

**The Report of
the Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2015**



Government of Himachal Pradesh
Report No. 1 of the year 2016

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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 Himachal Pradesh under article 151 of the Constitution of India.

The Revenue sector of the State Government is audited as per provisions of the Comptroller and Auditor General's (Duties, Power and Conditions of Service) Act, 1971.

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 Regulations on Audit and Accounts, 2007 and Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

OVERVIEW

This Report contains 30 paragraphs, follow up audit on '*Levy and Collection of Motor Vehicle Tax*' and one Performance audit on '*System of Assessment under VAT*', involving financial effect of ₹157.38 crore relating to underassessment of tax, non/short levy of state excise, non/short levy of stamp duty and registration fee, non/short levy of passenger and goods tax and non/short levy of royalty etc. Some of the major findings are mentioned below:

I. General

The total revenue receipts of the Government for the year 2014-15 was ₹17,843.45 crore as compared to ₹15,711.08 crore during the previous year. Out of this, 45 *per cent* was raised through tax revenue (₹5,940.16 crore) and non-tax revenue (₹2,081.45 crore). The balance 55 *per cent* was received from the Government of India as State's share of divisible Union taxes (₹2,644.17 crore) and Grants-in-Aid (₹7,177.67 crore). There was an increase in Revenue Receipts over the previous year by ₹2,132.37 crore.

(Paragraph 1.1.1)

Test check of the records of 179 units of Sales tax/Value Added Tax, State Excise, Stamp Duty, Motor Vehicles, Goods & Passengers and Forest Receipts conducted during the year 2014-15 showed under-assessment/short levy/loss of revenue etc. aggregating ₹405.45 crore in 691 cases. During the year, the Departments concerned accepted under-assessments and other deficiencies of ₹291.79 crore in 789 cases, which were pointed out in earlier years out of which an amount of ₹18.85 crore was realised in 632 cases of which ₹13.30 crore in 536 cases pertain to previous years and ₹5.55 crore in 96 cases for the year 2014-15.

(Paragraph 1.10)

II. Taxes/ VAT on Sales, Trade etc.

A Performance audit on '*System of Assessment under VAT*' was conducted. Some major findings are given below:

The cases pending for assessment increased from 72,524 in 2009-10 to 1,38,168 at the end of 2013-14 (an increase of 91 *per cent*). The percentage of disposal of cases during the period of 2009-10 to 2013-14 was between 20 and 25 *per cent* of the cases due for assessment.

(Paragraph 2.3.6.4)

Penalty of ₹38.56 crore for late/non-filing of returns could not be imposed/recovered from the dealers due to non-maintenance of registers/database of returns.

(Paragraph 2.3.6.5)

In the absence of provision of disclosure of nomenclature of goods in the HPVAT, ITC claimed by the dealers could not be co-related and verified with the nature of business.

(Paragraph 2.3.8)

Application of wrong method for calculating deferred tax liability on the closing stock resulting in irregular allowance of ITC of ₹1.60 crore, besides interest of ₹0.43 crore was also leviable.

(Paragraph 2.3.9.1)

Underassessment of gross turnover (GTO) or taxable turnover (TTO) by ₹45.80 crore due to non-reconciliation of gross receipts/turnover with the certified receipts/accounts, resulted in short levy of tax of ₹5.94 crore, besides interest of ₹50.62 lakh was also leviable.

(Paragraph 2.3.10)

Tax on the sales of ₹183.31 crore in 22 cases were assessed at the rate of four/five *per cent* instead of correct rates of 12.50/13.75 *per cent*, resulting in short realisation of tax of ₹1.94 crore, besides interest of ₹1.58 crore was also leviable.

(Paragraph 2.3.12)

Transaction Audit

Acceptance of invalid, duplicate and defective statutory forms 'C' by the Assessing Authorities (AAs) and allowing exemption/concessional rate of tax resulted in short levy of tax of ₹18.18 lakh in nine cases on which interest of ₹20.19 lakh was also leviable.

(Paragraph 2.5)

The AAs had applied concessional rate of tax of one *per cent* on inter-state sale of ₹36.72 crore to a manufacturing unit instead of applicable rates of 2 *per cent* as the beneficiary had not furnished complete Form-I. This resulted in under assessment of tax of ₹22.08 lakh, besides interest of ₹13.25 lakh was also leviable.

(Paragraph 2.6)

Application of wrong method for calculating deferred tax liability on the closing stock resulting in irregular allowance of ITC of ₹1.59 crore in 58 cases, besides interest of ₹0.51 crore was also leviable.

(Paragraphs 2.8.1 to 2.8.3)

III. State Excise

Additional fee payable for short lifting of 16,17,994 pls of liquor during 2013-14 by 725 vends were not demanded by the concerned AETCs, resulting in short recovery of additional fee amounting to ₹3.24 crore, out of which ₹50.28 lakh has been recovered after being pointed out by audit.

(Paragraph 3.3)

The Department could recover license fee of ₹12.83 crore only against the recoverable license fee of ₹17.25 crore during the year 2013-14, from the licensees of 28 vends, resulting in short recovery of license fee amounting to ₹4.42 crore, besides, interest of ₹46.81 lakh was also leviable.

(Paragraph 3.4)

Interest amounting to ₹59.29 lakh on belated payment of license fee of ₹64.53 crore was not demanded by the department from the licensees of 130 vends, resulting in non-levy of interest to that extent.

(Paragraph 3.7)

Dues on account of salaries of ₹33.63 lakh of excise establishment staff posted in a brewery, a distillery and two bottling plants were not recovered from the licensees for the year 2013-14.

(Paragraph 3.8)

IV. Stamp Duty

There was short realisation of stamp duty and registration fee of ₹80.87 lakh due to incorrect preparation of valuation reports by *Patwaris* and incorrect determination of the market value of property in 189 cases.

(Paragraphs 4.3.1 and 4.3.2)

The lease deeds were not executed/renewed within the period specified in the lease agreement and lease money was not fixed/revised as per prescribed rates on the basis of prevailing market value of the land. This resulted in non-realisation of lease money ₹12.47 crore in four cases.

(Paragraph 4.4)

Non-fixation of lease rent on the basis of prevailing market value of the land resulted in short realisation of lease money of ₹4.24 crore in three cases.

(Paragraphs 4.5.1 and 4.5.2)

V. Taxes on Vehicles, Goods and Passengers

Arrears amounting to ₹98.35 crore were pending for collection since 1971-72. Out of which ₹72.81 lakh referred to Collector for recovery as Arrears of Land Revenue (ALR), an amount of ₹20.42 lakh only had been recovered.

(Paragraph 5.3)

Token tax and entry tax of ₹17.73 crore in respect of 22,527 vehicles for the years 2010-11 to 2013-14 was neither demanded by the Department nor paid by these vehicle owners.

(Paragraphs 5.4.1 and 5.4.2)

Special Road Tax amounting to ₹20.47 crore was payable by the Himachal Road Transport Corporation for the period April 2013 to March 2014 and ₹91.15 lakh in 167 cases was recoverable from the Private Stage Carriages (PSCs) as on March 2015, which was neither being deposited by the HRTC and owners of the PSCs nor demanded by the department. This resulted in non-recovery of SRT of ₹21.38 crore.

(Paragraphs 5.6.1 and 5.6.2)

The owners of the 1,251 commercial vehicles did not register their vehicles with the concerned Excise and Taxation Authorities after getting these registered with Motor Vehicles Tax Department. As a result Passenger and Goods Tax amounting to ₹89.07 lakh was not realised due to lack of co-ordination between the concerned RLAs/ RTOs and AETCs.

(Paragraph 5.10)

Additional Goods Tax of ₹59.90 crore was neither paid by two cement companies who had transported limestone and shale from mining areas to cement plants for manufacturing of cement and clinker nor was it demanded by the department, resulting in evasion of revenue and caused loss to that extent.

(Paragraph 5.12)

VI. Forest Receipts

The departmental charges of ₹1.30 crore in 18 cases recovered from the user agencies under the Compensatory Afforestation (CA) schemes were deposited in CAMPA account instead of depositing it in the revenue head of the Government. This resulted in understatement of revenue to that extent.

(Paragraph 6.4)

The royalty of ₹13.54 crore was payable by the HPSFDCL out of which only ₹1.45 crore was paid on time and ₹4.82 crore were paid late on which interest of ₹43.03 lakh was accrued. The balance amount of royalty of ₹7.27 crore was neither demanded by the DFOs nor paid by the HPSFDCL. This resulted in short realisation of revenue of ₹7.70 crore.

(Paragraph 6.6)

Non-disposal of seized timber measuring 521.616 cu.m lying in various depots of the Department, resulted in blockade of revenue of ₹247.16 lakh including VAT of ₹29.88 lakh.

(Paragraph 6.7)

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 Himachal Pradesh during the year 2014-15, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-Aids received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-1.1**:

Table – 1.1
Trend of revenue receipts

| ₹ in crore | | | | | | |
|------------|--|------------------|------------------|------------------|------------------|-----------------------|
| Sr. No. | Particulars | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 |
| 1. | Revenue raised by the State Government | | | | | |
| | Tax revenue | 3,642.38 | 4,107.92 | 4,626.17 | 5,120.91 | 5,940.16 |
| | Non-tax revenue | 1,695.31 | 1,915.20 | 1,376.88 | 1,784.53 | 2,081.45 |
| | Total | 5,337.69 | 6,023.12 | 6,003.05 | 6,905.44 | 8,021.61 |
| 2. | Receipts from the Government of India | | | | | |
| | Share of net proceeds of divisible Union taxes and duties | 1,715.35 | 1,998.37 | 2,282.02 | 2,491.53 | 2,644.17 ¹ |
| | Grants-in-Aids | 5,657.57 | 6,521.37 | 7,313.07 | 6,314.11 | 7,177.67 |
| | Total | 7,372.92 | 8,519.74 | 9,595.09 | 8,805.64 | 9,821.84 |
| 3. | Total revenue receipts of the State Government (1 and 2) | 12,710.61 | 14,542.86 | 15,598.14 | 15,711.08 | 17,843.45 |
| 4. | Percentage of 1 to 3 | 42 | 41 | 38 | 44 | 45 |

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹8,021.61 crore) was 45 *per cent* of the total revenue receipts. The balance 55 *per cent* of the receipts during 2014-15 was from the Government of India, as share of net proceeds of divisible union taxes and Grants-in-aid.

1.1.2 The details of the tax revenue raised during the period 2010-11 to 2014-15 are given in **Table 1.2**:

¹ For details, please see Statement No. 11-'Detailed statement of revenue and capital receipt by minor heads' in the Finance Accounts of the Government of Himachal Pradesh for the year 2014-15. Figures under the Major Receipts Head 0020-Corporation tax, 0021-Taxes on income other than Corporation tax, 0028-Other Taxes on Income and Expenditure, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties and 0044-Service tax under sub head 901-Share of net proceeds assigned to State booked under A-tax revenue have been excluded from the revenue raised by the State Government and included in the State's share of divisible Union taxes.

