold in the course of inter-state trade or commerce or in the course of export.

We noticed that in two cases of two²³ AETCs, ITC on purchase tax was not retained on closing stock at the time of assessment but was adjusted against output tax liability resulting in deferment of due tax. This resulted in inadmissible allowance of ITC of ₹ 5.99 crore due to non-retention of purchase tax.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.9.12 Short levy of tax due to suppression of purchase in respect of entry tax paid

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

We noticed in nine cases of three²⁴ AETCs that dealers showed inter-state purchases in their accounts/returns which were not in correspondence with entry tax claimed and the DO allowed the same while assessing the cases. This resulted into suppression of inter-state purchase and short levy of output tax of ₹ 0.80 crore.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.9.13 Non/short levy of tax due to misclassification of goods

Sub section (zc) of Section 2 provides that “Return” means a true and correct account of business pertaining to the return period in the prescribed form. Rule 48 of PVAT rules 2005 provides that the DO, after considering the objection and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing determining the tax liability of such a person.

We noticed in two cases of AETC Mohali that the dealer claimed and the DO considered the tax liability after allowing tax-free sales without specifically mentioning (i) the basis in the assessment order and (ii) misclassifying the sale of motorcycles as sale of gold, and assessed the tax at lower rate resulting in short levy of output tax of ₹ 2.39 crore.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

²³ Ludhiana-II and Muktsar.

²⁴ Fatehgarh Sahib, Ludhiana-III and Sangrur.

2.3.9.14 Short levy of tax on goods incorporated in works contract

Section 8 (2-A) of PVAT Act 2005 read with Rule 15 of PVAT Rules 2005 provides that every person executing works contracts, shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under this Act.

We noticed in 11 cases of five²⁵ AETCs that tax of ₹ 1.66 crore was levied short in case of works contract due to allowing of inadmissible deductions under Rule 15 of PVAT Rules 2005. DOs were required to cross check sales and purchases before allowing deductions as per provisions *ibid*.

AETCs Ludhiana-III, Sangrur and Ropar accepted the audit observation and have taken up three cases²⁶ for re-assessment. Final outcome and reply in the remaining cases was awaited.

2.3.9.15 Short levy of tax due to suppression of sales/purchases

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

We noticed in 21 cases of seven²⁷ AETCs that the DOs had accounted for less sales in the assessment orders than the actual gross sales worked out on the basis of trading accounts. This resulted in short levy of tax of ₹ 10.22 crore as detailed in *Appendix-III*.

AETC Jalandhar-I in its reply stated that two cases had been taken for re-assessment. Reply in the remaining cases was awaited.

2.3.9.16 Incorrect levy of concessional rate of tax on account of non/short submission of statutory declarations

Sub Section 3 and 4 of Section 5 of CST 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 CST 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

²⁵ Jalandhar-II, Ludhiana-III, Mohali, Ropar and Sangrur.

²⁶ One each in Ludhiana-III, Ropar and Sangrur

²⁷ Bathinda, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Ludhiana-III and Mohali.

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.

We noticed in six cases in three²⁸ AETCs that while finalizing assessments, undue benefit of concessional rate of tax on inter-state sales was allowed without supporting statutory declarations which resulted in short levy of output tax of ₹ 2.16 crore.

AETC Hoshiarpur in its reply stated that two cases had been taken for re-assessment. Final outcome and reply in remaining cases was awaited.

2.3.10 Recovery of tax demands

2.3.10.1 Non deposit of tax demands raised under assessments

Section 29(11) of the PVAT Act, provides that when any tax, interest, penalty or any other sum is payable in consequence of any order passed, the DO shall serve upon the person a notice of demand in the prescribed form specifying the sum so payable.

Rule 51 of the PVAT Rules provides that if any sum is payable under the Act or these rules, the DO shall serve a notice in Form VAT-56 upon him specifying the date, not less than 15 days and not more than 30 days from the date of service of notice, on or before which, payment shall be made and he shall also fix a date on or before which, the person shall furnish the treasury challan in proof of such payment.

In 10 AETCs, we noticed from assessment disposal registers/assessment files that tax demands of ₹ 910.85 crore, out of which ₹ 711.15 crore²⁹ for the period from 2009-10 to 2013-14 were raised in assessments. These demands were still lying outstanding in the disposal registers. None of the AETCs maintained demand and collection registers in Form VAT-55 (Rule 82) to watch recovery of outstanding demands. In the absence of this, position of outstanding recovery in respect of tax demand of ₹ 910.85 crore could not be ascertained.

Five³⁰ AETCs in their reply stated that major demands were non-recoverable due to pendency before appellate authorities. AETC Muktsar also replied that records of demands for ₹ 8.52 lakh were not available and in remaining cases, the status would be given after verification. AETC, Sangrur replied that directions had been issued to ETOs to maintain demand and collection register in Form VAT-55. Reply of remaining AETCs was awaited.

²⁸ Hoshiarpur, Ludhiana-I and Mohali.

²⁹ Ludhiana-I (₹ 99.50 crore), Ludhiana-II (₹ 102.23 crore), Mohali (₹ 509.42 crore)

³⁰ Hoshiarpur, Ludhiana-I, Ludhiana-II, Muktsar and Ropar.

2.3.10.2 Non levy of interest on delayed payment of tax

Section 32(4) of PVAT Act provides that if the amount of tax or penalty due from a person is not paid by him within the period specified in the notice of demand, or if no period is specified, within thirty days from the service of such notice, the person shall in addition to the amount of tax or penalty, be liable to pay simple interest on such amount at the rate of one and half *per cent* per month from the date immediately following the date on which the period specified in the notice or the period of 30 days.

In 10³¹ AETCs, we noticed from assessment disposal registers/assessment files that in 1,257 cases for the period 2009-10 to 2013-14, tax of ₹ 17.22 crore was deposited with delay ranging between one to 30 months on which interest of ₹ 0.61 crore was leviable but not levied.

AETC Muktsar admitted the delay and stated that the delay was due to late serving of assessment order; AETC Sangrur replied that notices to recover the due interest had been issued. Reply in respect of other districts was awaited.

2.3.10.3 Non/short levy of interest and penalty

Section 32(1) of PVAT Act, provides that if any person fails to pay the amount of tax due from him as per provisions of PVAT, he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due from him at the rate of half *per cent* per month from the due date for payment till the date he actually pays the amount of tax. Section 53 of PVAT Act, states that if a person registered under this Act, fails to pay the amount of tax in accordance with the provisions of this Act, he shall be liable to pay, in addition to the tax and the interest payable by him, a penalty, at the rate of two *per cent* per month on the tax, so due and payable from the date, it had become due to the date of its payment, or to the date of the order of the assessment, whichever is earlier. The amount of penalty payable under this Section shall be calculated by considering part of the month as one month.

In three³² AETCs, we noticed that in six cases that the Department levied interest and penalty of ₹ 20,000 only instead of ₹ 4.29 crore on account of delayed payment of tax of ₹ 2.07 crore. It resulted into non/short levy of interest and penalty of ₹ 4.29 crore.

³¹ Bathinda, Hoshiarpur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Mohali, Muktsar, Ropar and Sangrur.

³² Bathinda, Ludhiana-I and Ropar.

Further, data analysis of COVIS database in respect of 12 AETCs for the period 2009-10 to 2013-14, showed that in 22,284 cases tax of ₹ 1,756.91 crore was deposited with delay ranging from one to 49 months. AETCs Hoshiarpur, Muktsar and Ropar in their replies stated that cases were being verified. In the remaining cases, the replies were awaited.

2.3.11 Internal control

2.3.11.1 Internal Audit

Internal Audit Organisation (IAO) is a vital component of the internal control mechanism. IAO was set up in October 1981 as an independent organization under the State Finance Department and was entrusted *inter-alia*, with the internal audit of revenue receipts to safeguard against any loss or leakage of revenue arising under the various revenue heads including VAT.

Additional Director intimated (June 2015) that 5,387 units were planned for audit during 2009-2010 to 2013-2014 whereas, only 1,312 units were audited as detailed below:

Year	No. of units planned	No. of units audited	Percentage
2009-10	807	4	0.50
2010-11	965	39	4.04
2011-12	1,088	5	0.45
2012-13	1,261	165	13.08
2013-14	1,266	1,099	86.80
Total	5,387	1,312	

It could be seen from the table that percentage of units audited against the units planned during 2013-14 had increased from previous years.

2.3.11.2 Lack of control on assessment disposal register

We noticed that each DO maintained his own assessment disposal register and entered the details of assessments which were conducted and finalized by him. It was further noticed that whenever a new incumbent took charge of a particular ward, another disposal register was opened for entering assessments. Thus, there was no institutionalized mechanism for issuing disposal registers and there was no reliable source on the number of assessment disposal registers operative in a ward.

In the absence of such a internal control mechanism, audit could not give reasonable assurance regarding production/non-production of assessment disposal registers.

The matter was brought to the notice of the Government/Department (August 2015). Final reply was awaited.

2.3.11.3 Improper maintenance of Daily Collection Register

Sub Rule (6) of Rule 37 of PVAT Rules 2005 provides that “there shall be maintained in the AETC office of each district, a daily collection register in Form VAT 54, wherein particulars of every challan received in proof of payment of tax or penalty or any other amount due under the Act shall be recorded”.

We noticed that daily collection register in Form VAT 54 and demand and collection register in Form VAT 55 were not being properly maintained. In the absence of this, correct realization of due tax could not be ascertained as discussed in **Para 2.3.10.1**.

AETC Sangrur in its reply stated that directions had been issued to ETOs to maintain demand and collection register in VAT-55. Final reply in respect of other districts was awaited.

2.3.12 Conclusion

There was no institutionalised system in the Department for selection of returns for audit and selection of cases for assessment. Department made assessments without framing any parameters. Non-adherence to procedures mentioned in PVAT Act and Rules led to avoidance and evasion of tax. Failure of DOs to follow prescribed procedures also led to undue benefit to the dealers and loss of revenue in the form of bogus transactions, non/short levy of tax, under declaration of output tax, excess allowance of ITC etc. There was no monitoring mechanism for recovery of tax demands after assessment. There were cases of non levy of interest on delayed payment of tax and shortfall in conducting internal audit of planned units. In the absence of properly maintained daily collection register as well as institutionalised mechanism for issuing disposal register, correct realization of due tax could not be ascertained.

2.3.13 Recommendations

It is recommended that the Department should consider:

- i) scrutiny of returns for effective tax administration and maintenance of proper records thereof;
- ii) framing parameters as provided in Rule 44 *ibid* for selecting the returns to be audited so that correctness of returns and admissibility of various claims can be checked;

- iii) framing a set of comprehensive guidelines specifying the parameters for risk based selection of dealers for assessment which involves cross verification of statutory declarations including vehicles used for transportation of goods to ascertain the genuineness of transactions;
- iv) enforcing the provisions of maintenance of taxable person wise ledger in VAT 55 to check the realization of demands raised;
- v) framing timeline to finalise the appeal cases pending with departmental appellate authorities; and
- vi) improving the reliability of data of ICC barriers besides capturing of all transactions at ICC barriers.

2.4 Excess allowance of Notional Input Tax Credit

Non restricting of notional ITC upto the limit of CST paid resulted into excess allowance of NITC of ₹21.93 lakh, in one case by AETC Ferozepur.

Condition No. 5(5(ii)) read with condition No. 5(6) of New Conditions for concessions under the PVAT Act 2005 and the PGST (D&E) Rules, 1991 provides that a taxable person purchasing goods from an exempted unit shall utilize the permissible NITC against the output tax liability arising out of sale of such goods only and in case of interstate sale, the taxable person shall be entitled for ITC only up to the limit of liability of CST paid.

- (a) We noticed (February 2015) in a case of a dealer for the year 2008-09 (assessed on 14 November 2013) under AETC Ferozepur that the dealer purchased goods worth ₹ 44.45 crore from an exempted unit. The dealer made interstate sale of ₹ 25.30 crore at the rate of two *per cent* out of gross sale of ₹ 102.57 crore. The DO allowed full NITC of ₹ 1.78 crore at the rate of four *per cent* on ₹ 44.45 crore whereas NITC in respect of goods used in interstate sale was required to be limited to CST paid. Non-observance of condition No. 5(5(ii)) *ibid* resulted into non-reversal of NITC of ₹ 21.93 lakh³³.
- (b) We noticed (January 2014) in a case of a dealer for the year 2008-09 (assessed on 4 December 2012) under AETC Barnala that the dealer purchased goods worth ₹ 7.29 crore from an exempted unit but ITC on this purchase was not reversed. It resulted into excess allowance of NITC of ₹ 4.01 lakh.

³³ ₹ $\frac{25.30 \times 44.45 \times 2}{102.57 \times 100} = ₹ 21.93$ lakh.

The matter was reported to Government/Department (June 2015); their replies were awaited (November 2015).

2.5 Excess allowance of Input Tax Credit

Incorrect calculation/computation of ITC in two AETCs, resulted into excess allowance of ITC of ₹ 13.35 lakh. Further, in five AETCs, the ITC on inter-state sale of Schedule 'H' goods/tax free goods was not reversed which resulted in excess allowance of ITC of ₹ 34.15 lakh.

(a) Rule 48 of PVAT Rules 2005 provides that the DO, after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person. Section 8 (1) of PVAT Act 2005 provides that the rate of tax applicable on purchase or sale of declared goods shall not exceed four *per cent* or such rate, as specified in clause (a) of Section 15 of the CST Act, 1956.