Table 1.2
Details of Tax Revenue raised

| ₹ in crore | | | | | | | | | | | | | |
|------------|---------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|----------------|-----------------|---|---------------------|
| Sr. No. | Head of revenue | 2010-11 | | 2011-12 | | 2012-13 | | 2013-14 | | 2014-15 | | Percentage of increase (+) or decrease (-) in 2014-15 | |
| | | BE | Actual | BE | Actual | BE | Actual | BE | Actual | BE | Actual | Actual over BE | Actual over 2013-14 |
| | | | | | | | | | | | | | |
| 1. | Taxes on sales, trade etc. | 1,741.18 | 2,101.10 | 2,444.27 | 2,476.78 | 3,161.57 | 2,728.22 | 3,232.90 | 3,141.10 | 3,195.62 | 3,660.57 | 15 | 17 |
| 2. | State excise | 549.46 | 561.53 | 709.74 | 707.36 | 800.14 | 809.87 | 949.46 | 951.96 | 940.74 | 1,044.14 | 11 | 10 |
| 3. | Motor vehicles tax | 134.64 | 163.02 | 173.08 | 176.03 | 215.39 | 196.13 | 246.88 | 207.81 | 214.14 | 220.10 | 03 | 06 |
| 4. | Stamp duty | 115.78 | 132.69 | 142.76 | 155.09 | 159.05 | 172.61 | 201.22 | 187.50 | 209.11 | 190.58 | (-) 09 | 02 |
| 5. | Taxes and duties on electricity | 114.26 | 301.59 | 190.00 | 185.47 | 217.03 | 262.63 | 248.77 | 191.36 | 262.01 | 332.82 | 27 | 74 |
| 6. | Land revenue | 2.02 | 4.78 | 1.90 | 17.86 | 4.01 | 23.60 | 4.00 | 9.98 | 15.12 | 16.88 | 39 | 69 |
| 7. | Others | 298.19 | 377.67 | 378.08 | 389.33 | 500.23 | 433.11 | 489.76 | 431.20 | 386.56 | 475.07 | 23 | 10 |
| | Total | 2,955.53 | 3,642.38 | 4,039.83 | 4,107.92 | 5,057.42 | 4,626.17 | 5,372.99 | 5,120.91 | 5,223.3 | 5,940.16 | 14 | 16 |

Source: Finance accounts of respective years

It may be seen from the above table that the tax revenue raised by the State Government during the last five years shows an increasing trend and it increased to ₹5,940.16 crore in 2014-15 from ₹2,955.53 crore in 2010-11.

The respective Departments reported the following reasons for variation:

Taxes on sales, trade etc.: The increase was due to better tax administration, increase of tax rates on petrol and diesel. Besides, increase in price index of goods and rates of entry tax on all industrial inputs.

State Excise: The increase was due to rise in the rates of license fee and excise duty per proof liter on country and Indian made foreign liquor. Besides, increase in the annual minimum guaranteed quota and fixed fee on supply to Bar-license holders, clubs and Armed forces.

Motor Vehicles Taxes: The increase was due to registration of more vehicles, effective enforcement, issuance of more licences and more receipt under new National Permit Scheme.

Taxes and duties on electricity: The increase was due to deposit of full amount of electricity duty alongwith arrears of previous years by the HPSEBL.

1.1.3 The details of the non-tax revenue raised during the period 2010-11 to 2014-15 are indicated in **Table 1.3:**

Table 1.3
Details of Non-tax revenue raised

| ₹ in crore | | | | | | | | | | | | | |
|--------------|--|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|---|---------------------|
| Sr. No. | Head of revenue | 2010-11 | | 2011-12 | | 2012-13 | | 2013-14 | | 2014-15 | | Percentage of increase (+) or decrease (-) in 2014-15 | |
| | | BE | Actual | BE | Actual | BE | Actual | BE | Actual | BE | Actual | Actual over BE | Actual over 2013-14 |
| 1. | Power | 1,250.00 | 1,093.21 | 1,400.00 | 1,145.70 | 1,243.00 | 637.15 | 1,470.25 | 696.29 | 605.00 | 1,121.51 | 85 | 61 |
| 2. | Interest receipts | 45.12 | 69.95 | 48.41 | 115.09 | 125.56 | 69.90 | 176.44 | 118.61 | 69.96 | 100.93 | 44 | (-) 15 |
| 3. | Non ferrous, mining and metallurgical industries | 85.00 | 113.84 | 110.50 | 120.12 | 137.94 | 147.90 | 151.10 | 114.08 | 140.00 | 161.52 | 15 | 42 |
| 4. | Forestry and wild life | 71.77 | 65.44 | 84.78 | 106.54 | 75.31 | 63.90 | 86.45 | 357.83 | 73.16 | 115.78 | 58 | (-) 68 |
| 5. | Public works | 23.40 | 34.66 | 30.14 | 41.63 | 38.89 | 39.72 | 42.59 | 34.75 | 43.44 | 34.13 | (-) 21 | (-) 02 |
| 6. | Other administrative services | 17.26 | 31.00 | 17.92 | 26.23 | 33.39 | 45.71 | 35.09 | 25.95 | 35.79 | 35.57 | (-) 0.61 | 37 |
| 7. | Police | 17.08 | 19.10 | 18.42 | 15.39 | 21.03 | 20.63 | 29.57 | 34.65 | 38.16 | 39.83 | 4 | 15 |
| 8. | Medical and public health | 8.57 | 8.40 | 6.90 | 8.66 | 7.13 | 11.21 | 8.59 | 5.04 | 11.86 | 3.35 | (-) 72 | (-) 34 |
| 9. | Co-operation | 4.31 | 9.59 | 3.23 | 2.30 | 3.46 | 3.24 | 4.48 | 15.30 | 3.66 | 8.67 | 137 | (-) 43 |
| 10. | Miscellaneous general services | 0.84 | 2.06 | 0.82 | 40.01 | 1.87 | 8.94 | 1.99 | 5.65 | 2.12 | 3.41 | 61 | (-) 40 |
| 11. | Major and medium irrigation | 0.42 | 6.84 | 0.46 | 0.36 | 0.81 | 0.33 | 0.81 | 0.37 | 0.81 | 0.17 | (-) 79 | (-) 54 |
| 12. | Other Non-tax receipts | 254.39 | 241.22 | 272.92 | 293.17 | 314.21 | 328.25 | 385.18 | 376.01 | 364.83 | 456.58 | 25 | 21 |
| Total | | 1,778.16 | 1,695.31 | 1,994.50 | 1,915.20 | 2,002.60 | 1,376.88 | 2,392.64 | 1,784.53 | 1,388.79 | 2,081.45 | 50 | 17 |

Source: Finance accounts of respective years

It may be seen from the above table that the non-tax revenue raised by the State Government during 2014-15 was 17 per cent more as compared to the previous year, which showed rising trend and it increased to ₹2,081.45 crore in 2014-15 from ₹1,695.31 crore in 2010-11.

The respective Departments reported the following reasons for variation:

Power: The increase was due to deposit of arrears of free electricity of previous years by the HPSEBL, besides, lesser supply of free power to HPSEBL hence, more sales to other States.

Non-ferrous, mining and metallurgical industries: The increase was due to more receipt of mineral concession fees, royalties from the hydal projects for use of minerals and from the contractors of HPPWD and IPH departments, besides miscellaneous receipts.

Forestry and Wild Life: The decrease was due to no receipts from the sale of trees under the ad-hoc CAMPA fund from the Government of India as it was done during the previous year.

Public works: The decrease was due to less receipt from the sale of tender forms, empty bags of cement and miscellaneous receipts. Besides, decrease in departmental expenditure as the receipt of departmental charges for construction of residential and non-residential buildings under deposit works could not be deposited in revenue head of account.

Police: The increase was due to payment of arrear by Bhakra Beas Management Board (BBMB), Railway and other authorities for supply of police guards. Besides, receipts of license fee under Arms Act and road permits issued for restricted roads in Shimla district by districts authorities.

Medical and public health: The decrease was due to deposit of fees and penalty through Director Health security and regulatory institution of the department.

The other Departments despite being requested (July 2015) did not intimate the reasons for variation of receipts with that of previous year (December 2015).

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 on some principal heads of revenue amounted to ₹3,604.08 crore of which ₹141.22 crore was outstanding for more than five years, as detailed in the **Table 1.4:**

Table 1.4
Arrears of revenue

| ₹ in crore | | | | |
|------------|--|--|--|---|
| Sr. No. | Head of revenue | Total Amount outstanding as on 31 March 2015 | Amount outstanding for more than 5 years as on 31 March 2015 | Replies of Departments |
| 1. | Taxes on Sales, Trade etc. | 2,585.14 | 95.32 | Arrears are accumulated from the year 1968-69. Demands for ₹2,263.51 crore had been referred as arrears of land revenue, ₹6.58 crore proposed to be written off, remaining ₹18.58 crore were recoverable from the Government departments/undertakings, recoveries amounting to ₹38.03 crore were stayed by the High Court/ other judicial authorities and ₹258.44 crore recoverable from the dealers. |
| 2. | Water supply, Sanitation and Minor Irrigation | 235.26 | 0.0 | From the total arrears, ₹227.18 crore for supply of water pertaining to municipal corporation/committees and notified area committees, ₹6.14 crore and ₹0.47 crore to non-government bodies and government departments respectively, ₹0.05 crore to housing and ₹1.42 crore to minor irrigation. |
| 3. | Taxes and duties on electricity | 601.85 | 0.0 | The arrears realised but not deposited by the HPSEBL. |
| 4. | Forestry and Wild Life | 66.27 | 19.97 | Arrears are accumulated from the year 1979 of DFO Chamba. Most of the cases pertaining to contractors had been referred to the Collectors concerned for recovery under arrear of land revenue and the remaining were under trial in the Court. Efforts to recover the balance amount from the HPSFDC Ltd. and other Government Departments respectively were being made. |
| 5. | Other Taxes and Duties on Commodities and Services | 45.89 | 10.49 | Arrears are accumulated from the year 1989-90. Demands for ₹28.45 crore had been referred for recovery as arrears of land revenue, ₹39,100 proposed for write off, ₹5.88 crore stayed by the High Court/ others judicial authorities and ₹11.55 crore recoverable from different hoteliers. |
| 6. | Police | 23.12 | 1.85 | Arrears are related to Jai Prakash Associates, Director Mission, NRHM and BBMB. |

| | | | | |
|--------------|--|-----------------|---------------|---|
| 7. | State Excise | 30.96 | 5.68 | Arrears are accumulated from the year 1972-73. Demands for ₹12.15 crore had been referred for recovery as arrears of land revenue, ₹2.67 crore were stayed by the High Court/other judicial authorities, ₹0.20 crore were proposed to be written off and ₹15.94 crore was recoverable from the bidders/licensees. |
| 8. | Taxes on Goods and Passengers | 8.25 | 5.76 | Demands for ₹3.50 crore had been referred for recovery as arrears of land revenue, ₹6.55 lakh were proposed to be written off, remaining arrear of ₹1.09 crore recoverable from Government/Departments/undertakings and ₹3.60 crore recoverable from the owners of different vehicles. |
| 9. | Village and Small Industries | 6.17 | 1.35 | Arrears pertain to premium of plots (Industrial areas) etc. |
| 10. | Non-ferrous, Mining and Metallurgical Industries | 0.72 | 0.48 | Arrears pertain to mining offices and DDO (Headquarter) Geological Wing Directorate of industries on account of recovery of royalty/ drilling charges etc. |
| 11. | Industries | 0.23 | 0.12 | Arrears pertain to rent sheds (Industrial Estate), rent of government accommodation/Receipt of sale of Mulberry plants etc. |
| 12. | Public Works | 0.22 | 0.20 | Arrears accumulated from the years 1963-64. Instruction had been issued to field offices to make all efforts to recover the amount and to get the amount written off where irrecoverable. |
| Total | | 3,604.08 | 141.22 | |

Source: Figures supplied by the departments concerned.

It may be seen from above that arrears of ₹536.38 crore were pending with the departmental authorities and the cases referred for write off (₹6.85 crore) were also not being pursued with quarters concerned.

1.3 Arrears in assessments

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 finalisation at the end of the year as furnished by the Sales Tax Department in respect of sales tax, motor spirit tax, luxury tax and tax on works contracts was as below in **Table 1.5**:

Table 1.5
Arrears in assessments

| Head of revenue | Opening balance | New cases due for assessment during 2014-15 | Total assessments due | Cases disposed of during 2013-14 | Balance at the end of the year | Percentage of disposal (col. 5 to 4) |
|----------------------------|-----------------|---|-----------------------|----------------------------------|--------------------------------|--------------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Taxes on sales, trade etc. | 1,39,735 | 44,533 | 1,84,268 | 33,270 | 1,50,998 | 18 |
| Luxury tax | 3,216 | 1,864 | 5,080 | 1,598 | 3,482 | 31 |
| Tax on works contracts | 1,965 | 563 | 2,528 | 481 | 2,047 | 19 |
| Motor spirit tax | 13 | 24 | 37 | 4 | 33 | 11 |

Source: Figures supplied by the department concerned.

Above table shows that the disposal of assessment cases especially in Motor spirit tax, taxes on sales, trade etc. and tax on works contracts was very slow and remained between 11 and 19 per cent.

1.4 Evasion of tax detected by the department

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table 1.6**:

Table 1.6
Evasion of Tax

| | | | | | | | ₹ in crore |
|--------------|--|-----------------------------------|-------------------------------|---------------|--|--------------|--|
| Sr. No. | Head of revenue | Cases pending as on 31 March 2014 | Cases detected during 2014-15 | Total | Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised | | Number of cases pending for finalisation as on 31 March 2015 |
| | | | | | Number of cases | Amount | |
| 1. | Taxes on Sales, Trade etc. | 108 | 16,069 | 16,177 | 16,093 | 48.35 | 84 |
| 2. | State Excise | 52 | 275 | 327 | 284 | 0.49 | 43 |
| 3. | Passengers and Goods tax | 127 | 10,843 | 10,970 | 10,970 | 4.56 | 0 |
| 4. | Other Taxes and Duties on Commodities and Services | 0 | 1,246 | 1,246 | 1,224 | 2.83 | 22 |
| Total | | 287 | 28,433 | 28,720 | 28,571 | 56.23 | 149 |

Source: Figures supplied by the departments concerned.

It would be seen from the above that the number of cases pending at the end of the year has slightly reduced than number of cases pending at the start of the year.

1.5 Refund cases

The 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 is given in **Table 1.7**:

Table 1.7
Details of pendency of refund cases

| | | | | | | ₹ in crore |
|---------|---|---------------|--------|--------------|--------|------------|
| Sr. No. | Particulars | Sales tax/VAT | | State Excise | | |
| | | No. of cases | Amount | No. of cases | Amount | |
| 1. | Claims outstanding at the beginning of the year | 57 | 17.53 | 6 | 0.12 | |
| 2. | Claims received during the year | 112 | 31.06 | 10 | 0.08 | |
| 3. | Refund made during the year | 103 | 23.30 | 6 | 0.04 | |
| 4. | Balance outstanding at the end of year | 66 | 25.29 | 10 | 0.16 | |

Source: Figures supplied by the department concerned.

1.6 Response of the Government/departments towards audit

The Principal Accountant General (Audit), Himachal Pradesh (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the

inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the Heads of the Department and the Government.

Inspection reports issued up to December 2014 disclosed that 7,150 paragraphs involving ₹1,099.13 crore relating to 2,509 IRs remained outstanding at the end of June 2015 alongwith the corresponding figures for the preceding two years as mentioned in **Table 1.8**:

Table 1.8
Details of pending Inspection Reports

| | June 2013 | June 2014 | June 2015 |
|--|-----------|-----------|-----------|
| Number of IRs pending for settlement | 2,880 | 2,952 | 2,509 |
| Number of outstanding audit observations | 7,678 | 8,009 | 7,150 |
| Amount of revenue involved (₹ in crore) | 1,119.44 | 1,322.75 | 1,099.13 |

The Department wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the **Table 1.9**:

Table 1.9

| | | | | | ₹ in crore |
|--------------|------------------------|--|---------------------------|--|----------------------|
| Sl. No. | Name of the Department | Nature of receipts | Number of outstanding IRs | Number of outstanding audit observations | Money value involved |
| 1. | Finance | Taxes on Sales, Trade etc. | 121 | 894 | 242.74 |
| | | Passenger & Goods Tax (PGT) | 182 | 307 | 207.21 |
| | | Other Taxes & Duties on commodities and services (OTD) | 113 | 148 | 8.08 |
| | | Entertainment & luxury tax etc. | 50 | 92 | 0.92 |
| 2. | Excise | State Excise | 56 | 185 | 47.27 |
| 3. | Revenue | Land Revenue | 237 | 413 | 0.86 |
| 4. | Transport | Taxes on motor vehicles | 630 | 2391 | 238.53 |
| 5. | Stamp and Registration | Stamp and registration fees | 569 | 1161 | 60.04 |
| 6. | Forest and environment | Forest Receipts | 551 | 1,559 | 293.48 |
| Total | | | 2,509 | 7,150 | 1,099.13 |

Audit did not receive even the first replies from the heads of offices within the stipulated time of four weeks in respect of 82 IRs issued during 2014-15. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of field 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 having an effective system for prompt and appropriate response to audit observations.

1.6.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of the paragraphs included in the IRs. The details of the audit committee meetings held during the year 2014-15 and the paragraphs settled are mentioned in **Table 1.10**:

Table 1.10
Details of Departmental audit committee meetings

| | | | | ₹ in lakh |
|--------------|-------------------------|-------------------------|-------------------------|-----------------|
| Sr. No. | Department | Number of meetings held | Number of paras settled | Amount |
| 1. | Revenue Department | 1 | 93 | 30.52 |
| 2. | State Excise Department | 1 | 60 | 163.97 |
| 3. | Transport Department | 1 | 89 | 40.20 |
| 4. | Forest Department | 1 | 173 | 2,144.82 |
| Total | | 4 | 415 | 2,379.51 |

The progress of settlement of paragraphs pertaining to the Transport and Revenue Departments was negligible as compared to the huge pendency of the IRs and paragraphs; despite holding Departmental audit committee meetings.

1.6.3 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Audit 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 requested them to send their response within six weeks. The fact of non-receipt of the replies from the Departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Thirty five draft paragraphs and one Performance audit were sent to the Principal Secretaries/Secretaries of the respective Departments by name between April and August 2015. The Principal Secretaries/Secretaries of the Departments did not send replies to 11 draft paragraphs despite issue of reminders (August 2015) and the same have been included in this Report without the response of the Government. However, the replies, of the department have been received and incorporated suitably.

1.6.4 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee, 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 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. 139 paragraphs (including performance audits) included in the Reports of the Comptroller and Auditor General of India of the Government of Himachal Pradesh for the years ended 31 March 2010, 2011, 2012 and 2013 on the Revenue Sector were placed before the State Legislature Assembly between 8 April 2011 and 21 February 2014. Action taken explanatory notes from the concerned Departments on these paragraphs were

received late with average delay of 14, 13, nine and 12 months of each of these Audit Reports, respectively. Action taken explanatory notes in respect of seven paragraphs from two departments (PWD and Revenue) had not been received for the Audit Report for the year ended 31 March 2011 and 2013 so far (December 2015).

The PAC discussed 20 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2012-13. Action taken explanatory notes, however, had not been received in respect of 20 recommendations of the PAC from the Forest Department as mention in the **Table 1.11**:

Table 1.11

| Year | Name of the Departments | Recommendations |
|--------------|-------------------------|-----------------|
| 2008-09 | Forest | 11 |
| 2009-10 | | 06 |
| 2010-11 | | 03 |
| Total | | 20 |

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 Reports by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for one Department (Excise Department under major receipt head of Sale Tax/VAT) is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.3 discuss the performance of the Excise Department in respect of Sale Tax/VAT Tax under Major Receipt Head '0040-Taxes/VAT on Sales, trade etc.' and cases noticed in the course of local audit during the last 10 years upto 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 the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2015 are tabulated in below **Table 1.12**:

Table 1.12
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 | 130 | 539 | 42.17 | 10 | 172 | 46.99 | 05 | 85 | 50.71 | 135 | 621 | 38.45 |
| 2006-07 | 135 | 621 | 38.45 | 10 | 212 | 46.23 | 16 | 221 | 41.60 | 129 | 612 | 43.08 |
| 2007-08 | 129 | 612 | 43.08 | 06 | 194 | 6.80 | 02 | 141 | 6.64 | 133 | 665 | 43.24 |
| 2008-09 | 133 | 665 | 43.24 | 09 | 239 | 82.45 | -- | 214 | 69.28 | 142 | 690 | 56.41 |
| 2009-10 | 142 | 690 | 56.41 | 08 | 167 | 36.36 | 06 | 139 | 35.60 | 144 | 718 | 57.17 |
| 2010-11 | 144 | 718 | 57.17 | 12 | 252 | 55.72 | 16 | 273 | 41.83 | 140 | 697 | 71.06 |
| 2011-12 | 140 | 697 | 71.06 | 10 | 202 | 87.34 | 30 | 177 | 27.82 | 120 | 722 | 130.58 |

Audit Report for the year ended 31 March 2015 on Revenue Sector

| | | | | | | | | | | | | |
|---------|-----|-----|--------|----|-----|--------|----|-----|-------|-----|-----|--------|
| 2012-13 | 120 | 722 | 130.58 | 11 | 241 | 22.26 | 14 | 140 | 9.51 | 117 | 823 | 143.33 |
| 2013-14 | 117 | 823 | 143.33 | 12 | 215 | 109.71 | 07 | 267 | 48.42 | 122 | 771 | 204.66 |
| 2014-15 | 122 | 771 | 204.62 | 09 | 259 | 54.50 | 08 | 76 | 2.46 | 123 | 954 | 256.66 |

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 130 outstanding IRs with 539 paragraphs as on start of 2005-06, the number of outstanding IRs declined to 123 in 2014-15 from 130 in 2005-06 but the number of paragraphs increased from 539 in 2005-06 to 954 at the end of 2014-15.

This is indicative of the fact that adequate steps were not taken by the Department resulting in piling up of the outstanding paragraphs.

1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table 1.13**:

Table 1.13

| ₹ in lakh | | | | | | |
|----------------------|-------------------------------|-------------------------------|-------------------------------|------------------------------------|--|---|
| Year of Audit Report | Number of paragraphs included | Money value of the paragraphs | Number of paragraphs accepted | Money value of accepted paragraphs | Amount recovered during the year 2014-15 | Cumulative position of recovery of accepted cases as of 31 March 2015 |
| 2004-05 | 02 | 3,647.00 | 2 | 360.91 | -- | 7.00 |
| 2005-06 | 04 | 278.00 | 2 | 154.61 | -- | 152.00 |
| 2006-07 | 07 | 278.00 | 5 | 69.64 | -- | 30.00 |
| 2007-08 | 14 | 6,824.00 | 5 | 159.18 | -- | 40.00 |
| 2008-09 | 10 | 3,152.00 | 2 | 54.16 | -- | 10.00 |
| 2009-10 | 08 | 3,406.00 | 7 | 96.39 | 25.00 | 33.00 |
| 2010-11 | 09 | 6,900.00 | 8 | 67.95 | 52.00 | 55.00 |
| 2011-12 | 09 | 1,731.00 | 8 | 920.19 | 04.00 | 39.00 |
| 2012-13 | 10 | 3,383.00 | 4 | 375.13 | 14.00 | 26.00 |
| 2013-14 | 12 | 2,028.00 | 3 | 453.00 | 66.00 | 66.00 |
| Total | 85 | 31,627.00 | 46 | 2,711.16 | 161.00 | 458.00 |

It is evident from the above table that the progress of recovery even in accepted cases was very slow throughout during the last ten years. The recovery of accepted cases was to be pursued as arrear recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. Further, the arrear cases including accepted audit observations were not available with the office of the Commissioner, Excise and Taxation Department. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

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

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

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

Four performance audits on the *Excise and Taxation Department* under Receipt Head-'0040- Taxes/VAT on sales, trade etc.' conducted and featured in the Audit Reports for the years 2004-05, 2008-09, 2010-11 and 2013-14 as per details given in the **Table 1.14** below:

Table 1.14

| Sr. No. | Year of Audit Report | Title of the performance audit | Number of recommendations made in PA | Remarks |
|---------|----------------------|--|--------------------------------------|--|
| 1. | 2004-05 | Assessment and Collection of Sales Tax | Three recommendations | All recommendations were accepted and admitted by the department and stated that the efforts were being made for its implementation. |
| 2. | 2008-09 | Transition from Sales Tax to Value Added Tax | Five recommendations | |
| 3. | 2010-11 | Utilisation of declaration form in Inter State Trade | Six recommendations | |
| 4. | 2013-14 | Arrear under Sales Tax/ VAT | Three recommendations | |

1.8 Internal Audit

The departments have an Internal Audit Cell (IAC) under the charge of the Assistant Controller (F&A). This cell was to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of number of units planned for audit, units audited and number of unit could not audited during the year 2014-15 in Transport and Excise and Taxation Departments is given in the **Table 1.15** below:

Table 1.15

| Name of the Department | Total auditable unit | No. of units planned for audit | No. of units audited | Shortfall |
|------------------------|--|--------------------------------|----------------------|-----------|
| Excise and Taxation | 13 | 08 | 04 | 04 |
| Transport | 01-STA 56-RLAs 10-RTOs 03-RTO (flying squad) | 15 | 05 | 10 |
| Total | 83 | 23 | 09 | 14 |

It is evident from the above that out of total auditable units of 83, IAW had selected only 23 units for audit during the year 2014-15 of which only nine units (39 per cent) were audited.