We noticed (August 2012 and February 2014) in two assessment cases of two AETCs³⁴ for the years 2009-10 and 2010-11 that the dealers were allowed excess ITC of ₹ 13.35 lakh in contravention to the provisions of the PVAT Act as per detail given in **Table 2.3** :

Table 2.3

Sl. No.	Name of Unit	Period of Assessment	Excess ITC allowed (₹ in lakh)	Nature of irregularity
1	AETC Kapurthala	2010-11	7.12	ITC of ₹ 35.60 lakh, on purchase of rice of ₹ 7.12 crore was allowed at the rate of 5 <i>per cent</i> , instead of allowable ITC of ₹ 28.48 lakh at the rate of 4 <i>per cent</i> , resulting in excess carry forward of ITC.
2	AETC Moga	2009-10	6.23	CST liability was determined at ₹ 9.40 lakh, whereas at the time of adjustment against ITC, only ₹ 3.17 lakh was adjusted
Total			13.35	

The matter was reported to the Government/Department (April 2014 and May 2014); their replies were awaited (November 2015).

³⁴ Kapurthala and Moga.

(b) Non reversal of ITC on account of Schedule 'H' goods/tax free goods

Section 19 (5) of PVAT Act 2005 provides that ITC, on goods specified in Schedule 'H' or the products manufactured there-from, when sold in the course of inter-state trade or commerce, shall be available only to the extent of CST, chargeable under the CST Act 1956. Condition No. 5(5) (ii) of New Condition of D & E Rules provides that if any dealer made purchases from exempted unit sold by way of inter-state sales, NITC shall be available only to the extent of the CST.

Rule 24 of PVAT Rules 2005 provides that where a taxable person has used the goods purchased, partially for taxable sales, but is unable to maintain accounts as provided in Rule-23 and the sales made by him include sale of tax free goods and taxable goods or consignment or branch transfers, then it shall be presumed that the goods so purchased during the tax period have been used in proportion of turnover of sales of tax free goods, taxable goods and consignment or branch transfers of the tax period or return period and accordingly ITC shall be claimed in that proportion.

We noticed (between January 2014 and December 2014) from six assessment cases of dealers under five AETCs³⁵ that ITC of ₹ 34.15 lakh was allowed to the dealers in contravention to various provisions of the Act as per details given in the **Table 2.4**:

³⁵ Amritsar-II, Barnala, Ferozepur, Kapurthala and Mansa.

Table 2.4

Sl. No.	Name of AETC	Period of refund/ Assessment	Amount (₹ in lakh)	Nature of irregularity
1.	Mansa Barnala	2011-12 2008-09	14.03	ITC on inter-state sale of Schedule 'H' goods valuing ₹ 11.10 crore was not reversed which resulted in excess allowance of ITC.
2.	Kapurthala	2010-11	3.17	Against tax free purchase of ₹ 2.52 crore, the dealer made tax free sale of ₹ 3.53 crore. The DO omitted to reverse the ITC of ₹ 3.17 lakh on account of tax free sale.
3.	Ferozepur	2007-08	5.06	Paddy of ₹ 6.33 crore was purchased and consumed in production of rice. Reversal of 20 per cent on paddy consumed in production of husk was not made which resulted in excess allowance of ITC.
4.	Amritsar-II	2011-12	11.89	Against the purchase value of goods for ₹ 93.29 crore on which ITC was claimed, sale value shown in profit and loss account was ₹ 91.12 crore. Thus, there was difference of ₹ 2.16 crore on which reversal at the rate of 5.5 per cent was not made.
Total			34.15	

The matter was reported to the Government/Department (between April 2014 and June 2015); their replies were awaited (November 2015).

2.6 Short levy of purchase tax

Application of incorrect rate of purchase tax of 2.75 per cent on the purchase of sugarcane between April 2011 to December 2011 against the actual rate of purchase tax of 5.5 per cent resulted in short levy of purchase tax of ₹19.91 lakh in one case of AETC, Gurdaspur.

Section 19 of PVAT Act provides that there shall be levied VAT on taxable turnover of purchase of goods specified in Schedule-H at a rate of VAT applicable to such goods as per the schedules.

Sugarcane, a Schedule-H item, was taxable at the rate of five per cent under Schedule-B up to 20 December 2011 and thereafter at the rate of 2.5 per cent under Schedule-E.

We noticed (March 2015) in one case for the year 2011-12 (assessed on 30 January 2014) pertaining to AETC Gurdaspur that the dealer purchased sugarcane of ₹ 7.25 crore between April 2011 and December 2011 on which purchase tax at the rate of 5.5 per cent (including 10 per cent surcharge) was

required to be paid. However, the DO levied purchase tax at the rate of 2.75 per cent on all the purchases. The omission resulted into short levy of purchase tax of ₹ 19.91 lakh (2.75 per cent of ₹ 7.25 crore).

The matter was reported to the Government/Department (June 2015); their replies were awaited (November 2015).

2.7 Short levy of penalty

The assessing authority levied a penalty of ₹ 3.41 lakh as per Section 56(e) of the Act on non-genuine purchases against the leviable penalty of ₹ 21.34 lakh, resulting in short levy of penalty of ₹ 17.93 lakh.

Section 56 (e) of PVAT Act provides that ‘if a Commissioner or the DO is satisfied that the person, in order to evade or avoid payment of tax has availed ITC to which he is not entitled to, he shall direct that the person shall pay, by way of penalty, in addition to the tax and interest payable by him, a sum equal to twice the amount of tax, assessed on account of the aforesaid reasons’.

We noticed (March 2015) in an assessment case of a dealer for the year 2011-12 (assessed on 2 August 2013) pertaining to AETC, Barnala that the DO held in the assessment order that the dealer availed ITC on non-genuine purchase with a view to evade or avoid payment of tax. Accordingly, assessment was framed and additional tax of ₹ 10.67 lakh was assessed besides penalty under Section 56 of the Act *ibid*. However, while issuing tax demand notice (TDN) penalty of ₹ 3.41 lakh was levied instead of ₹ 21.34 lakh (twice the amount of additional tax assessed). This omission resulted into the short levy of penalty of ₹ 17.93 lakh.

The matter was reported to the Government/Department (June 2015), the Department accepted the audit observation and levied penalty of ₹ 21.34 lakh under Section 56 *ibid*. However, recovery was still awaited (November 2015).

2.8 Loss of revenue due to non adherence of appellate authority orders

Non adherence of orders of Appellate Authority to re-assess the remanded case resulted into loss of revenue of ₹ 11.38 lakh, raised during original assessment, in AETC Mohali.

Section 62 of PVAT Act provides that, an appeal against every original order passed under this Act or the Rules made there under shall lie, if the order is made by an officer below the rank of Deputy Excise and Taxation Commissioner (DETC), to the DETC. Further, Rule 71(3) of PVAT Act provides that the memorandum of appeal shall be accompanied with the payment of 25 per cent of amount of the demand.

We noticed (August 2013) in the refund case of a dealer under AETC Mohali that assessment for the year 2004-05 was made (January 2009) in which additional demand of ₹ 11.38 lakh was raised by the DO. The dealer had filed an appeal before DETC (Appeal) Patiala against the *ex-parte* order of the DO after depositing 25 *per cent* amount of the demand. The DETC remanded (October 2009) the case for re-assessment after giving due opportunity to the dealer to show his records within 45 days from the receipt of order. However, the Department failed to re-assess the case and allowed refund of 25 *per cent* of the amount of demand earlier deposited by the dealer at the time of appeal on the request of the dealer. This resulted in loss of ₹ 11.38 lakh to government exchequer due to non-realisation of assessed demand.

The matter was reported to Government/Department (March 2014); their replies were awaited (November 2015).

2.9 Short levy of output tax

The Assessing Authority allowed the full benefit of TDS/Entry tax but the turnover corresponding to TDS/Entry tax was not accounted for correctly for the purpose of output tax. This resulted in short levy of output tax of ₹34.55 lakh.

(a) Section 27(1) of PVAT Act provides that every contractee responsible for making payment to any person (Contractor) for discharge of any liability on account of valuable consideration, exceeding ₹ 5.00 lakh in a single contract payable for the transfer of property in goods in pursuance of a works contract, shall, at the time of making such payment to the contractor either in cash or in any manner, deduct an amount equal to four *per cent* of such sum towards the tax payable under this Act on account of such contract. Further, Section 8 (2A) provides that every person executing works contracts, shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under this Act.

We noticed (October 2013) from an assessment case of a dealer under AETC, Moga for the year 2010-11 that the dealer was engaged in the business of works contract. Dealer claimed and DO allowed the benefit of TDS of ₹ 28.99 lakh. The DO computed the GTO of ₹ 5.08 crore instead of ₹ 7.25 crore corresponding to TDS. Thus, the DO computed less GTO of ₹ 2.17 crore, which resulted into short levy of output tax of ₹ 8.69 lakh (four *per cent* of ₹ 2.17 crore).

Further, the dealer claimed and DO allowed the deduction on account of material supplied by the Department valuing ₹ 68.27 lakh which was not

admissible as per sections *ibid*. This resulted into short levy of output tax of ₹ 2.73 lakh (four per cent of ₹ 68.27 lakh).

The matter was brought to the notice of Government/Department (March 2014); their replies were awaited (November 2015).

(b) Rule-48 of PVAT Rules 2005 provides that the DO, after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person.

We noticed (December 2013) from an assessment case of a dealer under AETC Amritsar-II for the year 2010-11 that the dealer claimed and DO allowed the benefit of entry tax of ₹ 81.80 lakh, however, the amount of purchases was shown as ₹ 15.80 crore against the actual purchases of ₹ 17.20 crore. Thus, the dealer did not take into account the purchases of ₹ 1.40 crore which subsequently resulted in suppression of sale and short levy of output tax of ₹ 7.73 lakh (5.5 percent of ₹ 1.40 crore).

(c) We noticed from four assessment cases of two dealers under two AETCs³⁶ for the years 2008-09 and 2010-12 that DO determined less output tax liability of ₹ 15.40 lakh as detailed in **Table 2.5**:

Table 2.5

Sl. No.	Name of AETC	Period of refund/ Assessment	Amount (₹ in lakh)	Nature of irregularity
1	Kapurthala	2008-09 and 2010-12	12.48	In three cases, as per annual returns, output tax of the dealer was ₹ 63.37 lakh whereas DO assessed tax of ₹ 50.89 lakh.
2.	Nawanshahar	2008-09	2.92	The DO allowed deduction of tax element of ₹ 10.73 lakh, but tax on interstate sales of ₹ 95.41 lakh was not levied.
Total			15.40	

The matter was brought to the notice of Government/Department (April 2014); their replies were awaited (November 2015).

³⁶ Kapurthala and Nawanshahar.

2.10 Loss of revenue due to inadmissible refund of entry tax on imported sugar

In three AETCs refund of entry tax of ₹ 34.27 lakh was irregularly allowed on the purchase of sugar from outside the State, but sold as tax free in the State.

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 Areas Act, 2000, if such goods are for sale in the State or in the course of inter-state trade or commerce or in the course of export or for use in the manufacture, processing or packing of taxable goods for sale within the State or in the course of inter-state trade or commerce or in the course of export.

Government of Punjab levied (November 2007) entry tax on sugar at the rate of four *per cent* and withdrew it in April 2011. Government also introduced (November 2007) entry No.152 in Schedule-B which made imported sugar taxable at the rate of four *per cent*. In view of judgment of Hon'ble Punjab and Haryana High Court (August 2008), imported sugar became tax free. However, entry tax on sugar continued till April 2011. Thus, the dealers paid entry tax on inter-state purchase of sugar and sold the same as tax free in the State.

We noticed (between January 2014 and February 2014) in three AETC offices³⁷ that in three refund cases for the period 2007-11, the dealers made interstate purchase of sugar and paid entry tax of ₹ 34.27 lakh. The dealers sold this sugar as tax free and the DOs allowed refund of entry tax which was in contravention to the Section mentioned *ibid* as detailed in **Table 2.6:**

³⁷ Barnala, Ferozepur and Sangrur.

Table 2.6

Sl. No.	Name of AETC	Period of refund/ Assessment	Amount (₹ in lakh)	Nature of irregularity
1	Ferozepur	2009-10	4.12	Refund of entry tax paid on inter state purchase of sugar was allowed whereas sugar was sold tax free.
2.	Sangrur	2007-09	5.01	
3.	Barnala	27.2.08 to 31.3.11	25.14	
Total			34.27	

The matter was reported to the Government/Department (April 2014 and February 2015). The Government replied (October 2014) in case of AETC Barnala that the same issue was decided (February 2012) by VAT Tribunal, Punjab Chandigarh in case of M/s Nohar Chand Jagdish Rai, Dhuri in favour of the dealer to allow refund of entry tax paid on interstate purchase of sugar in a similar appeal. Therefore, the Department did not go for appeal in higher court.

The reply of the Government was not convincing. The Hon'ble Supreme Court in case of Mafatlal Industries vs. Union of India held that "if the person claiming refund had passed on the burden of duty to another and had not really suffered any loss or prejudice, there was no question of reimbursing him and he could not successfully sustain an action for restitution". This aspect was not ensured by the DOs while issuing refund. In view of provisions of the Act and decision of Hon'ble Supreme Court, the refund of entry tax allowed on tax free sale of imported sugar resulted into loss of revenue of ₹ 34.27 lakh.