The reasons for shortfall were attributed due to shortage of staff.

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 include critical issues in government revenue 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 past five years etc.

During the year 2014-15, there were 411 auditable units, of which 179 units² planned and audited.

Besides, the compliance audit mentioned above, one performance audit on '**System of Assessment under VAT**', was also conducted to examine the efficacy of the tax administration of these receipts.

1.10 Results of audit

Position of local audit conducted during the year

Test check of the records of 179 units of Sales tax/Value Added Tax, State Excise, Motor Vehicles, Goods & Passengers and Forest Receipts etc. conducted during the year 2014-15 showed under-assessment/short levy/loss of revenue etc. aggregating ₹405.45 crore in 691 cases. During the course of the year, the Department concerned accepted underassessment and other deficiencies of ₹291.79 crore in 789 cases, which were pointed out in earlier years out of which an amount of ₹18.85 crore was realised in 632 cases of which ₹13.30 crore in 536 cases pertain to previous years and ₹5.55 crore in 96 cases for the year 2014-15.

1.11 Coverage of this Report

This Report contains 30 draft paragraphs, follow up audit on '*Levy and Collection of Motor Vehicle Tax*' and one Performance audit on '**System of assessment under VAT**', involving financial effect of ₹157.38 crore.

The Departments/Government have accepted 23 audit observations involving ₹26.42 crore of which ₹7.13 crore had been recovered in 19 cases. The replies in the remaining cases have not been received (December 2015). These are discussed in succeeding Chapters II to VI.

² These units included 39 units of Luxury tax, Entertainment tax and MP Barriers.

CHAPTER-II
TAXES/VAT ON SALES, TRADE ETC.

CHAPTER-II TAXES/VAT ON SALES, TRADE ETC.

2.1 Tax administration

Sales Tax/Value Added Tax laws and rules framed thereunder are administered at the Government level by the Additional Chief Secretary (Excise and Taxation). The Excise & Taxation Commissioner (ETC) is the head of the Excise and Taxation Department who is assisted by two Additional ETC, one Joint ETC, six Deputy ETCs, 12 Assistant ETCs and 69 Excise & Taxation Officers (ETOs). They are assisted by Excise and Taxation Inspectors and other allied staff for administering the relevant Tax laws and rules.

2.2 Results of Audit

In 2014-15, test check of the records of nine units relating to VAT/Sales tax assessments and other records showed underassessment of tax and other irregularities involving ₹132.11 crore in 176 cases, which fall under the following categories as given in **Table 2.1**:

Table 2.1

| | | | ₹ in crore |
|--------------|--|-----------------|---------------|
| Sr. No. | Categories | Number of cases | Amount |
| 1. | Performance audit on ' <i>System of assessment under VAT</i> ' | 01 | 13.85 |
| 2. | Under-assessment of tax | 10 | 0.94 |
| 3. | Acceptance of defective statutory <i>C & F</i> forms | 43 | 7.85 |
| 4. | Evasion of tax due to suppression of sales/purchases | 05 | 0.08 |
| 5. | Irregular/incorrect/excess allowance of ITC | 57 | 2.05 |
| 6. | Application of incorrect rate of tax | 24 | 2.16 |
| 7. | Other irregularities | 36 | 105.18 |
| Total | | 176 | 132.11 |

During the course of the year, the Department accepted underassessment and other deficiencies of ₹18.17 crore in 154 cases, which were pointed out in earlier years out of which an amount of ₹2.74 crore was realised in 130 cases of which ₹1.00 crore in 101 cases pertain to previous years and ₹1.74 crore in 29 cases for the year 2014-15.

A performance audit on '*System of assessment under VAT*' having money value of ₹13.85 crore and few illustrative cases involving ₹2.49 crore are discussed in the following paragraphs.

2.3 Performance audit on 'System of Assessment under VAT'

Highlights

- *The cases pending for assessment increased from 72,524 in 2009-10 to 1,38,168 at the end of 2013-14 (an increase of 91 per cent). The percentage of disposal of cases during the period of 2009-10 to 2013-14 was between 20 and 25 per cent of the cases due for assessment.*
(Paragraph 2.3.6.4)
- *Penalty of ₹38.56 crore for late/non-filing of returns could not be imposed/recovered from the dealers due to non-maintenance of registers/database of returns.*
(Paragraph 2.3.6.5)
- *In the absence of provision of disclosure of nomenclature of goods in the HPVAT, ITC claimed by the dealers could not be co-related and verified with the nature of business.*
(Paragraph 2.3.8)
- *Application of wrong method for calculating deferred tax liability on the closing stock, resulted in irregular allowance of ITC of ₹1.60 crore, besides interest of ₹0.43 crore was also leviable.*
(Paragraph 2.3.9.1)
- *Underassessment of Gross turnover (GTO) or taxable turnover (TTO) by ₹45.80 crore due to non-reconciliation of gross receipts/turnover with the certified receipts/accounts, resulted in short levy of tax of ₹5.94 crore, besides interest of ₹0.62 lakh was also leviable.*
(Paragraph 2.3.10)
- *Tax on the sales of ₹183.31 crore in 22 cases were assessed at the rate of four/five per cent instead of correct rates of 12.50/13.75 per cent, resulting in short realisation of tax of ₹1.94 crore, besides interest of ₹1.58 crore was also leviable.*
(Paragraph 2.3.12)

Introduction

The Himachal Pradesh General Sales Tax (HPGST) Act, 1968 was in existence upto 31 March 2005. Thereafter, the Himachal Pradesh Value Added Tax (HPVAT) Act, 2005 and the other Acts as well as the rules framed thereunder governed the laws relating to the levy, assessment and collection of Sales Tax/VAT in the State since April 1st 2005. Besides, Central Sales Tax (CST) Act, 1956 and the rules framed thereunder are in operation for inter-state sales. A dealer registered under the repealed Act and who continued to be registered on or immediately before 1st April 2005 and liable to pay tax was deemed to be registered under the HPVAT Act. Under the HPVAT, Act and Rules made thereunder, every registered dealer is required to furnish self-assessed periodical returns in Form 'VAT-XV', a quarterly return within 30 days from the expiry of each quarter of a financial year and liable to pay tax due from him within the time specified in the tax demand notice (TDN) (not less than 15 days and not exceeding 30 days).

2.3.2 Organisational set up

Additional Chief Secretary (Excise and Taxation) is the administrative head of the department at the Government level. The Excise and Taxation Commissioner (ETC) is the head of the department (HOD) who is empowered with the work of superintendence and administration of various fiscal measures. He is assisted by the two additional ETCs, One joint ETC, six deputy ETCs, 12 Assistant Excise and Taxation Commissioners (AETCs), 69 Excise and Taxation Officers (ETOs), Excise and Taxation Inspectors (ETIs) and other allied staff in the administration of Acts/Rules in the Department.

2.3.3 Audit Objectives

The performance audit was conducted with a view to assess:

- the efficiency and effectiveness of the system of assessment under VAT;
- existence and comprehensive of adequate rules and procedures/provisions in the Act and Rules for assessments of VAT;
- compliance to the existing provision in the Act/Regulation and collection of tax revenue; and
- whether an adequate internal control and monitoring mechanism exists in the department to prevent leakage of revenue.

2.3.4 Scope of audit and methodology

The performance audit of '*System of Assessment under VAT*' covering the period 2009-10 to 2013-14 was conducted between November 2014 and June 2015 in ETC and five field offices¹ out of 12 units. The selection of these units was made by applying IDEA random sampling technique. Selection of the assessment cases was made on the basis of the Gross Turnover of the dealers *viz.* where GTO of a dealers was ₹one crore and above 100 *per cent*, above ₹50 lakh and below ₹one crore 50 *per cent* and above ₹20 lakh and below ₹50 lakh 25 *per cent*, in audit.

An entry conference was held in January 2015 with the Additional Chief Secretary, (Excise and Taxation), Government of Himachal Pradesh wherein the objectives, scope and methodology for conducting the performance audit were discussed. The draft report on performance audit was forwarded to the Department and to the Government in August 2015 and the exit conference with Additional Chief Secretary (Excise and Taxation) and the Commissioner was held in September 2015. The replies of the Government and department have been incorporated in the respective paragraphs. We acknowledge the co-operation extended by the Department in providing necessary information and records for facilitating audit.

¹ AETCs Baddi, Shimla, Nahan, Solan and Una

2.3.5 Audit Criteria

The audit criteria were derived from the following sources:

- Orders issued by the Department/Government regarding criteria for selection of cases for assessment
- HPVAT Act and Rules
- CST Act, 1956
- Notification/Circulars issued by respective State Governments and
- Judgments of various Courts

System deficiencies

2.3.6 Procedure for registration, assessment and recovery of tax revenue under HP VAT Act

A brief of provisions/system relating to Assessments of VAT under HPVAT Act, 2005 for the purpose of effecting recovery of Government dues is given in **Appendix-I**.

2.3.6.1 Registered dealers under VAT

At the time of implementation of VAT system (April 2005) in the State there were 34,602 registered dealers which rose to 62,798 dealers in 2013-14.

2.3.6.2 Non-detection of unregistered dealers

It was noticed that no provision existed in the HPVAT Act and Rules for periodic analysis of dealers below threshold limit² to prevent the unregistered dealers avoiding registration. No instruction was issued by the department in this regard. Absence of a mechanism for periodical review of dealers below threshold limit (eight lakh) keeps the option open for the unregistered dealers to evade payment of tax even after crossing the threshold limit.

The Joint ETC stated in exit conference (September 2015) that the periodical analysis of the dealers would be done on priority basis.

2.3.6.3 Non-allotment of Tax Identification Number (TIN)

As per rule 5 (4) every VAT registration certificate shall bear a unique number known as Taxpayers Identification Number (TIN) which consisting of eleven digits. TIN under VAT regime is required to be issued to all the dealers on registration. The first two digits of TIN stand for abbreviated name of State, next two-digit represents the Charge code, next four digits represent the registration number, next one digit represents the Act identification code and the remaining two are for check code.

Audit test checked the records of five AETCs (between August 2014 and March 2015) out of which in two AETCs³ it was noticed that 1,299 dealers were still holding old GST/CST registration number and had not been allotted TIN even after nine years of implementation of the VAT. These dealers were out of the

² Eight lakh and below

³ AETCs Baddi and Una

VAT database but participate in the VAT chain undetected and secured from the in-built mechanism of scrutiny in the system, therefore, possibility of evasion of tax could not be ruled out from such dealers. Audit, further, noticed that neither the RC of these dealers was suspended/cancelled nor any effort for allotment of TIN was made by the department.

The ETC admitted the audit observations in exit conference (September 2015) and apprised that the necessary directions to all the AETCs would be issued shortly to identify and issued TIN to them or canceled the RC of the dealers.

2.3.6.4 Pendency in assessment of VAT

The year wise number of cases pending for assessment at the beginning of the year, assessment due, assessment made and assessment pending at the end of each year during 2009-10 to 2013-14 were as under:-

Table 2.3

| Year | Opening balance | New cases due for assessment during the year | Total assessments due during the year | No. of cases deemed assessed | No. of cases scrutinized/ assessed | Assessment made during the year (5 + 6) | Balance at the end of the year (4 - 7) | Percentage of disposal cases (Col. 7 to 4) |
|---------|-----------------|--|---------------------------------------|------------------------------|------------------------------------|---|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 2009-10 | 72,524 | 41,382 | 1,13,906 | 4,406 | 23,146 | 27,552 | 86,354 | 24 |
| 2010-11 | 86,354 | 45,342 | 1,31,696 | 4,793 | 28,679 | 33,472 | 98,224 | 25 |
| 2011-12 | 98,224 | 48,881 | 1,47,105 | 5,182 | 30,108 | 35,290 | 1,11,815 | 24 |
| 2012-13 | 1,11,815 | 52,290 | 1,64,105 | 5,348 | 30,341 | 35,689 | 1,28,416 | 22 |
| 2013-14 | 1,28,416 | 44,497 | 1,72,913 | 8,447 | 26,298 | 34,745 | 1,38,168 | 20 |

Source: Figures supplied by the department.

It may be seen that the percentage of disposal during the year 2009-10 to 2013-14 ranged between 20 and 25 per cent.

The cases assessed were less than the new cases added in all the five years which was indicative of the inadequate capacity of the department to finalise the assessment cases in a time bound manner.

Age wise pendency of cases as on 31 March 2014 was as under:

| Sr. No. | Cases pending for finalization | Number of cases |
|--------------|--|-----------------|
| 1. | more than seven years | 3,467 |
| 2. | more than five years but less than seven years | 16,258 |
| 3. | more than three years but less than five years | 43,550 |
| 4. | upto three years | 74,893 |
| Total | | 1,38,168 |

This is indicative the fact that the department did not take effective steps to dispose of the cases in a time bound manner which resulted in piling up of the outstanding cases of assessment and blocking of Government revenue.

Addl. Chief Secretary (E&T) admitted the audit observation in exit conference (September 2015) and directed to ETC to issue the necessary directions to all the AETCs to look into the matter at their own level and deemed assessments may be increased to reduce the pendency.

2.3.6.5 Late/non-submission of returns

Under the HPVAT Act and Rules made thereunder, every registered dealer is required to furnish self-assessed periodical returns in Form VAT-XV, a quarterly return within 30 days from the expiry of each quarter of a financial year. Rule 40 (5), further, provides that every registered dealer shall also furnish an annual return for the preceding year in Form VAT-XV-A on or before 31st October next accompanying therewith a copy of final account including balance sheet, profit and loss account-cum-manufacturing/trading accounts for the year. Further, if the GTO of the dealer during the previous financial year was rupees five crore or more, he shall furnish monthly return within 30 days from the expiry of each month of a financial year. Section 16 (6) of the Act provides that if a dealer fails without sufficient cause to furnish the return by the prescribed date, the dealer shall be liable to pay penalty at the rates prescribed in the Act.

The audit obtained the information from the database of the department and noticed that penalty of ₹21.45 crore was imposed by the department to those dealers who filed their returns late and recovered only ₹3.71 crore which resulted in short recovery of ₹17.74 crore. Whereas 69,426 dealers who had not filed their annual returns, the penalty of ₹20.82 crore at the rate of ₹3,000 per annual return for the period 2011-12 to 2013-14 was not being imposed/recovered by the Department. Therefore, penalty amounting to ₹38.56 crore was not recovered by the Department as detailed in **Table 2.4**:

Table - 2.4

| Year | Total No. of dealers | No. of dealers who filed the returns | No. of returns filed late | Penalty imposed ₹ in crore | Recovery made ₹ in crore | Balance amount yet to be recovered ₹ in crore | Dealers who did not file the returns | Penalty imposed | Remarks |
|--------------|----------------------|--------------------------------------|---------------------------|-------------------------------|-----------------------------|--|--------------------------------------|---------------------------------------|--|
| 2011-12 | 49,235 | 23,136 | 29,205 | 2.50 | 0.91 | 1.59 | 26,099 | The department had not supplied data. | The amount of penalty in respect of non-filer of returns was worked out as per details below: 2011-12=₹7.83 crore 2012-13= ₹6.57 crore 2013-14= ₹6.42 crore Total = ₹20.82 crore |
| 2012-13 | 55,644 | 33,731 | 26,791 | 4.09 | 1.59 | 2.50 | 21,913 | | |
| 2013-14 | 62,798 | 41,384 | 22,218 | 14.86 | 1.21 | 13.65 | 21,414 | | |
| Total | | | 78,214 | ₹21.45 | ₹3.71 | ₹17.74 | 69,426 | 38.56 crore | (₹20.82 cr.+₹17.74 cr.) |

Source: Figures supplied by the department.

On this being pointed out (between November 2014 and June 2015), the Department admitted the audit observations in exit conference (September 2015) and stated that the penalty on late filing of returns would be made automatic through IT system and necessary instructions in this regard would be issued to all the AETCs.

2.3.6.6 Non-Scrutiny of returns

Section 21(1) of the HP VAT Act 2005 provides that the returns furnished by a dealer shall be duly acknowledged in the manner prescribed and where all the returns relating to any year have been filed and are correct and complete in material particulars, the dealer shall, subject to the provisions of sub-section (2), be deemed to have been assessed for that year, provided that where the returns are not complete in material particulars, the dealer shall be given an opportunity to complete the same within 15 days of service of the notice. As per Section 60 and Rule 44 of the HP Act/VAT Rules 2005, the scrutiny of every return filed

under Section 16 of the Act is required to be done. If, any dealer is found to have made payment of tax less than what is payable by him for the tax period as per the return furnished, the AA shall serve a notice in prescribed form to make payment of extra amount of tax.

Audit called for the information and records relating to the scrutiny of self-assessed returns from five AETCs (between January and June 2015) but these AAs did not furnish specific reply and records relating to initial scrutiny was not provided to audit. However, audit noticed from the data supplied by the department that due to non-scrutiny/partial scrutiny of periodical and annual returns at the initial stage, the objectives of the system of deemed assessment introduced for reducing the pendency was not fulfilled which resulted in accumulation of pendency from 72,524 cases at on the start of 2009-10, the number of outstanding cases rose to 1,38,168 at the end of 2013-14.

Audit, further, scrutinised the assessment records (between September and November 2014) of AETC, Shimla for the year 2013-14 and noticed that the dealer filed two annual returns alongwith different Trading and Profit and Loss Accounts for the year 2008-09 and both the returns were received in November 2009. Out of these, one account did not pertain to the dealer. Audit, further, noticed that to evade the tax, the figures of sales in the quarterly returns were tempered and removed with fluid to match with the figures of annual return furnished for suppressing the GTO/TTO of ₹13.93 lakh. The AA did not detect this mistake and finalised the assessment of the dealer (December 2013) for the period 2008-09 on the basis of tempered return. This resulted in under assessment of tax ₹2.82 lakh.

On this being pointed out (November 2014), the Department re-assessed the case (January 2015) and created an additional demand of ₹4.52 lakh after imposing 100 *per cent* penalty on the evaded amount of tax. In exit conference (September 2015), the Addl. Chief Secretary (E&T) stated that it was a serious nature of irregularity and directed the ETC to call for the explanation from the concerned AAs.

2.3.7 Delay in service of notice for assessment

Section 21 (5) of the HPVAT Act provides that if a dealer does not furnish returns in respect of any period by the prescribed date, the AA shall, within five years after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax, if any, due from the dealer. As per Rule 67, the appropriate AA shall, in each case selected for scrutiny to check where the returns are not complete and in other cases where it appears to the Appropriate AA to be necessary to make an assessment, serve a notice in Form VAT-XXIX.

Test check of the records of pending assessment cases (between January 2015 and June 2015) of five AETCs for the years 2009-10 to 2013-14 out of which in two AETCs⁴, it was found that in 73 cases notices were served to the dealers after expiry of the time limit fixed for assessment. Delay in service of notices within the prescribed time limit of five years from the assessment period ranged

⁴ AETCs Baddi and Una

between five and eight years, which resulted in assessment of these cases have becoming time barred.

The ETC admitted the audit observations in exit conference (September 2015) and apprised that the concerned AETCs would be instructed that the notices may be served to the defaulters in time so assessment of such cases finalised within the prescribed time limit to avoid the piling up of pendency.

2.3.7.2 Delay in finalizing the assessments

Test check of the records of the assessments of five AETCs (between January 2015 and March 2015) out of which in two AETCs⁵, it was noticed that in six cases there was delay ranging between five to eight years in issuing first notice for assessment for the tax period 2005-06 to 2007-08 and in other three cases, no notice was served even after a lapse of six years. The AAs had levied incorrect tax on interstate sale and allowance of concessional rate of tax against invalid forms *C & F*, which resulted in under assessment of tax of ₹1.34 crore, including interest and penalty as detailed in **Appendix-II**.

2.3.7.3 Barred Assessments

During verification of records of three Appellate Authorities⁶, in one Appellate Authority audit noticed that out of 180 test checked cases, in five cases the AAs finalized the assessments (between March 2009 and December 2012) with delay ranged between five and six years and created an additional demand (AD) of ₹22.88 lakh. All the dealers filed appeals against the orders of the AAs on the grounds that no notice was served for the assessment within the prescribed time limit of five years; hence, the assessment had become time barred by limitation. The appellate authority accepted the appeal and cases of the dealers were remanded back to the AA. A case of the dealer was remanded back on the guidelines that the dealer may be allowed to deposit tax part (₹1.34 lakh) only and the interest and penalty (₹2.32 lakh) waived off. Laxity on the part of department for not initiating assessment proceeding within five years declared the assessment of these cases barred by the limitation resulted in loss of revenue of ₹21.55 lakh.

The ETC admitted the audit observations in exit conference (September 2015) and apprised that the necessary directions to all the AETCs would be issued shortly to finalise the assessments without any delay to avoid the assessment become time barred.

2.3.8 Absence of provision of nomenclature of goods in the VAT Rules

Section 11 (1) of the HP VAT Act, 2005, provides that the input tax credit (ITC) which a purchasing registered dealer is entitled to claim, shall be the amount of input tax paid or payable by such purchasing dealer to the selling registered dealer, on the turnover of purchases made by him during the tax period. Rule 41 of the HP VAT Rules, further, stipulates that every registered dealer shall append to his return a list of sales and the list of purchases in Form LS-I as specified in return in Form VAT-XV. Form LP-I prescribed for claiming ITC does not

⁵ AETCs Baddi and Una

⁶ Mandi, Palampur and Shimla

specify the nomenclature of the goods to claim ITC. In absence of this, authenticity of ITC claimed could not be verified.

Audit test checked the records of five AETCs (between November 2014 and June 2015) and it was noticed in AETC Baddi that in four cases the dealers furnished particulars of goods in LP-I and found that these goods were not used as raw material and were also not capital goods and claimed irregular ITC on such goods.

The States of Kerala and Uttar Pradesh had assigned HSN codes (Harmonized System of Nomenclature code) to the goods specified in the Schedule for proper identification of goods, which can be replicated.

2.3.8.2 Absence of provisions in Rules for furnishing Form-I for the Assessment Period

As per notifications of July 1999 and June 2009, government had allowed concessional rate of Central Sales Tax at one *per cent* (one and half *per cent* from April 2014) of the taxable turnover of such goods manufactured for interstate sale/trade by the dealers running industrial units in HP with the condition for availing the concession was that the unit located in industrially backward areas should have employed 80 *per cent* of its total manpower amongst the bonafide Himachalis. Notification of March 2005, further, provides that the manpower percentage for bonafide Himachalis is 70 *per cent* for industrial developing areas.