2.11 Excess allowance of refund

Non reversal of ITC on branch transfer, inter-state sale and sale as tax free goods, resulted in excess allowance of refund of ₹ 2.85 crore, in eight cases of six AETCs.

Section 39(1) of PVAT Act provides that subject to the provisions of this Act and the Rules made thereunder, the Commissioner or the DO 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 ITC over output tax payable under this Act.

We noticed (between June 2013 and July 2014) in eight refund cases pertaining to six AETC³⁸ offices for the period 2010-13 that dealers were allowed excess refunds of ₹ 2.85 crore in contravention to various provisions of the Act as per details given in **Table 2.7**:

Table 2.7

Sl. No.	Name of Unit	Period of Refund	Amount (₹ in lakh)	Nature of irregularity
1.	AETC, Fatehgarh Sahib	01.04.2012 to 30.06.2012	9.72	ITC of ₹ 88.91 lakh was allowed to the dealer instead of ₹ 79.18 lakh on eligible purchases of ₹ 17.49 crore.
2.	AETC, Jalandhar-II	2012-13	13.74	While issuing refund, DO considered GTO as ₹ 3.31 crore instead of ₹ 5.81 crore resulting in short levy of tax.
3.	AETC, Ludhiana-I	01.07.2012 to 30.09.2012	16.46	ITC of ₹ 16.46 lakh on account of tax free sale of ₹ 11.13 crore was not reversed which resulted in excess allowance of refund.
4.	AETC, Ludhiana-II	01.10.2011 to 31.12.2011	11.72	DO reversed ITC of ₹ 0.60 lakh instead of ₹ 12.32 lakh on account of tax free sale of ₹ 6.38 crore resulting in excess allowance of refund.
5.	AETC, Mohali	2011-12	9.25	The dealer claimed and was allowed ITC of ₹ 11.01 crore instead of admissible ITC of ₹ 10.91 crore.
6.	AETC, Sangrur	01.04.2010 to 30.06.2011	29.96	The dealer made purchases of ₹ 17.87 crore from exempted units and made ISS of ₹ 296.64 crore. While issuing refund, DO omitted to reverse the NITC.
7.	AETC, Sangrur	01.10.2011 to 31.12.2011	55.77	Out of Gross Turnover of ₹ 121.13 crore, the dealer made branch transfer of ₹ 31.27 crore. The eligible purchase was ₹ 54.02 crore. However, no reversal of ITC on account of branch transfer was made by the DO.
8.		01.01.2012 to 31.03.2012	138.07	The dealer made branch transfer of ₹ 58.12 crore out of Gross Turnover of ₹ 157.93 crore. The eligible purchase was ₹ 93.81 crore. However, no reversal of ITC on account of branch transfer was made by the DO.
Total			284.69	

³⁸

Fatehgarh Sahib, Jalandhar-II, Ludhiana-I, Ludhiana-II, Mohali and Sangrur.

The matter was reported to the Government/Department (October 2014), their replies were awaited (November 2015).

2.12 Excess refund to works contractors

Higher allowance of labour charges without any justification, non levy of tax on material and inadmissible allowance of entry tax resulted in excess refund of ₹191.18 lakh in 13 cases of six AETCs.

(a) Section 8(2-A) of PVAT Act provides that every person executing works contracts, shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act.

We noticed (between October 2013 and December 2014) in five refund cases pertaining to four AETC offices³⁹ for the period 2009-12 that the dealers were allowed excess refund of ₹ 1.52 crore due to short levy of tax on goods incorporated in works as per details given in **Table 2.8:**

Table 2.8

Sl. No	Name of Unit	Period of Refund	Amount (₹ in lakh)	Nature of irregularity
1	AETC, Barnala	2011-12	89.93	The contractor did not pay tax of ₹ 1.23 crore on material at the time of incorporation on work. Though demand of ₹ 1.15 crore for the year 2007-08 was pending for recovery, refund of ₹ 89.93 lakh was issued to contractor.
2	AETC, Ferozpur	2010-11	29.47	The contractor claimed incorrect deduction of ₹ 6.46 crore (70.55 per cent) on account of labour and services instead of admissible deduction of ₹ 5.16 crore (30 per cent under Rule 15(6)) from GTO of ₹ 9.16 crore. The justification for allowing labour charges at a higher rate was not mentioned in the assessment order by the DO. Further, the dealer levied output tax at the rate of four per cent flat, whereas, ITC at the rate 5.5 per cent and 13.75 per cent was claimed.
3	AETC, Gurdaspur	2009-10	5.85	DO allowed deduction of ₹ 51.68 lakh for material issued to sub-contractor, whereas, the same was not included while calculating TTO. Further, deduction on account of material of ₹ 38.95 lakh purchased from

³⁹ Barnala, Ferozpur, Gurdaspur and Moga.

Sl. No	Name of Unit	Period of Refund	Amount (₹ in lakh)	Nature of irregularity
				exempted unit was also allowed which was not admissible.
4	AETC, Moga	2011-12	18.86	Deduction of ₹ 8.50 crore at the rate of 50 <i>per cent</i> of GTO (₹ 17.20 crore) was claimed and allowed to works contractor on account of labour and services instead of admissible deduction of ₹ 5.16 crore without any justification (30 <i>per cent</i> under Rule 15(6)).
5			8.37	While allowing refund, the DO allowed deduction of ₹ 1.84 crore from GTO on account of material supplied by Government on which tax was not levied.
Total			152.48	

The matter was reported to the Government/Department (between April 2014 and March 2015); their replies were awaited (November 2015).

(b) Inadmissible allowance of entry tax

Section 13(4) of PVAT Act provides that ITC on furnace oil and lubricants shall be allowed only to the extent by which the amount of tax paid in the State exceeds four *per cent*. Section 13-A of PVAT Act provides that 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 (Punjab Act No. 9 of 2000), if such Goods are for sale in the State or in the course of inter-state trade or commerce or in the course of export or for use in the manufacturing, processing or packing of taxable Goods.

We noticed (between October 2013 and September 2014) in eight refund cases pertaining to two AETC offices⁴⁰ for the period 2010-13 that dealers were allowed excess refund of ₹ 38.70 lakh due to entry tax paid in excess of four *per cent* on purchase of furnace oil, lubricants and diesel generator (DG) sets which were not for sale within state or in the course of inter-state trade as per details given in **Table 2.9:**

⁴⁰ Ludhiana I and Mohali.

Table 2.9

Sl. No.	Name of Unit	Period of Refund	Amount (₹ in lakh)	Nature of irregularity
1.	AETC, Ludhiana-I	1.4.2012 to 30.6.2012	3.36	Inadmissible ITC was claimed and allowed to the dealers in five cases on account of entry tax paid on purchase of Diesel Generator sets.
2.		1.1.2011 to 31.3.2011	2.06	
3.		1.1.2012 to 31.3.2012	2.76	
4.		2010-11	1.13	
5.		1.4.2012 to 30.6.2012	3.57	
6.	AETC, Mohali	1.1.2011 to 31.3.2011	15.81	Inadmissible ITC was claimed and allowed to the dealers in two cases on account of entry tax paid on purchase of furnace oil/lubricants.
7.		1.10.2010 to 31.3.2012	6.58	
8.	AETC, Mohali	1.7.2012 to 30.9.2012	3.43	Inadmissible ITC was claimed and allowed on account of entry tax paid on purchase of furnace oil.
Total			38.70	

The matter was reported to the Government/Department (March 2014 and February 2015), their replies were awaited (November 2015).

2.13 Irregular allowance of provisional refund

Seven provisional refunds of ₹ 9.52 crore were irregularly allowed to a dealer by AETC, Sangrur without mentioning the receipt of the statutory declaration forms in respect of previous years.

Rule 52-A of PVAT Rules provides that where a refund is allowed provisionally under Sub-Section I-A of Section 39 on account of excess ITC, the provisions of Rule 52(4) shall not apply till 31 March following the close of financial year, for which refund is issued, or till the time the 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 for the said previous years.

We noticed (February 2014) in refund cases pertaining to AETC Sangrur for the period from April 2010 to March 2012, that seven provisional refunds totaling ₹ 10.52 crore (₹ 5.68 crore for 2010-11 and ₹ 4.84 crore for 2011-12) were issued to a dealer. The provisional refund was more than ₹ one crore for each year which was in contravention to the provisions

ibid. The DO while finalizing the case of provisional refund of subsequent year neither mentioned about the receipt of the statutory declarations in respect of provisional refunds issued for previous years, nor levied tax in case of non-receipt of the same. The omission resulted into irregular allowance of provisional refund of ₹ 9.52 crore.

The matter was reported to the Government/Department (October 2014); their replies were awaited (November 2015).

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 27 units relating to State Excise receipts during 2014-15 showed irregularities involving ₹ 4.80 crore in 155 cases, which broadly fall under the following categories:

Table 3.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/Short levy of License fee	138	3.45
2.	Non recovery of Excise arrears	02	0.78
3.	Other irregularities	15	0.57
	Total	155	4.80

In 2014-15, the Department accepted the observations in 18 cases and recovered an amount of ₹ 1.96 crore, out of which two cases of ₹ 1.81 lakh were pointed out in 2014-15 and rest in the earlier years.

An illustrative case involving ₹ 3.24 crore is discussed in the succeeding paragraph.

3.3 Loss of revenue due to short realisation of license fee

Separate licenses were issued for each category to hotels/restaurants/bar owners but the department charged fee for only one licence against the chargeable fee for all categories of licenses, resulting in short realisation of license fee of ₹3.24 crore in 238 cases.

Rule-I of Punjab Liquor License Rules, 1956 (PLLR) provides that various types of licenses shall be granted/renewed after receiving the fixed fee for these particular licenses. Further, Rule-38 of PLLR provides special

conditions under which L-3¹, L-4² and L-5³ licenses are granted. The licensee shall not set up or maintain on the licensed premises any bar without taking out a separate bar license. Punjab Government in Excise policy for the year 2013-14 notified (22 March 2013) fixed license fee for different categories of licenses granted to hotels/restaurants/bars depending upon star rating of hotels or the areas where these are located.

We noticed (January to March 2015) from the records of four AETCs⁴ offices that 238 licenses of L-3, L-4, L-4A⁵, L-5 and L-5A⁶ categories were granted/renewed to hotels/restaurants/bar owners for the period 2013-14. The departmental authorities charged fee as applicable to one license, whereas as per PLLR, the license fee for each category of license was required to be charged separately, which resulted in short realisation of Government revenue in terms of license fee to the tune of ₹ 3.24 crore.

AETC Ludhiana-I stated (August 2015) that license fee relating to L3, L4, L5 licenses etc. was being charged collectively as per Government notification dated 22 March 2013. No separate license fee was charged while granting license in L5, L5A category to the license holder of L4, L5 as supplementary license. Reply was not acceptable in the light of Rule-38 of PLLR under which the licensee was not allowed to set up or maintain on his licensed premises any bar without taking out a separate bar license. We, further, observed in Ludhiana division that the license in Form L-4 and L-5 was granted subject to the payment of license fee separately for each class of license at prescribed rates.

The matter was reported to the Government/Department (June 2015); their replies were not received (November 2015).

¹ The license is granted for retail vend of foreign liquor including beer, wine and ready to drink beverage in a hotel for 'on' consumption.

² The license is granted for retail vend of foreign liquor including beer, wine and ready to drink beverage in a restaurant for 'on' consumption.

³ This is supplementary license granted to the licensee of a restaurant to keep a bar for the retail vend of foreign liquor including beer, wine etc.

⁴ Amritsar-I, Amritsar-II, Ludhiana-I and Ludhiana-II.

⁵ The license is granted for the retail vend of beer, wine and ready to drink beverage only in a restaurant for 'on' consumption.

⁶ The license is granted for the retail vend of beer, wine and ready to drink beverages in a bar.

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 110 units relating to Stamp Duty and Registration Fee during 2014-15 showed irregularities involving ₹ 145.89 crore in 25,163 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	867	11.55
2.	Non levy of stamp duty on mortgage deeds/power of attorney	428	74.50
3.	Non levy of social infrastructure cess (SIC) and additional stamp duty	23,781	25.76
4.	Other irregularities	87	34.08
	Total	25,163	145.89

In 2014-15, the Department accepted non/short levy of stamp duty and registration fee and other deficiencies of ₹ 398.64 lakh in 1,527 cases and issued demand, out of which ₹ 0.05 lakh involved in three cases were pointed out in 2014-15 and rest in the earlier years. The Department further informed in 2014-15 that they had recovered ₹ 398.59 lakh in 1,524 cases pertaining to the earlier years.

A few illustrative cases involving ₹ 18.87 crore are discussed in the succeeding paragraphs.

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

Stamp Duty and Registration Fee of ₹ 2.11 crore was short levied in 20 cases due to misclassification of properties as agriculture instead of residential/ commercial.

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

We noticed (March 2014 to January 2015) from the records of 11 Sub Registrars¹ (SRs) and two Joint Sub Registrars² (JSRs) that 20 instruments of transfer of properties valuing ₹ 31.88 crore were registered during 2012-14 at the value set forth in these instruments instead of ₹ 56.93 crore on the basis of minimum market rates of properties fixed by respective District Collectors for residential/commercial properties. The omission were either due to misclassification of the properties as agriculture instead of residential/commercial or non-application of higher rates for particular locality/khasra numbers. Application of stamp duty on incorrect value of property resulted into short levy of stamp duty and registration fee of ₹ 2.11 crore.