Para 4 (V) of notification 1999 provides that such industrial units are required to obtain a certificate in FORM-I prescribed by the Department of Industries of the Government of HP vide Notification dated 23-07-99 where the industrial unit is registered. This FORM-I is issued for a particular year to certify that the conditions required under Rule No. 10.3 of State Industrial Policy, 2004, have fulfilled by the concerned industrial unit for availing benefit of one *per cent* concessional rate under the CST. The department issued instructions to all the AETCs in May 2014 that Form-I is not required to be furnished annually.

Audit test checked the records of AETC, Baddi and noticed that in nine cases, the assessments of the dealers/Industrial units were finalized on the basis of the certificate furnished in FORM-I which did not pertain to the year of assessment. The concerned unit had already availed the benefit of concessional rate of tax under this Form-I furnished by the dealer. Therefore, the benefit of one *per cent* concessional rate of tax under the State Industrial Policy 2004 was irregular. Thus, the concessional rate of tax of ₹1.40 crore allowed to these industrial units without fulfilling the above requirement resulted in under assessment of CST of ₹1.40 crore on the turnover of ₹139.62 crore as in such cases normal rate of tax as applicable against form C was to be levied.

The Addl. Chief Secretary (E&T) admitted the audit observations in exit conference and stated that to watch the position of Himachal domicile employees, a letter is being issued to the Industries Department that the FORM-I once issued will be valid till withdrawal by the Industries department. The reply of the department is not acceptable as it was in contravention of the provisions of the Government notifications dated 30 March 2005 and 18 June 2009. The Form-

I should be issued by the Industries Department annually, only after verifying the percentage of Himachalis employees employed in the unit, to avoid wrong benefit of the exemption.

2.3.8.3 Absence of provision in the Act for allowing deduction of Job work

The HP VAT Act does not provide any mechanism for allowing deduction of job work receipt/charges from the GTO. Even in the prescribed format of Monthly/Quarterly and Annual Returns, no separate column exists to depict Job work receipt/charges. In such type of cases, provision for allowing deduction of labour charges to work contractors is applied by the AA and deduction of job work charges is allowed to the selling registered manufacturing dealers from the Gross turnover.

Audit test checked the records of five AETCs (between November 2014 and June 2015) out of which in two AETCs⁷ it was noticed that the job work-manufacturing units also manufactured goods for sale, and furnish consolidated Manufacturing, profit and Loss Account of their sale, purchase, and job work charges received during the assessment year. The said consolidated account did not specify that how much material was manufactured from the raw material received for job work and how much material manufactured for sale through purchases made during the year. Audit, further, noticed that in eight cases, the documents relating to receipt of job work charges, receipt of job work material for processing and copy of agreements for job work were not available in the record file of the dealer. In the absence of the exact provision of the Act, deduction of job work charges of ₹15.35 crore in eight cases were allowed by the AA from the Gross Turnover reported to the Department and the tax deduction on account of job work receipt claimed by the dealer in such cases could not be verified.

The ETC stated in exit conference (September 2015) that the matter would be looked into and outcome if any, intimated to audit accordingly.

2.3.8.4 Absence of mechanism to verify the tax deposited before allowing ITC

Under the HP VAT Act, a registered dealer is entitled to claim benefit of ITC to the extent of amount of tax paid by him to the local VAT dealers. The Act does not provide for submission of tax invoices along with the return. List of purchases (LP-I) furnished alongwith the return do not contain details relating to deposit of tax in the treasury by the selling dealer.

Audit scrutinised the information collected from the department (June 2015) and noticed that the Flying Squad (South Zone), Parwanoo, HP during their inspection (between September 2014 and February 2015) had detected 11 dealers based at Baddi, Solan, Kala-Amb and Parwanoo who were making fictitious sales and purchases with intention to defraud the state exchequer and making false ITC claim by issuing fake sale bills to the purchasing dealers. Scrutiny of information, further, showed that in these cases the AA concerned had denied the ITC of ₹3.05 crore including interest of ₹62.93 lakh claimed on the purchases of ₹33.38 crore during 2011-12 to 2014-15 by these dealers.

⁷ AETCs Baddi and Una

On being pointed out (June 2015) the ETC intimated (September 2015) that out of ₹3.05 crore, an amount of ₹1.77 crore had been recovered.

The Joint ETC in exit conference (September 2015) stated that the process for deducting the dealers who were making the fictitious sale and purchase would be continued and AAs will also be directed to do so.

2.3.8.5 Deficiencies in the HPVAT, IT system software

The Government of India through Empowered Committee (EC) of State Finance Ministers is assisting the Excise and Taxation Department of the State of Himachal Pradesh in computerisation of the HP VAT and Allied Taxes processes. The main aim of the project is to provide electronic services to the taxpayers as well as tax administrators.

Audit noticed that the database maintained by the department was incomplete and following deficiencies in the IT system of VAT applications were noticed.

- i. The dealer wise categorization according to the trade (manufacturer, traders and dealers who fall in lump sum scheme) was not displayed by the system.
- ii. System did not display alert through pop-up of return/tax defaulters.
- iii. System did not block TIN access of tax/return defaulters.
- iv. Online notices were not served to dealers relating to rectification of errors in the returns filed and amount of tax due to be paid by them.

2.3.8.6 Deficiencies noticed in the database

- i. Dealer wise information relating to the updated position of the finalization of assessment was not available.
- ii. Data/information relating to pendency in finalization of assessment cases was not available.
- iii. The system did not display dealer wise information of tax arrears.

The Joint ETC stated in exit conference (September 2015) that the IT system was being updated accordingly as per the requirement of the department and all aspects would be covered in this.

Compliance Deficiencies

The AAs while finalising the assessments did not observe some of the provisions of the Act/Rules in some cases as mentioned in the succeeding paragraphs:

2.3.9.1 Irregular allowance of ITC

Under Section 11 (3) of the HPVAT Act 2005, ITC shall be allowed to the extent of the amount of input tax paid by the purchasing dealer on the purchase of taxable goods made by him in the State, from a registered dealer holding a valid certificate of registration. As per notification of May 2007, the amount of ITC shall be admissible to a dealer on the purchase value of the goods sold by him during the tax period.

Test check of the records of five AETCs⁸ (between April 2014 and March 2015) showed that the AAs while finalizing the assessments (between May 2013 and July 2014) for the periods 2007-08 to 2012-13 of 31 dealers, allowed ITC by adopting different methods. However, on the basis of proportion of local purchases to the total purchases, closing stock of these dealers were aggregated to ₹47.89 crore during the tax periods out of intra-state purchases made from the registered dealers during those years on which no ITC was allowable. The AAs while allowing ITC of ₹27.10 crore on closing stocks had also deferred the tax liability of the dealers to that extent which was otherwise recoverable for the tax periods on the date of assessment. This resulted in irregular allowance of ITC of ₹1.60 crore⁹, besides interest of ₹0.43 crore was also leviable.

On being pointed out, the ETC intimated (September 2015) that out of ₹2.03 crore, an amount of ₹1.26 crore¹⁰ including interest had been recovered by three AETCs and efforts were being made to recover the balance amount.

2.3.9.2 Wrong allowance of ITC on branch transfer/consignment

Under section 11(4) of the HPVAT Act, 2005, the ITC shall be allowed only to the extent by which the amount of input tax paid in the State exceeds four *per cent* on purchases of goods sent outside the state otherwise than by way of sale as branch transfer or consignment sale in the course of inter-state trade or commerce.

Test check of the records of five AETCs, out of which in four AETCs¹¹ it was noticed that 14 dealers had made branch transfer of goods valued at ₹94.37 crore during the years 2007-08 to 2011-12. The AA while finalising (between May 2013 and March 2014) the assessments of these dealers did not disallow ITC on stock transfer as provided under the provisions of the Act *ibid*. This resulted in excess allowance of ITC of ₹94.11 lakh¹², besides interest of ₹92.00 lakh was also leviable.

2.3.9.3 Allowance of ITC on manufacturing/sale of tax-free goods

As per the Section 11(7) of the HP VAT Act, a purchasing dealer shall claim no ITC and this shall not be allowed to him for tax collected on the purchase of goods used in the manufacture, processing, or packing of goods, declared tax free.

Audit test checked the assessment records of five AETCs (between November 2014 and March 2015) out of which in two AETCs¹³, it was noticed that while finalising the assessment of two dealers (between May 2013 and January 2014) the AAs assessed GTO of ₹19.32 crore including tax free turnover of ₹1.88 crore and allowed ITC of ₹39.32 lakh on the purchases for the tax periods 2010-11 and 2011-12 against the allowable ITC of ₹35.75 lakh allowable after deducting

⁸ AETCs Baddi, Sirmour, Shimla, Solan and Una

⁹ AETCs Baddi (11 dealers: ₹30.74 lakh), Sirmour (one dealer: ₹1.08 lakh), Shimla (one dealer: ₹105.62 lakh), Solan (14 dealers: ₹20.10 lakh) and Una (four dealers: ₹2.78 lakh)

¹⁰ AETCs Shimla: ₹1.10 crore, Solan: ₹14.05 lakh and Una: ₹2.04 lakh

¹¹ AETCs Baddi, Sirmour, Solan and Una

¹² AETCs Baddi (four dealers: ₹2.07 lakh), Sirmour (four dealers: ₹10.24 lakh), Solan (five dealers: ₹81.70 lakh) and Una (one dealer: ₹0.10 lakh)

¹³ AETCs Shimla and Una

credits on goods utilised for manufacturing of tax-free goods, resulted in excess ITC of ₹3.58 lakh, besides interest of ₹2.27 lakh was also leviable.

On this being pointed out, the Department intimated (September 2015) that out of ₹5.85 lakh, an additional demand of ₹4.42 lakh including interest had been created of which ₹1.65 lakh recovered by AETC Una and efforts were being made to recover the balance amount. AETC Shimla had not furnished any reply.

2.3.9.4 Excess allowance of ITC on incorrect calculation/computation

As per Section 16 (8) of the HPVAT Act, 2005, if a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stocks of goods or has furnished false or incorrect returns or information, the AA may direct him to pay by way of penalty in addition to the tax to which he is assessed or is liable to be assessed, an amount which shall not be less than twice the amount of tax assessed.

Audit test checked assessment records of five AETCs (between April 2014 and March 2015) and noticed that 26 dealers had claimed excess ITC of ₹4.74 lakh in 30 cases for the tax periods from 2005-06 to 2011-12, by incorrect calculation/computation of the ITC in their returns. The AAs while finalising the assessment of these dealers (between April 2013 and April 2014) did not scrutinise the return properly and allowed ITC as claimed by the dealers. This resulted in under assessment of tax of ₹4.74 lakh. Besides, interest of ₹3.00 lakh and penalty not less than twice the amount of tax was also leviable.

On this being pointed out, the Department intimated (September 2015) that an amount of ₹1.50 lakh¹⁴ including interest had been recovered by four AETCs, and ETC also in exit conference apprised that the necessary direction would be issued to the concerned AAs to look into the matter at their own level and recover the balance amount from the dealers.

2.3.10 Incorrect determination of turnover

Under Section 2(v) (zd) of the HPVAT Act 2005, 'turnover' means aggregate amount of sales, purchases and parts of sales and purchases made by any dealer and includes any sum charged on account of freight, storage, demurrage, insurance and for anything done by the dealer in respect of the goods at the time of or before delivery thereof.

Audit test checked the records of five AETCs (between April 2014 and March 2015) and noticed that AAs while finalising the assessments of 17 dealers for the periods 2007-08 to 2012-13 (between April 2013 and March 2014), assessed GTO at ₹505.25 crore as against ₹651.05 crore. Audit, further, noticed that AAs did not take cognizance of either of gross receipts/turnover determined lesser by 29 challans or assessed on lower side to that of certified receipts/accounts whereas in some other cases either turnover was taken lesser than the actual work done by the contractor. This resulted in short levy of tax of ₹5.94 crore. Besides, interest of ₹50.62 lakh was also leviable.

¹⁴ AETCs Baddi: ₹ 0.02 lakh, Shimla: ₹0.71 lakh, Solan: ₹0.67 lakh and Una: ₹0.10 lakh

On this being pointed out, the Department intimated (September 2015) that an amount of ₹1.11 lakh including interest had been recovered in three cases and the ETC apprised in exit conference (September 2015) that the necessary direction would be issued to the concerned AAs to look into the matter at their own level and recover the amount from the dealers.

2.3.11 Suppression of Purchase/Sales

As per Section 16 (8) of HP VAT Act, if a dealer has maintained false or incorrect accounts with a view to suppress his sales or purchases, he is liable to pay by way of penalty (in addition to the tax to which he is assessed or is liable to be assessed) an amount equal to twice the amount of tax to which he is assessed or is liable to be assessed.

Audit test checked the assessment records of four AETCs (between June 2014 and August 2014) for the tax period 2008-09 to 2012-13 and noticed that in 10 cases, dealers have maintained incorrect accounts and suppress their sales or purchases. Audit, further, noticed that neither any sale was made against these suppressed purchases nor were disclosed correctly in the Trading Account. The AAs while finalising the assessments (between May 2013 and February 2015) did not levy tax and penalty on the suppressed turnover of purchases which resulted in short levy of tax of ₹14.32 lakh, besides, interest/penalty of ₹13.43 lakh was also leviable detailed in **Appendix-III**.

2.3.12 Application of incorrect rate of tax

As per Schedule-A under Section 6 of HP VAT Act, 2005, tax is leviable on sales made by a dealer. Schedule-A, further, provides that tax shall be levied at the prescribed rates at every point of sale in respect of goods specified therein.

Audit test check of the records of five AETCs (between April 2014 and March 2015) out of which in three AETCs¹⁵ it was noticed that in 22 cases, 11 dealers had made intra-state sales of ₹183.31 crore during the years 2005-06 and 2012-13 which was taxable at the rate of 12.5 or 13.75 *per cent*. The AAs while finalizing the assessments (between April 2013 and June 2014) of 22 cases, had assessed the sales at the rate of four or five *percent* instead of correct rates of 12.50 or 13.75 *percent*. These omissions resulted in short realisation of tax of ₹1.94 crore¹⁶, besides, interest of ₹1.58 crore was also leviable.

2.3.13 Short realisation of interest

As per Section 19 (1) of the HP VAT Act 2005, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues. Section 19 (2) of the act *ibid* further, provides that if the amount of tax or penalty due from a dealer 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 dealer shall, in addition to the amount of tax or penalty, be liable to pay simple interest on such

¹⁵ AETCs Baddi, Sirmour and Solan

¹⁶ AETCs Baddi (four dealers: ₹7.05 lakh), Sirmour (three dealers: ₹131.41 lakh) and Solan (four dealers: ₹55.82 lakh)

amount at the rate of one *per cent* for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues.

Audit test checked the assessment records of five AETCs out of which in two AETCs¹⁷ it was noticed (between July 2014 and March 2015) that the AAs, while finalising the assessments of 34 dealers (between October 2012 and March 2014) for the years 2007-08 and 2011-12, created tax demand of ₹1.49 crore and levied interest of ₹0.16 crore against the leviable interest of ₹1.05 crore on the additional demands of these dealers, resulted in short levy of interest ₹88.74 lakh.

On this being pointed out, the Department intimated (September 2015) that out of ₹88.74 lakh, ₹18.16 lakh had been recovered from five dealers and efforts were being made to recover the balance amount.

2.3.14 Internal Control

2.3.14.1 Internal Audit System

Internal Audit Wing (IAW) of an organisation is vital wing for monitoring its functioning. It helps the management to take corrective action wherever necessary to ensure that systems are functioning reasonably well and stated objectives are achieved. Internal Audit Branch has been set up under the Finance Department in the office of the ETC which is required to conduct internal audit in various field offices of the department.

Audit called for the information (July 2015), the department intimated that internal audit wing (IAW) attached to the office of the Commissioner consists six post of Section Officers (F&A), out of which three SOs were in position and one junior auditor working against the post of SO. Two posts of SOs were lying vacant. The internal audit required and actually conducted by the IAW during the years 2009-10 to 2013-14 is mentioned in the **Table - 2.5** below:

Table - 2.5
Inspection Reports (IRs) and para wise details of audit conducted by the IAW

| Year | No. of units required to be audited | No. of units audited by IAW | No. of units pending for audit by IAW | No. of IR and Paras pending at the beginning of the year | | No. of IR and Paras added during the year | | Total No. of IR and Paras during the year | | No. of IR and Paras settled during the year | | No. of IR and Paras outstanding at the end of year | |
|---------|-------------------------------------|-----------------------------|---------------------------------------|--|-----|---|----|---|-----|---|----|--|-----|
| 2009-10 | 11 | 0 | 11 | 94 | 731 | 0 | 0 | 94 | 731 | 0 | 0 | 94 | 731 |
| 2010-11 | 11 | 8 | 3 | 94 | 731 | 08 | 58 | 102 | 789 | 03 | 46 | 99 | 743 |
| 2011-12 | 13 | 5 | 8 | 99 | 743 | 05 | 51 | 104 | 794 | 02 | 17 | 102 | 777 |
| 2012-13 | 13 | 9 | 4 | 102 | 777 | 09 | 85 | 111 | 862 | 02 | 15 | 109 | 847 |
| 2013-14 | 13 | 1 | 12 | 109 | 847 | 01 | 07 | 110 | 854 | 01 | 03 | 109 | 851 |

Source: Figures supplied by the department.

A perusal of the information furnished by the department showed that out of 11/13 auditable units, only 1 to 9 units were audited each year from 2009-10 to 2013-14. There were 94 IRs and 731 paras outstanding at the beginning of 2009-10 which rose to 109 IRs and 851 paras at the end of 2013-14. This shows

¹⁷ AETCs Baddi and Sirmour

that the internal audit system prevailing in the department was not providing reasonable assurance on the adequacy of the safeguards against evasion of tax.

2.3.14.2 Non-maintaining of Demand and Collection Register

As per Rule 42 of HP VAT Rules 'Demand and collection Register' (DCR) was required to be maintained by each Assessing Authority in Form VAT-XVII containing the details of payment of tax, penalty, interest, lump sum by way of composition, other amount, input tax carried over by dealers to watch, submission of returns and payment of tax.

Audit test checked the records (between November 2014 and June 2015) of five AETCs and noticed that neither the DCR was being maintained in these units nor any record to indicate the opening balance, receipts and clearance of the assessment during a particular year/quarter was available in the department. In the absence of DCR, the department was not able to track the submission of returns and payment of tax.

2.3.14.3 Incorrect maintenance of database of assessed cases

Audit test checked the assessment records (between January 2015 and March 2015) for the year 2013-14 of five AETCs and noticed that in AETC, Baddi, the AA had finalized the assessment of a dealer¹⁸ for the period 2003-04, 2004-05 and 2005-06, in March 2010 and created an additional demand (AD) of ₹1,872/- under VAT and ₹19,371/- under CST and same had been deposited by the dealer in April 2010. Audit, further, noticed that the ex-parte assessment for the above periods was again finalised in March 2014 and created an AD of ₹36.22 lakh under VAT and ₹42.42 lakh under CST. This shows the incorrect maintenance of records which resulted in assessment of a dealer for the same assessment period twice, by the AA.

Similarly, in AETC, Baddi, audit, further, noticed that in two cases¹⁹ un-signed assessment orders for the year 2005-06 to 2008-09 were kept in the dealer's file. The assessment of these cases had been finalized by the AA (between August 2013 and March 2014) and additional demand of ₹1.46 crore created. This aspect could not be ascertained in audit whether the assessment orders of these cases had been passed and Tax Demand Notice (TDN) for created demand issued or not. This was also not entered in the disposal register. This shows the lack of monitoring and updating the records at AA level, resulting in non-completion of assessment.

The ETC admitted the audit observations in exit conference and apprised that both assessments of a dealer would be examined and why this irregularity had been arisen, the records of this case would be called for.

2.3.15 Non-filing of monthly returns

As per Rule 40 (1) of HP VAT rules, 2005 every registered dealer whose GTO during the preceding financial year was rupees five crore or more shall furnish the return monthly within 30 days from expiry of each month of a financial year.

¹⁸ M/s Crete Industries, Nalagarh

¹⁹ M/s Nemat Enterprises, Nalagrah and M/s Chowksy Chemicals Pvt. Ltd. Nalagarh

Section 16 (6) of the HP VAT Act, provides that if a dealer fails without sufficient cause to furnish the return, he shall be liable to pay penalty at the prescribed rates.

2.3.15.1 Audit test check of the assessment records of five AETCs (between January 2015 and May 2015) and noticed that the AAs finalized (between December 2008 and February 2015) the assessments of 55 dealers for the period 2006-07 to 2013-14. The GTO of these dealers during the preceding financial year was more than the rupees of five crore and they did not furnish monthly return of the concerned financial year. Audit, further, noticed that scrutiny of return was not performed properly and the AAs did not impose penalty on non-filing of monthly return of these dealers. This resulted in non-imposing of penalty of ₹24.93 lakh.

On this being pointed out, the Department intimated (September 2015) that out of ₹24.93 lakh, an amount of ₹0.66 lakh including interest had been recovered from five dealers by AETCs Baddi and Sirmour and efforts were being made to recover the balance amount.

2.3.15.2 Audit, further, noticed that 43 dealers did not file their monthly returns on due date and paid the due amount of tax by delay of 12 months. The AAs neither scrutinised the returns properly nor levied interest and penalty on belated submission of returns. This resulted in non-levy of interest of ₹21.22 lakh. Besides, penalty of ₹66.33 lakh was also leviable.

On this being pointed out, the Department intimated (September 2015) that out of ₹21.22 lakh, an amount of ₹3.09 lakh had been recovered from the dealers and the Addl. Chief Secretary (E&T) in exit conference (September 2015) directed the ETC to issue the necessary instructions to all the AETCs to frame at least five on-line assessments by 30th November 2015 and all the AETCs may be directed to issue the notices to the dealers to submit their monthly returns on-line.

2.3.16 Conclusion and Recommendations

- VAT is an important source of revenue of the State Government. No instruction was issued by the department for periodic analysis of dealers below threshold limit (eight lakh) to prevent the unregistered dealers avoiding registration. Absence of this mechanism keeps the option open for the unregistered dealers to evade payment of tax even after crossing the threshold limit.

The Government may set-up a mechanism to monitor regularly turnover of the unregistered dealers to ensure that the dealers who cross the threshold limit (eight lakh) are brought under the tax net.

- The non-disposal of the assessment cases in a time bound manner resulted in piling up of the outstanding cases of assessment and blocking of government revenue.

The Government may formulate an effective action plan and evolve a mechanism to monitor finalisation of assessments cases timely.

- Form LP-I prescribed for claiming ITC does not specify the nomenclature of the goods to claim ITC. In absence of this, authenticity of ITC claimed could not be verified.

The Government may consider introducing the system of HSN codes to ensure that undue ITC claims of dealers are not admitted.

- List of purchases (LP-I) furnished alongwith the return do not contain details relating to deposit of tax in the treasury by the selling dealer.

The Government may insert an additional column (s) for recording essential details/information like amount of tax deposited, date and number of treasury challans/bank draft/cheque etc. in the LP-I to ensure genuineness and correctness of the tax deposited by the selling dealers while allowing ITC.