The matter was reported to the Government/Department (October 2014 to April 2015); their replies were awaited (November 2015).

4.4 Irregular remission of stamp duty and registration fee

Stamp Duty and Registration Fee of ₹ 59.67 lakh was irregularly remitted in six cases in contravention of Government instructions.

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 mis-utilisation of this exemption by the charitable institutions, the Government issued instructions (May 2010) that such remission was to be confirmed by the District Collector (DC) who would determine whether the transfer of immovable property in favour of the charitable institution was eligible for exemption from the levy of stamp duty/registration fee or not. Under Section 3C of the Indian Stamp Act, 1989, Social Security Fund in the form of additional stamp duty

¹ SRs: Abohar, Barnala, Bathinda, Derabassi, Ferozpur, Kapurthala, Ludhiana (East), Ludhiana (South/Central), Moga, Nabha and Samana.

² JSRs : Koom kalan and Malaud.

leviable at the rate of three *per cent* was also chargeable in respect of every instrument of immovable properties falling within the municipal limit.

We noticed (May 2014 and June 2014) from the records of three Sub-Registrars³ for the year 2013-14 that six instruments of transfer of immovable properties were registered with consideration of ₹ 9.85 crore as set forth in the deeds. These instruments were registered during 2013-14 in favour of charitable institutions without charging stamp duty/registration fee, treating it as a transfer for charitable purposes. The prior certification of the DC required to be obtained in such cases was not obtained, which was in contravention of Government instructions stated *ibid*. This resulted in irregular remission of stamp duty and registration fee of ₹ 59.67 lakh.

The matter was reported to the Government/Department (December 2014 and January 2015); their replies were awaited (November 2015).

4.5 Non levy of social security fund and social infrastructure cess

Failure to comply with the Government instructions resulted in non-levy of Social Infrastructure Cess and Social Security Fund of ₹ 1.71 crore in 32 cases.

Punjab Government vide notification (February 2005) levied Social Security Fund (SSF) at the rate of three *per cent* on every instrument mentioned in entry 23 of Schedule 1-A, if such an instrument is for transfer of properties situated within the jurisdiction of a Municipality/Corporation or within the area of five kilometers from the outer limit of Municipality/Corporation as may be specified by the Collector. Further, Punjab Government vide notification (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 inscription "Social Infrastructure Cess" (SIC) and was required to be levied at once.

(a) We noticed (April 2014 to December 2014) from the records of eight Sub Registrars⁴ (SRs) and Joint Sub Registrar, Majri for the year 2013-14 that 18 deeds with consideration of ₹ 25.45 crore were executed between April 2013 and March 2014 without charging SSF and SIC. As these instruments were for transfer of properties which were either situated within Municipality/Corporation or within five kilometers of the outer limit of

³ Amritsar-I, Bathinda and Patiala.

⁴ Amritsar-I, Amritsar-II, Barnala, Bathinda, Ludhiana (West), Mohali, Patiala, and Sunam.

Municipality/Corporation, SSF and SIC was required to be levied on the transactions as per notifications *ibid*. Failure to comply with the Government instructions resulted in non-levy of SSF and SIC amounting to ₹ 99.84 lakh.

(b) We noticed (April 2014 to November 2014) from records of four Sub Registrars⁵ (SRs) and two Joint Sub Registrars⁶ (JSRs) for the year 2012-14 that SIC amounting to ₹ 71.21 lakh at the rate of one *per cent* of total consideration of ₹ 71.21 crore of 14 deeds executed between February 2013 and March 2014 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 ₹ 71.21 lakh.

The matter was reported to the Government/Department (August 2014 to April 2015); their replies were awaited (November 2015).

4.6 Non levy of stamp duty and registration fee on mortgage deeds

Mortgage deeds were executed and registered for securing loan for development purposes (other than agriculture purpose) without levying Stamp Duty and Registration Fee of ₹ 12.06 crore in three cases.

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 Government instructions (August 2009), if the loan is secured from the bank for non-agriculture purpose, stamp duty at the rate of four *per cent* and Registration fee at the rate of one *per cent* of the amount secured is leviable.

We noticed (September 2014) from the records of Sub Registrar, Ludhiana (East) that three instruments of mortgage deeds were executed and registered in favour of Municipal Corporation, Ludhiana in 2013-14 for securing loan of ₹ 300.00 crore from Canara Bank for development purposes (other than agriculture purposes) without levying Stamp Duty and Registration Fee which was irregular as per notification *ibid*. Thus, stamp duty and registration fee of ₹ 12.06 crore was required to be levied on the amount secured.

The matter was reported to the Government/Department (March 2015); their replies were awaited (November 2015).

⁵ SR Amritsar-I Jalandhar-I, Khanna and Nawan shahar,

⁶ JSR Majri, Tanda.

4.7 Short levy of stamp duty and registration fee

Application of incorrect rate for valuation of the property as agriculture land resulted in short levy of stamp duty and registration fee of ₹14.90 lakh in two cases.

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 2013-14, two⁷ District Collectors (DC) clarified that the instrument of transfer of property measuring more than two kanals purchased by Commercial Company or Developer will be registered at the residential/commercial rates.

We noticed (April 2014 and June 2014) from the office of the two Sub Registrars⁸ that two instruments of the transfer of property were executed and registered in favour of a company and developer treating the property as agricultural. The area of land purchased in each instrument was more than two kanals. Stamp Duty of ₹ 2.97 lakh and registration fee of ₹ 0.37 lakh was charged on the consideration of ₹ 37.00 lakh set forth in the instruments against the leviable duty of ₹ 15.98 lakh and Registration fee of ₹ 2.26 lakh worked out on the basis of minimum market rates fixed by the respective DC for the commercial property on the consideration of ₹ 225.60 lakh. Application of incorrect rate for valuation of the property as agriculture land resulted in short levy of stamp duty and registration fee of ₹ 14.90 lakh (₹ 13.01 lakh + ₹ 1.89 lakh).

The matter was reported to the Government/Department (January 2015); their replies were awaited (November 2015).

4.8 Short levy of stamp duty

Stamp duty of ₹7.99 lakh was short levied in 14 cases on Power of Attorneys registered in favour of the persons who did not fall in the ambit of their family members as defined in the Government notification.

Punjab Government vide its notification (30 July 2013) amended entry no. 48 of schedule 1-A of the Indian Stamp Act, 1899 and levied stamp duty at the rate of two *per cent* applicable with immediate effect on a Power of Attorney (PoA) executed to give right to a person to sell any immovable properties to a person other than family members. Family member will include spouse, child, parents, siblings, grand-parent and grand-child. Stamp duty is to be charged on

⁷ Fatehgarh Sahib and Jalandhar.

⁸ Fatehgarh Sahib and Phillaur.

the amount of consideration or on the amount calculated on Collector rate in respect of the property mentioned in the instruments, whichever is higher.

We noticed (April, August and September 2014) from the records of the three Sub Registrars⁹ that 14 PoAs were registered in which the persons gave rights to sell their properties to persons who did not fall in the ambit of their family members as defined in the above cited notification. Stamp duty of ₹ 0.14 lakh was charged against the leviable duty of ₹ 7.99 lakh. It resulted in short levy of stamp duty of ₹ 7.85 lakh.

The matter was reported to the Government/Department (January and February 2015); Sub Registrar, Derabassi replied that recovery of ₹ 1.43 lakh¹⁰ in respect of six cases had been made. Replies of Government/Department in other cases were awaited (November 2015).

4.9 Cases referred to Collector under Section 47-A of the Indian Stamp Act, 1899

Delay in referring the undervalued cases to the Collector resulted in non realization of deficient amount of ₹ 1.57 crore. No action was taken by the department to recover the deficient amount of ₹ 19.08 crore in 2,134 cases even after being decided by the Collector. Interest amounting to ₹ 34.64 lakh was not levied on the delayed recovery of deficient amount of ₹ 1.24 crore.

Section 47-A of Indian Stamp Act, 1899 (IS Act) stipulate that if the market value of any property, which is the subject of any instrument on which duty is chargeable on market value as set forth in such instrument, is less than even the minimum value as determined in accordance with the rules made under this Act, the Registering Officer appointed under the Registration Act, 1908, shall, after registering the instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon.

Our examination (between July 2014 and March 2015) of records of five out of 22 District Collectors and 43 out of 169 Sub-Registrars (SRs)/Joint Sub-Registrars (JSRs), pertaining to the period 2011-14 selected through statistical sampling by applying the Probability Proportional to Size method, showed cases of delay in referring of undervaluation cases to the Collector, non-recovery of decided cases, non-levy of interest, improper maintenance of records, absence of time limit for disposal of undervalued cases etc., which have been discussed in the following paragraphs:

⁹ Derabassi, Ludhiana (East) and Ludhiana (West).

¹⁰ ₹ 141277 + Interest ₹ 2200 = ₹ 143477.

4.9.1 Delay in disposal of undervalued cases

Section 47-A (3) of IS Act stipulates that the Collector may, *suo moto*, or on the receipt of a reference from the Inspector General of Registration or Registrar of a District appointed under the Registration Act, 1908, in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situated, or on the receipt of a report of audit by the Comptroller and Auditor General of India or by any other authority authorized by the State Government in this behalf or otherwise, call for and examine any instrument, within a period of three years from the date of registration of an instrument for the purpose of satisfying himself as to the correctness of the value of the property.

(a) We noticed from the records of eight¹¹ SRs/JSRs that 170 cases of undervalued registrations involving deficient amount of ₹ 1.57 crore¹², were referred (between April 2011 and March 2014) to Collectors under Section 47-A, for adjudication after the stipulated period of three years from the date of registration.

In nine out of 26 cases relating to SR Barnala, Additional Deputy Commissioner admitted that the documents were registered after applying wrong codes of rate list resulting in evasion of stamp duty and registration fee of ₹ 3.17 lakh and sought action under 47-A of IS Act. The Collector filed these cases with the remarks that no action could be taken on these cases under Section 47-A as they had already become time barred. Thus, delayed referral of undervalued registrations caused the State to suffer avoidable loss of revenue which could not be ascertained in view of incomplete information provided to audit.

(b) Non-initiation of any action by the Registering authorities on undervalued cases.

We noticed from the information provided by nine¹³ SRs/JSRs that in 691 cases, undervaluation of ₹ 2.30 crore was pointed out by statutory audit or internal audit up to March 2011. The concerned SR/JSR neither initiated any action to recover the deficient amount nor referred the cases to the respective Collectors for adjudication even after a lapse of more than three years from the date of registration of the instruments.

¹¹ Banga, Barnala, Jagraon, Jalandhar-I, Ludhiana (Central), Machhiwara, Mullanpur Dakha and Nawan Shahar.

¹² Calculated in 92 cases, amount in remaining 78 cases was not furnished.

¹³ Banga, Delhon, Ludhiana (West), Mullanpur Dakha, Nawanshahar, Pathankot, Patiala, Rupnagar and Tarn-Taran.

(c) Absence of time limit for disposal of undervalued cases referred to the Collector under Section 47-A of IS Act.

We noticed from the information furnished by the office of six¹⁴ Collectors that 397 undervalued cases received under Section 47-A between September 2004 and March 2014 were still pending for finalisation as on October 2014, for the period ranging between one year and 10 years.

Absence of time limit to finalise the undervalued cases by the Collector resulted not only into inordinate delay to finalise the cases but also puts financial burden of interest under Sub Section 2 of Section 47-A on the executants. *In Haryana State, instructions were issued (November 2013) to dispose of the cases received under Section 47-A within two months from the date of receipt in the Collectors office.*

4.9.2 Non recovery of decided cases

Rule 5 of the Punjab Stamp (Dealing of under-valued Instruments) Rules, 1983 provides that recovery of deficient amount is made by issuing a notice in Form 2 in which concerned person is directed to pay the full amount of deficient stamp duty due from him into treasury and to furnish a copy of challan showing the payment of such amount. The deficient amount, which remains unpaid after the specified date in the notice is recovered as arrear of land revenue under Section 48 of IS Act.

We noticed in 22¹⁵ SRs/JSRs that the respective Collectors decided 2,134 cases upto 2014 involving recovery of ₹ 19.08 crore but recovery in these cases was still pending.

Out of 22, five¹⁶ SRs/JSRs stated that in 172 cases, no action was initiated to recover the deficient amount of ₹ 4.80 crore as arrear of land revenue under Section 48 of the Indian Stamp Act, 1899. No reasons for not initiating such action were given. The replies of remaining SR/JSRs were awaited.

4.9.3 Non-levy of interest on the deficient amount

Sub-Section 2 of Section 47-A stipulates that interest at the rate of 12 *per cent* per annum on deficient amount shall be payable by the person liable to pay duty from the date of registration of the instrument to the date of payment of deficient amount.

We noticed in 17¹⁷ SRs/JSRs that on the basis of Collector's decision, the deficient amount of ₹ 1.24 crore was recovered in 196 cases during 2011-14

¹⁴ Barnala, Pathankot, Patiala, Rupnagar, Mansa and Mohali.

¹⁵ Banga, Banur, Barnala, Dehlon, Derabassi, Dhanaula, Faridkot, Jalandhar-I, Kapurthala, Kharar, Ludhiana (East), Ludhiana (West), Mansa, Nabha, Nawanshahar, Patiala, Patran, Raikot, Rajpura, Rupnagar, Sahnewal and Sidhwan Bet.

¹⁶ Barnala, Kapurthala, Kharar, Ludhiana (East) and Mansa.

¹⁷ Balachaur, Banga, Banur, Barnala, Dhanaula, Faridkot, Ghanaur, Kapurthala, Ludhiana (West), Machiwara, Maloud, Nawanshahar, Pathankot, Patran, Rajpura, Samana and Sidhwan Bet.

but the interest at the rate of 12 *per cent* per annum on deficient amount was not levied. The omission resulted into non-levy of interest of ₹ 34.64 lakh.

4.9.4 Improper maintenance of records

Rule 6 of the Punjab Stamp (Dealing of under-valued Instruments) Rules, 1983 provides that the reference received by the Collector under Sub-Section (1) of Section 47-A of IS Act and dealt with in accordance with the provisions of these Rules shall be entered in a register to be maintained in Form 3. Further, Rule 7 provides that the Collector shall send a copy of the final order passed by him to the Registering Officer concerned alongwith the instrument, which was referred to him under Sub-Section (1) of Section 47-A. On receipt of order under Sub-Rule 1, the Registering Officer shall enter the particulars of the case in a register to be maintained by him in Form-4.

We noticed in the offices of three¹⁸ Collectors and 33 JSRs/SRs that the registers were not being maintained in the prescribed proforma in the offices of the Collectors and JSRs/SRs. Due to non-maintenance of these registers in prescribed proforma, the information regarding the decided cases could not be monitored and also the recovery could not be watched properly. Further, we observed from the information from 11¹⁹ SRs/JSRs that while 1,458 cases were referred to respective Collectors between April 2011 and March 2014, only 668 cases were shown as received in the respective Collector's office during the same period. Thus, there was a huge un-reconciled difference of 790 cases.

4.9.5 Absence of provision regarding entry of deficient amount in revenue record

We noticed from the records of two²⁰ SRs for the period 2011-2014 that nine cases were decided by the respective District Collectors in favour of the Department and orders were issued to recover the deficient amount of ₹ 25.29 lakh. No amount was recovered even after a lapse of the period of one to five years of Collector's decision.

After cross verification of the information provided by the area patwari in respect of nine cases, it was noticed that the properties mentioned in all these cases were further sold either fully or partly by owners to other persons without paying the deficient amount of ₹ 25.29 lakh. Had suitable provisions been made in the Stamp Act regarding entry of deficient amount in the revenue records to safeguard Government interest, the owners could have been barred from selling their properties till the payment of the outstanding amounts. In one such order, District Collector, Mansa had specifically ordered

¹⁸ Ludhiana, Mohali and Patiala.

¹⁹ Faridkot, Derabassi, Kharar, Ludhiana (Central), MullanpurDakha, Nawanshahar, Patiala, Raikot, Sahnewal, Samrala and Sidhwan Bet.

²⁰ Barnala and Kharar.

(January 2013) making an entry in the revenue records but the same was still not made.

4.9.6 Non-preferring of appeal to the Divisional Commissioner

Section 47-A (4) stipulates that any person aggrieved by an order of the Collector under Sub Section (2) or Sub-Section (3) may, within thirty days from the date of that order, prefer an appeal before the Commissioner and all such appeals shall be heard and disposed off in such manner as may be prescribed by rules made under this Act.

No instances were noticed where the respective SRs/JSRs had gone in appeal before the Commissioner. This is probably due to the fact that SRs/JSRs are subordinate officers of the Collector, and naturally feels inhibited to appeal against the orders of their superior.

We came across three undervalued cases²¹ which were referred to the respective Collector under Section 47-A. The decisions in two cases were given against the Department. Respective SR/JSR did not prefer appeal against these orders, though these cases were fit for appeal due to below mentioned reasons:

(i) Deed no. 1705 dated 29 November 2012 was registered by applying the lower agriculture rates than the rates applicable to that property as per approved Collector rate list. JSR, Dirba referred the same to the Collector, Sangrur under Section 47-A. The Collector declared that the value set forth in the deed was correct.

After careful scrutiny of this deed, we noticed that specific khasra number wise rates were fixed in the approved Collector rate list but while registering the deed, correct code/rate of approved rate list was not applied. Moreover, in the revenue records i.e. *khasra girdawari* record, the property was shown as residential colony at the time of execution.

Had the JSR filed an appeal to the Divisional Commissioner, extra revenue in the form of stamp duty and registration fee could have come to the Government exchequer.

(ii) In SR Mansa, we noticed that two²² cases of non-levy of additional stamp duty were pointed out by statutory audit and the same were referred to the Collector, Mansa under Section 47-A. In one case (deed no. 165), Collector levied (February 2012) three *per cent* additional stamp duty but in the other case, the Collector decided (May 2012) that additional stamp duty was not leviable as the notification in this regard was issued in June 2009 i.e. after the registration of the document (April 2009). However, the notification in this regard was actually issued in February 2005. In view of

²¹ Collector Sangrur (1) + Collector Mansa (2).

²² Deed no.165 dated 15 April 2009 and 177 dated 15 April 2009.

this, the SR Mansa should have preferred an appeal to the Divisional Commissioner.

In view of the position discussed above, there is a case for constituting a Review Committee to consider the cases decided against the Department, for further appeal instead of leaving this decision to SRs/JSRs.

Our examination of records of five District Collectors and 43 Sub-Registrars pertaining to the period of 2011-14 showed the cases of delay in referring the undervalued cases to the Collector. No action was taken by the Department to recover the deficient amount even after being decided by the Collector. Interest was not levied on the recovery of deficient amount.

The above points were reported to the Government (August 2015); its reply was awaited (November 2015).

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 (PMVT Act) and the Rules made thereunder and maintains the records of receipt of motor vehicles taxes (MVT) 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 MVT 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 2014-15 showed irregularities involving ₹ 37.37 crore in 2,223 cases, which broadly fall under the following categories as mentioned in **Table 5.1**:

Table 5.1

Sl. No.	Categories	₹ in crore)	
		No. of cases	Amount
1.	Non/Short realisation of MVT	1,639	25.71
2.	Other irregularities	584	11.66
	Total	2,223	37.37

In 2014-15, the Department informed audit that they have accepted and recovered, by issuing demand notices in cases of short/non recovery of MVT and other deficiencies, ₹ 1.93 crore involved in 570 cases, out of which ₹ 6.68 lakh involved in nine cases were pointed out in 2014-15 and rest in the earlier years.

A few illustrative cases involving ₹ 7.55 crore are discussed in the succeeding paragraphs.

5.3 Short/non realisation of MVT from stage carriage big buses

Motor Vehicle Tax of ₹ 33.12 lakh was non/short realized from stage carriage big buses in three DTO's.

As per the Section 3 of PMVT Act, as amended from time to time, there shall be levied and paid to Government, MVT on stage carriages at the rate¹ 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,

¹ ₹ 2.75 w.e.f. 13 October 2012 to 7 August 2013.
₹ 3.00 w.e.f. 8 August 2013 onwards.

as per Section 11-A(I), 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 under Section 8(4) not exceeding ₹ 5,000 but not less than ₹ 1,000 per default.

We noticed (between July 2014 and August 2014) from the records relating to MVT registers and list of permitted kilometres of three DTOs² that MVT of ₹ 139.51 lakh was collected against ₹ 172.63 lakh worked out on the basis of permitted kms operated by seven private transport companies and one depot each of Punjab Roadways/PUNBUS, Batala during the period 2013-14. Thus, there was non/short realisation of MVT of ₹ 33.12 lakh. Besides, penalty and interest is also leviable after giving a reasonable opportunity of being heard to the defaulter.

The matter was reported to the Government/Department (January 2015). DTO Gurdaspur in its reply (September 2015) stated that amount of ₹ 11.49 lakh against one depot each of Punjab Roadways/PUNBUS, Batala and ₹ 2.95 lakh against one Private Transport Company had been recovered. Reply of the Government was still awaited.

5.4 Short deposit of MVT due to non application of revised rates

Motor Vehicle Tax of ₹ 29.90 lakh was short realized from the stage carriage big buses of Himachal Road Transport Corporation/Punjab Roadways/PUNBUS, plied under stage carriage in Punjab, due to non application of revised rates by two RTA/DTO.

As per the Section 3 of PMVT Act, as amended from time to time, there shall be levied and paid to Government, 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. Punjab Government vide notification (August 2013) revised the rates of MVT³ for stage carriage buses of Punjab State as well as buses coming from other States.

We noticed (April 2014 and August 2014) from the records of Regional Transport Authority, Jalandhar and District Transport Officer, Ludhiana for the year 2013-14 that seven⁴ depots of Himachal Road Transport Corporation and two⁵ depots of Punjab Roadways/PUNBUS plied stage carriage big buses in Punjab state during 2013-14 but did not pay MVT at the revised rates as

² Fatehgarh Sahib, Gurdaspur and Jalandhar.

³

Category of stage carriage buses	Rate of MVT per km. per vehicle per class (₹)			
Ordinary buses	2.75	Upto 8.08.13	3.00	w.e.f. 9.08.13
HVAC/Integral Coach	1.50		1.75	
Buses coming from other states and operating under reciprocal agreement	4.20		4.50	

⁴ Dehra, Mandi, Nahan, Reckon Peo, Rohru, Sarkaghat and Solan.

⁵ Jagraon and Ludhiana.

notified by the State Government vide notification mentioned *ibid*. It resulted in short realisation of MVT of ₹ 29.90 lakh.

The matter was reported to the Government/Department (between January 2015 and April 2015), DTO Ludhiana in its reply (July 2015) stated that an amount of ₹ 15.11 lakh against Ludhiana depot of Punjab Roadways/PUNBUS has been recovered. Reply of the Government was still awaited (November 2015).

5.5 Short realization of MVT on account of excess plying of kilometers against reciprocal agreement

Non applicable of enhanced rate of MVT on excess Kilometers covered by the stage carriage buses of Himachal Road Transport Corporation against reciprocal agreements in the State, resulted in short realisation of Motor Vehicle Tax of ₹ 13.41 lakh.

Under the PMVT Act, MVT is levied on stage carriage buses registered in the other States and plying as stage carriages in the State of Punjab under the reciprocal agreement. The Government vide notifications (October 2012 and August 2013) revised the rates⁶ 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.

We noticed (April 2014) from the records of Regional Transport Authority, Jalandhar, for the year 2013-14 that buses of Himachal Road Transport Corporation plied 47,425 kilometers per day during 2013-14 in Punjab State against 44,000 kms permitted to be plied under the reciprocal agreement. Excess plying of 3,425 kms per day which were not covered in reciprocal agreement were required to be charged MVT at enhanced rate as per notifications *ibid*. This resulted in short realization of MVT amounting to ₹ 13.41 lakh.

The matter was reported to the Government/Department (March 2015); RTA Jalandhar replied (August 2015) that ₹ 0.32 lakh has been recovered from Bilaspur unit. However, reply of the Government was still awaited.

⁶

	Period	Rates (in ₹)
Under reciprocal agreement	Upto 8.08.2013	4.20
	w.e.f . 9.08.2013	4.50
Not under agreement	Upto 8.08.2013	5.50
	w.e.f . 9.08.2013	6.00

5.6 Collection of revenue from outsourced activities in MVT

Payment of ₹ 64.63 crore was made to the concessionaire for affixing HSRPs without deducting TDS; Penalty of ₹ 3.22 crore was not levied on BOOT operator for delayed printing of Registration Certificates/Driving licences. Punjab State Transport Society (PSTS) collected medical charges from users without providing services of issuing medical certificate.

With a view to streamline the administration of the Transport Department and to provide efficient, speedy, simple and cost effective services to citizens, Government of Punjab introduced an initiative titled, 'e-Governance in the Department of Transport, Punjab'. In this regard, the State Government;

- a) constituted Punjab State Transport Society (PSTS) for providing prompt and single-window services, online services with anytime-anywhere access, transparency in delivery mechanism of citizen services, minimizing the physical interface between citizens and Government, introduction of smart card based driving licenses (DLs) and registration certificates (RCs) etc.
- b) outsourced the activities relating to services to be provided to the citizens by the Department by entering in a Master Service Agreement (MSA) for a period of five years w.e.f. 27 September 2011 with a company, hereinafter called BOOT (Built, Operate, Own and Transfer) Operator. BOOT operator was authorized to provide learner licenses (LLs), permits, smart card based DLs and RCs to the citizens of Punjab on behalf of the State Government.
- c) entered in a concession agreement (CA) for a period of ten years w.e.f. 21 November 2011 with the Joint Venture of another company, hereinafter called Concessionaire for affixing the High Security Registration Plates (HSRPs) on the vehicles registered in Punjab.

Our examination of records of State Transport Commissioner (STC) and six⁷ out of 22 District Transport Offices (DTOs) pertaining to the period 2011-14 selected through statistical sampling by applying the random selection method showed cases of non-deduction of tax at source (TDS) under Punjab Value Added Tax (PVAT) Act 2005, non-adherence to the terms and conditions of the MSA and CA as discussed in the following paragraphs:

⁷ Amritsar, Fazilka, Ludhiana, Mansa, Mohali and Patiala.

5.6.1 Non-deduction of TDS

As per Section 27 of PVAT Act 2005 notwithstanding anything contained in any of the provisions of the Act, every contractee responsible for making payment to any person (hereinafter in this section referred to as the contractor) for discharge of any liability on account of valuable consideration, exceeding ₹ 5.00 lakh in a single contract payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of a works contract⁸, shall, at the time of making such payment to the contractor either in cash or in any other manner, deduct TDS equal to prescribed rate⁹ of such sum towards the tax payable under this Act on account of such contract.

We noticed (June 2015) from the records of STC office for the period 2011-14 that the concessionaire with valid TIN number collected the price of HSRPs and deposited the same in the account of PSTS at the first instance. Thereafter, STC office made payment on the basis of monthly statement/bills submitted by the concessionaire. During 2012-14, PSTS paid an amount of ₹ 24.95 crore to the concessionaire on the basis of monthly statements/bills but TDS of ₹ 1.39 crore was not deducted by the STC/PSTS as required under PVAT Act mentioned *ibid*.

Similarly, PSTS paid an amount of ₹ 39.68 crore during 2011-14 to BOOT operator with valid TIN number for providing LLs/DLs/RCs etc. without deducting tax at source of ₹ 2.18 crore. Thus, non-compliance of the provision of PVAT Act resulted into non deduction of TDS of ₹ 3.57 crore.

5.6.2 Non levy of penalty on BOOT operator due to delayed printing of registration certificates/driving licences

Appendix ‘A’ of MSA states that all Registration Certificates (RCs) and Driving Licenses (DLs) are to be printed within one working day (excluding holiday) from the date of receipt of application at front end counter.

⁸ “Works contract” includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, building construction, manufacturing, processing, fabrication, erection, installation, fitting out, improvement, modification, repairs or commissioning of any movable or immovable property.

⁹

Period	Rate of TDS
01.04.2011 to 01.11.2011	4 per cent
02.11.2011 to 08.04.2013	5 per cent
09.04.2013 to 31.03.2014	6 per cent

In case of any delay in printing, penalty at the prescribed rates¹⁰ is leviable.

We noticed (June 2015) from the records of six selected DTOs and information collected from STC office for the period 2011-14 that BOOT operator printed 4.30 lakh RCs and 3.14 lakh DLs with a delay ranging between one to more than four days. However, while making payments, STC office did not levy penalty of ₹ 3.22 crore on BOOT operator for this delay.

5.6.3 Non-delivery of DLs/RCs to citizens through couriers

In order to minimize the number of visits to the departmental offices, the MSA (Para 1.6.6.7) stipulated that the BOOT operator was to provide courier services to deliver the smart card based DLs/RCs or permits or any other document at the address provided by the citizen. Further, as per financial proposal submitted by the BOOT operator, cost of courier of ₹ 10.00 per DL/ RC or permits was included in the cost of the project.

We noticed (June 2015) from the records of six DTOs and from the information collected from STC office for the period 2011-14 that BOOT operator generated 14.50 lakh DLs/RCs during 2011-14, but not even a single DL/RC was delivered to the citizens by courier, even though the amount paid to the operator for these DLs/RCs included a component of ₹ 1.45 crore towards courier charges.

5.6.4 Non-installation of electric sub meters

As per para 1.6.6.6 of the MSA, the BOOT operator was required to meet the cost of utilities for the project for duration of five years and was required to install electric sub meters at his own cost.

We noticed (June 2015) from the records maintained in the five¹¹ DTOs for the period 2011-14 that no electricity sub meters were installed on the premises used by the BOOT operator for his day to day operations. In respect of three DTOs (Ludhiana, Mansa and Patiala), no electricity charges were recovered while in the other two districts though some money was recovered, the basis for this recovery was not clarified to us. In the absence of sub-meters, expenses incurred by the BOOT operator on account of electricity consumption could not be tracked. It resulted into un-due benefit to the BOOT operator on account of electricity expenses.

¹⁰

If printed	Rate of penalty	Rate (in ₹)	
Within 2 nd working day from the receipt of application	Two <i>per cent</i> of the cost of RC/DL	DL	54.54
Within 3 rd and 4 th working day from the receipt of application	Four <i>per cent</i> of the cost of RC/DL	RC	136.35
After 4 th working day from the receipt of application	100 <i>per cent</i> of the cost of RC/DL		

¹¹ Amritsar, Ludhiana, Mansa, Mohali and Patiala

5.6.5 Non-providing of training to staff of the Department by BOOT operator

As per para 1.6.5 (ii) of the MSA, the BOOT operator was required to provide training to the staff of the Transport Department for smooth transfer of operations and to avoid any hurdle in operations of the computerised centres.

We noticed (May 2015) from the records maintained in the STC office for the period 2011-14 that none of the officers/officials of the Transport Department was imparted training in any of the areas of computerization by the BOOT operator. Failure to provide training to the officers/officials of Transport Department may adversely affect the smooth transfer of operations and create hurdles in operation of computerized centres in the future.

5.6.6 Non fulfillment of the purpose for levying user charges by PSTS

Government of Punjab, Department of Transport vide order dated 01 August 2011 authorised the PSTS to levy user charges at the rate of ₹ 80.00 per learner license. These charges included the cost of issuing a medical certificate to the applicant of learner license. The fee to the doctor for issue of medical certificate was, thus, required to be paid by PSTS out of the user charges.

We noticed (June 2015) from the records of six DTOs and from the information collected from STC office for the period 2011-14 that PSTS collected an amount of ₹ 40.37 lakh during 2012-14 as user charges from 50,462 applicants of learner licenses. However, the State Government did not authorize any doctor to conduct medical tests and issue medical certificates and no fee was paid to any doctor on this account. Thus, the user charges collected by PSTS from the citizens included a service, which was not provided to them at all since the learner licences were issued after the report of the doctors which was got done by the individuals from the private doctors.

5.6.7 Irregular retention of Government money out of Government Account

As per Rule 4.1 of PFR Rules Vol.-I, it is the prime duty of the head of the office to assess, collect and credit departmental receipt into Government account. Rules further, provide that all receipts should be credited into the treasury on the same day or on the next working day and there should be a corresponding entry of the same on the payment side of the cash-book. As per Para 2.6.1 of CA, concession fee at the rate of five *per cent* of the amount collected from the sale of HSRPs from vehicle owners was required to be charged by the Government.

We noticed (June 2015) in STC office that for the period 2011-14, the Concessionaire collected ₹ 24.95 crore between September 2012 and March 2014 from the citizens for affixing HSRPs. Concession fee (Royalty) of ₹ 1.09 crore out of the amount collected was retained by PSTS

and not transferred to Government account which was in contravention to Rules *ibid*.

The matter was brought to the notice of Department/Government (July 2015). PSTS in its reply (August 2015) stated that Secretary to Government of Punjab, Transport Department had given the approval to retain five *per cent* amount of royalty in the account of PSTS. The reply was not acceptable as the head of Department is responsible for deposit of all the Government receipt into treasury as per Financial Rules mentioned *ibid*.

Our examination of records of STC and six DTOs pertaining to the period 2011-14 showed that payment was made without deducting TDS. Penalty was not levied on BOOT operator for delayed printing of Registration Certificates/Driving Licences. PSTC collected medical charges from users without providing services of issuing medical certificate.

The above points were reported to the Government (July 2015); their reply was awaited (November 2015).

Chapter-VI
Forest Receipts

CHAPTER -VI Forest Receipts

6.1 Tax administration

The overall charge of the Forest Department vests with the Principal Chief Conservator of Forests. The tax administration is governed by Acts and Rules framed by the Department.

6.2 Results of Audit

Test check of the records of 24 units relating to Forest and Wildlife during 2014-15 revealed irregularities involving ₹ 214.22 crore in 5,647 cases, which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short realisation of royalty	126	104.23
2.	Unauthorized provision and expenditure of Funds	21	7.48
3.	Non adherence of Codal provision in maintenance of Government Receipts	1	32.90
4.	Other irregularities	5,499	69.61
	TOTAL	5,647	214.22

During the year 2014-15, the Department accepted the audit observations in 326 cases pertaining to earlier years and recovered an amount of ₹ 3.86 lakh there against.

A few illustrative cases involving ₹ 12.59 crore are discussed in the succeeding paragraphs:

6.3 Blockage of revenue due to non-felling of bamboos

Non harvesting of 9,500 clumps of bamboos due for harvesting resulted into blockage of revenue of ₹ 67.83 lakh.

As per working plan of the Hoshiarpur division, bamboos were required to be felled/exploited in three year rotation cycle. Each felling series became due for felling after every three years.

We noticed that 9,500 clumps of bamboos which were due in Hoshiarpur division for harvesting during 2012-14 were not harvested resulting in blockage of revenue of ₹ 67.83 lakh¹.

¹ Amount calculated on the basis of number of bamboos in a clump and rates of bamboos taken on an average basis as per data of DFO, Dasuya.

Government in its reply (October 2015) accepted the audit objection and assured that prescribed felling as per working plan would be under taken in the year 2015-16.

6.3.1 Irregular adjustment of royalty

PSFDC irregularly adjusted royalty of ₹ 7.53 crore against the rent of two towers of Forest Complex in contravention of the Financial Rules.

Article 266 (1) of the Constitution of India provides that all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled 'the Consolidated Fund of the State'. Further, Rule 2.4 of the Punjab Financial Rules Vol-I prohibits utilization of revenue towards expenditure.

Punjab State Forest Development Corporation (PSFDC) was required to deposit the amount of royalty on account of standing trees offered to it with the Department within a period of seven months from the date of offer of trees.

We noticed that the royalty amounting to ₹ 7.53 crore was adjusted by the PSFDC against the rent of two towers of Forest Complex building during 2012-13 and 2013-14. The adjustment of royalty against rent was irregular and in contravention of the Rules *ibid*. ***Even though this matter was also included in the Audit Report (Revenue Sector) for the year ended 31 March 2013 (Para 5.3), such transgression of Rules *ibid* continues.***

The matter was reported to the Government/Department (July 2015); their replies were awaited (November 2015).

6.3.2 Non realization of interest on royalty

Interest of ₹ 4.38 crore on late deposit of royalty was not recovered from Punjab State Forest Development Corporation.

Consequent upon the formation of PSFDC in the year 1983, the standing trees were sold to PSFDC by the Forest Department at the rates fixed by the Government from time to time. The cost of these trees was recoverable in the form of royalty and interest was required to be charged at the rate of 12 per cent per annum on the outstanding amount of royalty which was not paid by the Corporation.

We noticed from the records of five divisions² that interest of ₹ 4.38 crore on late deposit of royalty of ₹ 25.95 crore for the period 2011-14 was not recovered from the PSFDC.

The Government in its reply (October 2015) stated that request of PSFDC for waiving of interest was under consideration. Final compliance would be awaited in audit.

² Amritsar, Dasuya, Garhshankar, Patiala and Sangrur.

Chapter-VII
Other Tax and Non Tax Receipts

CHAPTER - VII
Other Tax and Non Tax Receipts

7.1 Tax Administration

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

7.2 Results of audit

Test check of records relating to Land Revenue, Entertainment and Luxury Tax, State Lotteries, Marriage Registration etc. during 2014-15 showed irregularities involving ₹ 1,913.43 crore in 1,792 cases, which fall under the following categories as per details mentioned in **Table 7.1**:

Table 7.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A : Other Tax Receipts			
(i) Land Revenue			
1.	Non/short recovery of chowkidara tax	43	4.42
2.	Outstanding recoveries under other heads of account	62	24.32
3.	Non/short recovery of Abiana	41	125.48
4.	Irregular expenditure on pay and allowances	8	0.12
5.	Non eviction of Government land by unauthorized occupants	25	1,746.53
6.	Short realisation of marriage registration fee	866	0.22
7.	Other irregularities	369	0.50
TOTAL		1,414	1,901.59

Sl. No.	Categories	No. of cases	Amount
(ii) Other taxes and duties on commodities and services			
1.	Non/short realisation of entertainment tax/duty	96	11.03
2.	Other irregularities	268	0.15
TOTAL		364	11.18
B: Non-tax Receipts (State Lotteries)			
1.	Irregular expenditure in respect of advertisements	1	0.49
2.	Irregular expenditure in printing of tickets	13	0.17
TOTAL		14	0.66
GRAND TOTAL		1,792	1,913.43

A few illustrative cases involving ₹ 15.10 lakh are discussed in succeeding paragraphs:

7.3 Short realisation of marriage registration fee

Non compliance of Government instructions resulted into short realisation of marriage registration fee of ₹9.72 lakh in 736 cases.

Punjab Government vide its notification (27 June 2013) notified Rules for compulsory registration of marriages in the State of Punjab. Sub Rules 1 and 3 of Rule 3 state that the parties to a marriage or any of their parents or relations, as the case may be, shall present the memorandum in Form-I, before the Registrar of Marriages concerned for registration of marriage within a period of three months from the date of such marriage accompanied with a fee of ₹ 1,500 in the form of court fee stamps. If the memorandum is not submitted within the prescribed time limit, late fee at the prescribed rates¹ shall be levied in addition to the normal fee. Department of Home Affairs and Justice circulated the copy of above notification to all Deputy Commissioners (DCs) and District Revenue Officers on 17 July 2013 after a delay of 20 days from the date of Government notification.

¹ ₹ 1,000 if memorandum is submitted after three months from marriage date but not after six months.
 ₹ 1,500 if memorandum is submitted after six months from marriage date but not after one year.
 ₹ 2,000 if memorandum is submitted after one year from marriage date subject to prior permission of Chief Registrar of Marriage.

We noticed (February 2015 and March 2015) from the records of nine Tehsildars² for the period 2011-14 that 736 number of marriages were registered between 27 June 2013 and 31 March 2014. Registration fee at the rate of ₹ 200 or ₹ 150 per case was levied instead of ₹ 1,500 per case as notified by the Government. Failure to comply the Government instructions resulted in short realisation of marriage registration fee of ₹ 9.72 lakh.

The matter was reported to the Government/Department (July 2015); Tehsildar, Batala in its reply stated (August 2015) that marriage certificates were not registered under the Punjab Compulsory Registration of Marriage Act 2012 but were registered under the Hindu Marriage Act. Reply was not convincing as the Hindu Marriages (Punjab) Registration Rules, 1960 were repealed by Para 10 of notification dated 27 June 2013. Reply of the Government was awaited (November 2015).

7.4 Non eviction of Government land from the unauthorised occupants

No action was initiated by the revenue authorities to evict encroachers from the Gram Sabha/Gram Panchayat land measuring 7,668 acres, in two districts, despite the directives of the Apex Court and orders of the State Government.

Punjab Government laid down (September 2007) a policy for disposal of rural/urban evacuee land³ at the rate of ₹ 15,000 per acre for general category 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.

² Ajnala, Baba Bakala, Batala, Dera Baba Nanak, Dharkalan, Nabha, Samana, Pathankot and Tarn Taran.

³ Land meant for common use of villagers.

We noticed (January and February 2015) from the records of two District Revenue officers⁴ for the period 2011-14 that an area measuring 7,668 Acre of common land pertaining to urban/sub urban/rural areas of these districts was encroached upon by unauthorised people. Despite the directives of the Apex Court and orders of the State Government, no action was initiated by the revenue authorities to evict the unauthorised occupants even after the lapse of more than four years. The value of encroached land as worked out at minimum market rates intimated by Revenue authorities, comes to ₹ 1,480.58 crore.

Non eviction of Gram Sabha/Gram Panchayat land from the encroachers not only tantamounted to the violation of the orders of the Apex Court but also rendered undue advantage to them.

The matter was reported to the Government/Department (June 2015); their replies were awaited (November 2015).

7.5 Non deduction of service charges

Service charges of ₹ 5.38 lakh in lieu of service rendered to banks were not recovered from banks for the period 2011-14.

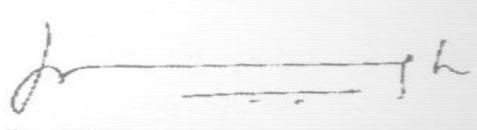
Punjab Government, Department of Finance vide notification (January 2009) levied collection charges at the rate of five *per cent* of the amount recovered for the cases filed by banks with District Revenue Officer, SDO (Civil) and Tehsildar *in lieu of* service rendered by the State Government in recovering their dues.

We noticed (February 2015) from the records of District Revenue Officer (DRA branch), Gurdaspur for the period 2011-14 that ₹ 1.08 crore was recovered from the defaulters by DRA branch on behalf of banks during the period 2011-14, but service charges at the rate of five *per cent* of the recovered amount as per notification *ibid* were not

⁴ Amritsar and Patiala.

charged from the concerned banks. This resulted in loss of revenue of ₹ 5.38 lakh due to non-deduction of service charges.

The matter was reported to the Government/Department (June 2015); their replies were awaited (November 2015).



Chandigarh :
The 11 FEB 2016

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

Countersigned



New Delhi :
The 12 FEB 2016

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

Appendices

Appendix-I

(Referred to in Paragraph 2.3.6, Page 18)

Procedure for registration, assessment and recovery of tax revenue under PVAT Act, 2005

Registration of dealers	→	Section 21 of PVAT Act, 2005 provides that no person other than a casual trader, who is liable to pay tax under this Act, shall carry on business, unless he is registered under this Act.
Security	→	Section 25 of PVAT Act, 2005 provides that every person applying for registration under this Act, shall furnish a security in the shape of cash deposits, prescribed for securing proper and timely payments of tax or any other sum, payable by him under this Act.
Filing of returns	→	Sub-Sections (1), (2) and (7) of Section 26 provides that every taxable person and registered person is required to make self -assessment, file return for a period and file an annual statement and other person i.e. other than taxable person and registered person can also be asked to file return by a notice served as per Sub-Section (6). Every person shall, pay into a Government Treasury or any bank authorised to transact Government business or at the District Excise and Taxation Office, the full amount of tax due from him as per provisions of this Act and shall furnish along with the returns.
Scrutiny of returns	→	Rule 43 of PVAT Rules, 2005 provides that the designated officer shall scrutinize every return filed by the dealer under Section 26 of the Act. If during scrutiny of return, it is found that less tax has been paid than the tax actually payable as per the return, the designated officer shall serve a notice upon the person concerned directing him to rectify the same and to pay the amount of tax less paid.
Audit of returns	→	Section 28 of PVAT Act, 2005 provides that the Commissioner or the designated officer with a view to ascertain the correctness of the returns in general and admissibility of various claims may audit or cause to be audited any of the returns filed, documents or information or statutory forms submitted by a person. Rule 44 of Punjab VAT Rules provides that the Commissioner shall select, on the basis of the parameters as may be laid down by him, a certain number of persons for audit under Section 28 of PVAT Act, 2005
Assessment of returns	→	Section 29 of PVAT Act, 2005 provides that the Commissioner on his own motion or on the basis of information received by him may, by an order in writing, direct the designated officer to make an assessment of the amount of the tax payable by any person or any class of persons to the best of his judgement and determine the tax payable by him as per provisions of the Act.
Tax Demand Notice	→	Section 29(11) of the PVAT Act, provides that when any tax, interest, penalty or any other sum is payable in consequence of any order passed, the designated officer shall serve upon the person a notice of demand in the prescribed form specifying the sum so payable.

Appendix-II

(Referred to in Paragraph 2.3.9.7, Page 29)

Excess claim of ITC

Sl. No.	Name of unit	Year	Short reversal (₹ in lakh)	Remarks
1	Bathinda	2007-08	117.63	The DO allowed carry forward ITC of ₹ 117.63 lakh in the year 2007-08, whereas no ITC was carried forward in the assessment order for the year 2006-07.
2	Jalandhar-II	2009-10	4.01	As per trading account, net sale of the dealer was ₹ 3,463.36 lakh whereas the dealer had shown it as ₹ 3,563.54 lakh and charged the ITC on the same on the pretext of credit notes of ₹ 100.18 lakh and ITC on the same amounting to ₹ 4.01 lakh i.e. 4 per cent of ₹ 100.18 lakh which resulted into excess claim of ITC of ₹ 4.01 lakh.
3	Ludhiana-I	2008-09	9.71	The DO allowed ITC on purchase of ₹ 880.76 lakh instead of eligible purchase of ₹ 765.53 lakh due to non-deduction of credit notes from purchase.
4	Ludhiana-I	2008-09	13.86	The dealer got rebate of ₹ 110.88 lakh but no ITC was reversed on this rebate amount.
5	Ludhiana-I	2009-10	7.60	The gross sales and purchases as per assessment order were ₹ 2,184.74 lakh and ₹ 1,566.79 lakh respectively, whereas as per trading account of the firm duly certified by chartered accountants were ₹ 2,158.22 lakh and ₹ 1,376.82 lakh respectively. Thus, sales in the assessment order were ₹ 26.52 lakh higher than certified trading account, whereas purchase in the assessment order was ₹ 189.96 lakh higher than the certified trading account and ITC on higher purchases had also been claimed and allowed by the Designated Officer resulting in excess claim of ITC.
6	Ludhiana-I	2011-12 2012-13	18.64	Gross purchases of the dealer were ₹ 2,889.13 lakh for 2011-12 and ₹ 2,931.66 lakh for 2012-13, whereas the purchases claimed and allowed by the DO were ₹ 3,029.90 lakh for 2011-12 and ₹ 3,129.78 lakh for 2012-13, which resulted in excess claim of ITC on excess purchase.
7	Ludhiana-I	2012-13 2013-14	29.95	The dealer had suppressed the GTO of ₹ 297.98 lakh which resulted into short levy of output tax of ₹ 18.03 lakh. Further, the dealer had claimed and the DO allowed benefit of entry tax amounting to ₹ 14.08 lakh on account of furnace oil/lubricant, DG set and electric motor but no reversal under Section 13(5) amounting to ₹ 11.92 lakh made. This resulted in excess allowance of ITC of ₹ 29.95 lakh (₹ 11.92 lakh + ₹ 18.03 lakh).
8	Ludhiana-II	2009-10	3.12	ITC on purchases of ₹ 1,416 lakh at the rate of 12.5 per cent was due as ₹ 177 lakh but the dealer had claimed ITC as ₹ 180.12 lakh resulting into excess ITC of ₹ 3.12 lakh.
9	Ludhiana-II	2009-10	15.31	As per trading account, the purchases of the dealer taxable at the rate of 12.5 per cent were ₹ 1,316.23 lakh but the dealer had claimed ITC on ₹ 1,438.69 lakh which resulted into excess claim of ITC of ₹ 15.31 lakh at the rate of 12.5 per cent on ₹ 122.46 lakh.

Sl. No.	Name of unit	Year	Short reversal (₹ in lakh)	Remarks
10	Ludhiana-III	2010-11	11.47	ITC of ₹ 10.05 lakh was brought forward from the year 2009-10 and the total excess ITC as worked out in the assessment order for the year 2010-11 was ₹ 21.57 lakh. Dealer had already claimed refund of ₹ 5.28 lakh (Voucher No. 3067 dt 26.7.11) for the year 2009-10 and ₹ 11.47 lakh (Voucher No. 3945 dt 8.8.12) for the year 2010-11. Thus, the total refund of ₹ 16.75 lakh had already been issued to the dealer before the assessment was framed, but the same was not deducted from the carried forward ITC of ₹ 21.57 lakh resulting in excess carry forward of ITC.
11	Mohali	2010-11	3.07	The dealer had claimed and the assessing authority had allowed the benefit of ₹ 3.07 lakh as tax paid during the year but no detail of such payment had been furnished by the dealer in his annual return in the absence of which it was not clear how the DO satisfied himself at the time of assessment that the tax had actually been paid as no remarks whatsoever had been given in the assessment order.
12	Mohali	2011-12	94.64	The dealer was issued refund of ₹ 94.64 lakh during 2011-12 in respect of the last quarter of the year 2010-11. However, while framing assessment for the year 2010-11 or 2011-12 the refund amount was not debited resulting in excess allowance of ITC.
13	Mohali	2012-13	47.73	Gross purchases of the dealer during the year 2011-12 were allowed for ₹ 3,775.05 lakh, whereas value of material sold was determined as ₹ 1,659.16 lakh. Thus, the minimum value of material that should have been carried forward to the year 2012-13 as opening balance worked out to ₹ 2,115.89 lakh (₹ 3,775.05 lakh – ₹ 1,659.16 lakh), whereas the amount actually carried forward was ₹ 1,326.95 lakh. Thus, output tax on the material worth of ₹ 788.95 lakh (₹ 2,115.89 lakh – ₹ 1,326.94 lakh) was not determined. The tax effect on suppressed material when calculated at nominal rate of 6.05 per cent comes out to ₹ 47.73 lakh.
14	Mohali	2009-10	4.21	The dealer had sold plant and machinery of ₹ 76.46 lakh but the same was not accounted for while calculating output tax liability of the dealer. No justification whatsoever for not taxing that sale had been given in the refund order. This resulted into short levy of tax and excess grant of refund amounting to ₹ 4.21 lakh.
15	Sangrur	2009-10	2.07	The dealer had purchases of ₹ 222.37 lakh on which ITC at the rate of 12.5 per cent had been claimed, whereas the dealer had balanced it in trading account (certified by chartered accountant) after deducting the amount of ₹ 11.78 lakh, resulting in excess claim of ITC of ₹ 1.47 lakh (at the rate of 12.5 per cent of ₹ 11.78 lakh). Further, ITC claimed by the dealer on ₹ 222.37 lakh worked out to ₹ 27.80 lakh, whereas the dealer had claimed ITC of ₹ 28.39 lakh, ₹ 0.6 lakh (₹ 28.39 lakh – ₹ 27.80 lakh) in excess of actually admissible amount. Thus, the total tax effect was ₹ 2.07 lakh (₹ 1.47 lakh + ₹ 0.6 lakh).
16	Sangrur	2009-10	338.78	The dealer carried forward ITC of ₹ 338.78 lakh on account of exempted activity without debiting it to exemption. No exemption was available at the time of carrying forward of the ITC resulting into inadmissible allowance of ITC.

Sl. No.	Name of unit	Year	Short reversal (₹ in lakh)	Remarks
17	Sangrur	2011-12	3.32	The dealer was engaged in the business of manufacture and sale of cycle and cycle parts. As per trading account certified by chartered accountant, the purchases of the dealer was ₹ 801.81 lakh (₹ 735.48 lakh + ₹ 66.33 lakh), where as the dealer had shown purchases of ₹ 862.22 lakh in the return. Thus, the dealer had taken excess purchases of ₹ 60.41 lakh (₹ 862.22 lakh – ₹ 801.81 lakh) and claimed ITC on the same. This resulted in excess claim of ITC of ₹ 3.32 lakh (₹ 60.41 lakh * 5.5 per cent).
18	Sangrur	2007-08	94.17	The dealer had brought forward ITC of ₹ 86 lakh without debiting to exemption. Further, refund of ₹ 13.97 lakh was issued. However, only an amount of ₹ 5.80 lakh was debited to exemption. This resulted in excess availing of exemption of ₹ 94.17 lakh (₹ 86.00 lakh + ₹ 13.97 lakh - ₹ 5.80 lakh).
	Total		819.29	

Appendix-III

(Referred to in Paragraph 2.3.9.15, Page 32)

Short levy of tax due to suppression of sales/purchases

Sl. No.	Name of unit	Period of assessment	Amount (₹ in lakh)	Remarks
1	Bathinda	2009-10	40.60	The dealer used goods of ₹ 1,722.88 lakh received from its principal office situated in Guwahati towards sales in transit which was not admissible. Hence, total purchase against which tax was to be levied on corresponding sale comes to ₹ 1,993.46 lakh (₹ 1,722.88 lakh + ₹ 270.58 lakh (local purchase)) whereas tax was levied on ₹ 978.47 lakh (₹ 923.87 lakh + ₹ 54.60 lakh (CST)). Thus, tax was not levied on sale of coal of ₹ 1,014.99 lakh (₹ 1,993.46 lakh - ₹ 978.47 lakh). The omission resulted into short levy of tax of ₹ 40.60 lakh.
2	Jalandhar-I	2010-11	101.24	The dealer had opening stock of ₹ 190.78 lakh, purchases was ₹ 16,775.44 lakh and closing stock as on 31.03.2011 was ₹ 353.24 lakh. Thus, the deemed sale worked out to ₹ 16,612.97 lakh but the dealer had shown its sale ₹ 15,803.07 lakh. Thus, the sale of ₹ 809.90 lakh (₹ 16,612.97 lakh - ₹ 15,803.07 lakh) was neither assessed to tax nor any reason for difference was given in the assessment order. This had resulted in short levy of output tax of ₹ 101.24 lakh (at the rate of 12.5 per cent of ₹ 809.90 lakh).
3	Jalandhar-I	2009-10	152.98	The dealer had opening stock of ₹ 560.68 lakh and purchases of ₹ 24,584.74 lakh, branch transfer of ₹ 10,879.80 lakh and closing stock as on 31 March 2010 was ₹ 747.52 lakh. Thus, the deemed sale worked out to ₹ 13,518.11 lakh but the dealer shown sale of ₹ 12,294.27 lakh only. Thus, the sale of ₹ 1,223.84 lakh (₹ 13,518.11 lakh - ₹ 12,294.27 lakh) was not assessed to tax and no reason for difference in the sale amount was given in the assessment order. This resulted in short levy of output tax of ₹ 152.98 lakh (at the rate of 12.5 per cent of ₹ 1,223.84 lakh).
4	Jalandhar-I	2008-09 2009-10	59.25	The dealer had purchases of ₹ 170.82 crore (₹ 77.16 crore + ₹ 93.66 crore); Branch transfer was ₹ 10.56 crore (₹ 6.57 crore + ₹ 3.99 crore) and closing stock was ₹ 6.57 crore on 31.03.2010. Thus, the deemed sales worked out to ₹ 153.69 crore but the sale was assessed as ₹ 148.95 crore (₹ 66.24 crore + ₹ 82.71 crore). Thus, the sale of ₹ 4.74 crore (₹ 153.69 crore - ₹ 148.95 crore) was neither assessed nor any reason for difference was given in the assessment order. This had resulted in short levy of output tax of ₹ 59.25 lakh (at the rate of 12.5 per cent of 4.74 crore)
5	Jalandhar-I	2006-07	60.81	The dealer had opening stock of ₹ 156.54 lakh; purchases was ₹ 4,791.32 lakh and closing stock of ₹ 109.46 lakh. Thus, the deemed sale worked out to ₹ 4,838.40 lakh but the dealer had shown sales of ₹ 4,351.93 lakh. Thus, the sale of ₹ 486.47 lakh (₹ 4,837.40 lakh - ₹ 4,351.93 lakh) was not assessed to tax, no reason for difference in amount was given in the assessment

Sl. No.	Name of unit	Period of assessment	Amount (₹ in lakh)	Remarks
				order. This had resulted in short levy of out put tax of ₹ 60.81 lakh (12.5 per cent of ₹ 486.46 lakh).
6	Jalandhar-I	2009-10	106.95	The dealer had opening stock of ₹ 438.65 lakh; purchases was ₹ 12,985.56 lakh, branch transfer was ₹ 735.84 lakh and closing stock as on 31.03.2010 was ₹ 675.36 lakh. Thus, the deemed sale of the dealer worked out to ₹12,013.02 lakh but the dealer was assessed to ₹ 11,157.45 lakh. Thus, the sale of ₹ 855.57 lakh (₹ 12,013.02 lakh – ₹ 11,157.45 lakh) was neither assessed to tax nor any reason for difference was given in the assessment order. This had resulted in short levy of out put tax of ₹ 106.95 lakh (at the rate of 12.5 per cent of ₹ 855.57 lakh).
7	Jalandhar-I	2007-08	36.34	The dealer had purchases of ₹ 7,655.28 lakh, on which it incurred expenditure of ₹ 2.42 lakh as freight/octroi and earned a profit of ₹ 292.61 lakh. Since, all the items were subjected to VAT when put to sale, the deemed sale of the dealer worked out to ₹ 7,899.57 lakh, but the dealer had paid tax on ₹ 7,608.88 lakh, resulting in short levy of tax of ₹ 36.33 lakh (at the rate of 12.5 per cent of ₹ 290.69 lakh).
8	Jalandhar-I	2009-10	110.95	The dealer had opening stock of ₹ 189.35 lakh; purchases was ₹ 1,4624.06 lakh and closing stock as on 31 March 2011 was ₹ 190.78 lakh. Thus, the deemed sale worked out to ₹ 14,622.63 lakh but the dealer was assessed at ₹ 13,735.05 lakh. Thus, the sale of ₹ 887.58 lakh (₹ 14,622.63 lakh – ₹ 13,735.05 lakh) was neither assessed to tax, nor any reason for difference was given in the assessment file. This had resulted in short levy of output tax of ₹ 110.95 lakh (at the rate of 12.5 per cent of ₹ 887.58 lakh).
9	Jalandhar-II	2009-10	5.32	The local sale amounting to ₹ 113.43 lakh was shown less in the assessment order/VAT 20 as compared with trading account of the firm, resulting in short levy of output tax of ₹ 4.54 lakh. Further, short reversal of ₹ 0.78 lakh was also noticed on account of branch transfer.
10	Ludhiana I	2009-10	10.03	The taxable sale of the dealer as per COVIS data and VAT-23 was ₹ 2,024.40 lakh and tax collected ₹ 80.98 lakh whereas the dealer had shown and DO accepted it as ₹ 1,773.61 lakh and output liability was assessed by the DO ₹ 70.94 lakh. This resulted into short payment of tax of ₹ 10.03 lakh.
11	Ludhiana-I	2009-10	12.14	In order to initiate assessment of 21 dealers, dealing in import of furnace oil, it was decided (August 2010) to levy tax at the rate of 4 per cent on the amount shown in transit sale for the period prior to imposition of entry tax i.e. 1 April 2005 to 18 August 2010, as it was not possible to trace the end user of the furnace oil in the State. However, while making the assessment (July 2013), the dealer was allowed a deduction of ₹ 405.48 lakh from gross turnover on account of sale in transit.
12	Ludhiana-II	2009-10	15.72	The gross sale as per trading account was ₹ 2,370.14 lakh but the dealer in his return had shown gross sale as ₹ 1,977.15 lakh and the same was allowed by the DO while

Sl. No.	Name of unit	Period of assessment	Amount (₹ in lakh)	Remarks
				assessing the case. Thus, the dealer had suppressed the sale of ₹ 392.99 lakh (₹ 2,370.14 lakh - ₹ 1,977.15 lakh) which resulted into short levy of output tax of ₹ 15.72 lakh at the rate of 4 per cent on 392.99 lakh.
13	Ludhiana-III	2011-12	5.84	The dealer had sold machinery of ₹ 106.22 lakh, but the same was not included in the total sale which resulted into suppression of sale amounting to ₹ 106.22 lakh and short levy and deposit of output tax of ₹ 5.84 lakh i.e. 5.5 per cent of ₹ 106.22 lakh.
14	Mohali	2008-09	80.42	The dealer had opening stock of ₹ 4.34 lakh; purchases was ₹ 4,175.83 lakh out of which purchase of spares and harvester parts of ₹ 3,952.93 lakh was made from out of the State. The dealer had closing stock of ₹ 997.94 lakh and sub-contractor payment of ₹ 741.43 lakh. The deemed sale of the dealer worked out to be ₹ 2,476.59 lakh but the dealer was assessed for ₹ 466.14 lakh. Thus, the sale of ₹ 2,010.45 lakh (₹ 2,476.59 lakh – ₹ 466.14 lakh) was not assessed to tax. The sale value was taken as per trading account of the dealer, whereas purchase value was higher in VAT 19, VAT 20 than the amount shown in the trading account. No reason whatsoever regarding this huge difference was given in the assessment order. This omission had tax implication of ₹ 80.42 lakh (4 per cent of ₹ 2,010.45 lakh).
15	Mohali	2009-10 2010-11	11.14	The dealer showed in his annual return (VAT 20), an interstate purchase of ₹ 115.63 lakh. However, in the trading account, no interstate purchase was shown, which resulted into suppression of purchase of ₹ 115.63 lakh. If this purchase had been accounted for in the trading account, the closing balance during 2009-10 would have been ₹ 159.09 lakh instead of ₹ 43.46 lakh actually shown in the trading account. Opening balance in the trading account for the year 2010-11 was taken as ₹ 78.05 lakh in place of actual opening balance of ₹ 159.09 lakh. This resulted into short account of purchase of ₹ 81.04 lakh (₹ 159.09 lakh – ₹ 78.05 lakh). The omission resulted into short levy of output tax of ₹ 11.14 lakh (13.75 per cent of ₹ 81.04 lakh)
16	Mohali	2009-10	6.39	The gross sale as per trading account and VAT 20 was ₹ 694.91 lakh. However, Assessing Authority while assessing the case had taken Gross Turn Over (GTO) as ₹ 631.97 lakh. This had resulted in understatement of GTO for ₹ 62.94 lakh and short levy of output tax of ₹ 6.39 lakh.
17	Mohali	2009-10	10.48	As per ICC data, ISS of the dealer was ₹ 155.06 lakh during 2009-10 and ₹ 77.75 lakh during 2010-11. However, the dealer as well as DO neither accounted for the same in GTO nor levied tax, resulting in non -levy of tax on suppressed ISS.
18	Mohali	2006-07 2007-08 2008-09	36.24	Dealer had inward transfer of material for value of ₹ 5,418.02 lakh and sale and outward transfer was ₹ 4,512.07 lakh. The dealer had neither carried forward closing stock, nor brought forward opening stock during the years. It

Sl. No.	Name of unit	Period of assessment	Amount (₹ in lakh)	Remarks
				clearly shows that the dealer suppressed sale of ₹ 905.95 lakh (₹ 5,418.02 lakh – ₹ 4,512.07 lakh), resulting in short payment of output tax amounting to ₹ 36.24 lakh.
19	Mohali	2009-10	138.24	Dealer had opening stock of ₹ 410.76 lakh; purchases was ₹ 6,622.08 lakh and closing stock was ₹ 246.79 lakh. Thus, the deemed sale of the dealer worked out to ₹ 6,786.05 lakh but the dealer was assessed to ₹ 5,680.10 lakh. Thus, the sale of ₹ 1,105.95 lakh (₹ 6,786.05 lakh – ₹ 5,680.10 lakh) was not assessed to tax. This resulted in short levy of output tax of ₹ 138.24 lakh (at the rate of 12.5 per cent of ₹ 1,105.95 lakh).
20	Mohali	2009-10	17.88	The dealer had opening stock of ₹ 381.33 lakh; stock received was ₹ 7,730.18 lakh (against F/C-form). The dealer had reduced closing stock by ₹ 446.89 lakh without paying any tax on it which resulted in short levy of output tax of ₹ 17.80 lakh (at the rate of 4 per cent of ₹ 446.89 lakh).
21	Mohali	2010-11	2.73	The gross sale of the dealer was ₹ 373.83 lakh; branch transfer was ₹ 226.44 lakh. Thus, total sale was ₹ 600.27 lakh. The opening balance of the dealer was ₹ 43.23 lakh, branch transfer inward was ₹ 643.51 lakh, breakage was ₹ 7.61 lakh and closing balance was ₹ 29.21 lakh. Thus, cost of material used towards sale comes out to be ₹ 649.92 lakh. Thus, total sale value of goods was less than cost of goods involved by ₹ 49.65 lakh. Dealer had adjusted ₹ 49.65 lakh as extra bonus for sale promotion against the gross inward stock transfer, but did not pay any tax on this amount. The omission had tax implication of ₹ 2.73 lakh (5.5 per cent of ₹ 49.65 lakh).
	Total		1,021.69	