- Delay in service of notices within the prescribed time limit of five years from the assessment period ranged between five and eight years. This resulted in assessment of these cases becoming time barred.

The Government may put in place a suitable mechanism to ensure that notices for assessment are served in time so that these cases do not become time barred.

Other audit observations**2.4 Application of incorrect rate of tax**

The AAs had applied incorrect rate of tax of one per cent instead of correct rate of two per cent to 10 dealers during the intervening period of notifications resulted in short realisation of tax of ₹15.22 lakh.

As per the provisions of CST Act, 1956, the concessional rate of tax of one *per cent* was applicable on inter-state sales made by a manufacturer of Himachal Pradesh up to 31 March 2009. The concessional rate of tax of one *per cent* was further, allowed vide notification dated 18 June 2009 with immediate effect. Thus, inter-state sale made by a manufacturing unit between 01 April 2009 and 17 June 2009, was taxable at prevailing rate i.e. at the rate of 2 *per cent* under the CST Act.

Audit noticed from the records of two AETCs between October 2013 and January 2015 that 10 dealers had made inter-state sales for the tax period 2009-10 taxable at the rate of one *per cent* and during the period 01 April 2009 to 17 June 2009 at the rate of two *per cent*. But the AAs while finalising these assessments between May 2012 and July 2014, had assessed the sales at the rate of one *per cent* for whole of the year. Thus, application of incorrect rate of tax during the intervening period of notifications resulted in short realisation of tax of ₹15.22 lakh²⁰.

On this being pointed out, the ETC intimated (September 2015) that out of ₹15.22 lakh, an amount of ₹8.81 lakh had been recovered and efforts were being made to recover the balance amount.

Audit reported the matter to the Government in January 2015; their replies have not been received (December 2015).

2.5 Acceptance of invalid, duplicate and defective statutory forms

Acceptance of invalid, duplicate and defective statutory forms 'C' by the AAs and allowing exemption/concessional rate of tax resulted in short levy of tax of ₹18.18 lakh in nine cases on which interest of ₹20.19 lakh was also leviable.

The Form-‘C’ is issued by a purchasing dealer in two copies. The copy marked ‘original’ is enclosed by the selling dealer with his return and the copy marked ‘duplicate’ is retained by purchasing dealer in his records. It has also been judicially held²¹ that production of original copy of Form-‘C’ for claiming concessional rate of tax is mandatory to prevent the form being misused for the commission of fraud and collusion with a view to evade payment of tax. Besides, interest at the prescribed rates is also leviable on the unpaid amount of tax.

²⁰ AETCs Kangra: one dealer: ₹0.96 lakh and Nurpur: Nine dealers: ₹14.26 lakh

²¹ Commissioner Sale Tax v/s M/s Prabhu Dayal Prem Narayan (1988) 71 STC (SC) and Delhi Automobiles Pvt. Ltd. v/s Commissioner of Sales Tax (1997) 104 STC 75 (SC)

Audit scrutiny of the records of four AETCs (between April 2014 and April 2015) showed that while finalising the assessments of nine dealers between June 2013 and March 2014 for the tax periods 2006-07 to 2011-12, the AAs irregularly allowed concessional rate of tax on interstate sales valued at ₹3.83 crore without verifying the declaration Forms-'C' produced in support of the transactions which were either duplicate/incomplete/defective copies or found not on record as detailed in **Appendix-IV**. These forms were liable to be rejected at the time of assessment. Non-rejection of the forms resulted in short levy of tax of ₹18.18 lakh²² on which interest of ₹20.19 lakh was also leviable.

On this being pointed out, the Department intimated (October 2015) that an amount of ₹15.22 lakh²³ (including interest of ₹6.04 lakh) had been recovered by two AETCs from four dealers.

2.6 Wrong allowance of concessional rate of tax

The AAs had applied concessional rate of tax of one per cent on inter-state sale of ₹36.72 crore to a manufacturing unit instead of applicable rates of 2 per cent as the beneficiary had not furnished complete Form-I. This resulted in under assessment of tax of ₹22.08 lakh, besides interest of ₹13.25 lakh was also leviable.

The Excise and Taxation Department, Government of Himachal Pradesh vide notifications dated July 1999 and June 2009 had allowed concessional rate of Central sales tax at one *per cent* of the taxable turnover of such goods manufactured for inter-state sale/trade by the dealers running industrial units in Himachal Pradesh which are registered with Excise and Taxation Department of HP Government. One of the conditions for availing the concession was that the unit located in industrially backward areas should have employed 80 *per cent* of its total manpower from amongst the bonafide Himachalis.

Audit test checked the assessment records of AETC Solan and noticed that the AA finalised (May 2013) the assessment of one manufacturing unit²⁴ for the years 2010-11 to 2011-12 and applied the concessional rate of tax of one *per cent* on inter-state sale of ₹36.72 crore. The industrial unit located in industrially backward area, however, produced certificate in Form-I in which position of employed bonafide Himachalis ascertained was left blank. Audit noticed that Industry Department issued this Form-I in the year 2007-08 and the same was utilized to avail concessional rate of tax for above period also. Thus, allowance of concessional rate of one *per cent* to the unit instead of applicable rates of 2 *per cent* on incomplete form resulted in under assessment of tax of ₹22.08 lakh, on which interest of ₹13.25 lakh was also leviable.

Audit reported the matter to the Department and the Government in August 2014; their replies have not been received (December 2015).

²² AETCs Chamba (one dealer: ₹0.68 lakh), Nurpur (one dealer: ₹3.92 lakh), Solan (six dealers: ₹13.34 lakh) and Una (one dealer: ₹0.24 lakh)

²³ AETCs Solan (three dealers: ₹15.17 lakh) and Una (one dealer: ₹0.05 lakh)

²⁴ M/s Dev Resins Pvt. Limited

2.7 Excess allowance of labour charges

Excess deduction of ₹2.75 crore from the GTO on account of labour charges by the AAs resulted in under assessment of tax of ₹13.74 lakh in two cases, besides interest of ₹6.92 lakh was also leviable.

Rule 69 (2) of HPVAT Act, 2005 provides that where the labour charges are not determinable from the accounts of the works contractors or are considered unreasonably high in consideration of the nature of the contract, the deductions towards labour charges shall be allowed by the AAs according to limits prescribed in column (3) for the type of contract specified in column (2) of the table of the Rules *ibid*.

Audit noticed (March 2015) from the assessment records of AETC Chamba that AAs while finalising the assessments of two dealers in September 2013 for the tax period 2011-12 to 2012-13, allowed the deduction of ₹4.65 crore from the Gross Turnover on account of labour charges as claimed by the dealer, against the admissible deduction of ₹1.90 crore. The AAs had not mentioned any basis for allowance of excess labour charges of more than 25 per cent. Thus, excess allowance of ₹2.75 crore on account of labour charges resulted under assessment of tax of ₹13.74 lakh, besides interest of ₹6.92 lakh was also leviable.

Audit reported the matter to the Department and the Government in March 2015, the ETC intimated (September 2015) that notices had been issued to the dealers and the cases were under process. The reply of the Government has not been received (December 2015).

2.8 Allowance of Input Tax Credit (ITC)

2.8.1 Irregular allowance of ITC

Application of wrong method for calculating deferred tax liability on the closing stock resulting in irregular allowance of ITC of ₹1.59 crore in 58 cases, besides interest of ₹0.51 crore was also leviable.

As per section 16 (8) of the HP VAT Act, 2005 as amended, *inter-alia*, provides that if a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stocks of goods or has concealed any particulars of his sales or purchases or has furnished to, produced before, any authority under this Act or rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any person appointed to assist him under sub-section (1) of Section 3 may, after affording such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the tax to which he is assessed or is liable to be assessed, an amount which shall not be less than twice the amount of tax to which he is assessed.

Scrutiny of the records between October 2013 and March 2015 of three AETCs²⁵ showed that AAs assessed the annual returns of 52 dealers for the tax periods 2008-09 to 2012-13 and allowed ITC by adopting different methods. On the

²⁵ AETCs Bilaspur (one dealer: ₹4.28 lakh), Chamba (25 dealers: ₹23.29 lakh), Kangra (2012-13) (14 dealers: ₹34.28 lakh) and Kangra (2013-14) (12 dealers: ₹38.68 lakh)

basis of proportion of local purchases to the total purchases, closing stock of these dealers were aggregated to ₹33.90 crore during the tax periods out of intra-state purchases made from the registered dealers during those years on which ITC was not allowable. The AAs while allowing ITC of ₹1.01 crore on closing stock had also deferred the tax liability of the assesseees which was otherwise recoverable for the tax periods on the date of assessment. This resulted in irregular allowance of ITC amounting to ₹1.01 crore.

The matters were reported to the Department and the Government between September 2014 and March 2015; the ETC intimated (October 2015) that AETCs, Bilaspur, Chamba and Kangra had recovered an amount of ₹28.32 lakh including interest of ₹4.61 lakh (December 2015).

2.8.2 ITC on sale of tax free goods

Section 11(7) of the HP VAT Act, provides that no ITC shall be claimed by a purchasing dealer and this shall not be allowed to him for tax collected on the purchase of goods used in the manufacture or processing or packing of goods, declared tax free under Section 9.

Test check of records of AETCs Kangra and Nurpur between October 2013 and January 2015, showed that AAs had assessed the cases of four dealers at the GTO of ₹121.86 crore including tax-free turnover of ₹14.92 crore for the tax period between 2008-09 and 2011-12. Audit, however, noticed that AAs disallowed the ITC of ₹3.32 lakh against the actual disallowance of ₹32.21 lakh on sales of tax free goods, resulted in excess allowance of ITC of ₹28.89 lakh²⁶ on which interest of ₹23.20 lakh was also leviable.

2.8.3 Wrong allowance of ITC on branch transfer

Section 11(4) (a) of the HP VAT Act, 2005 provides that notwithstanding anything contained in sub-section (3), the ITC shall be allowed only to the extent by which the amount of input tax paid in the State exceeds 4 *per cent* on purchases of goods sent outside the state otherwise than by way of sale in the course of inter-state trade.

Audit scrutiny of assessment records between November 2014 and January 2015 of the AETCs, Nurpur showed that AAs while finalising the assessments of two dealers for the tax period 2008-09 and 2009-10, had not disallowed ITC ₹29.85 lakh on stock transfer as provided under the provisions of the Act *ibid*. This resulted in short realisation of revenue of ₹29.85 lakh, besides interest of ₹28.28 lakh was also leviable.

On this being pointed out, the AETCs stated that after going through the concerned records, the reply would be furnished.

The matters were reported to the Department and the Government between September 2014 and March 2015; reply has not been received (December 2015).

²⁶ AETCs Kangra (three dealers: ₹23.10 lakh) and Nurpur (one dealer: ₹5.79 lakh)

CHAPTER-III
STATE EXCISE

CHAPTER-III STATE EXCISE

3.1 Tax administration

The Additional Chief Secretary (Excise and Taxation) is the administrative head at Government level. The Department is headed by the Excise and Taxation Commissioner (ETC). The Department has divided in three Zones¹ which are headed by the Additional ETC (South Zone), Deputy ETCs of North Zone and Central Zone. Besides, 22 Excise and Taxation Inspectors under the control of the Assistant Excise and Taxation Commissioners (AETCs) of the respective districts, are deputed to oversee and regulate levy/collection of excise duties and allied levies.

3.2 Results of audit

In 2014-15, test check of the records of 10 units out of 12 units relating to state excise duty, showed non/short realisation of excise duty/license fee/interest/penalty and other irregularities involving ₹24.23 crore in 76 cases as given below:

Table 3.1

| | | | ₹ in crore |
|--------------|---|-----------------|--------------|
| Sr. No. | Categories | Number of cases | Amount |
| 1. | Non/short realisation of excise duty | 10 | 2.70 |
| 2. | Non/short recovery of license fee/interest/penalty etc. | 42 | 8.11 |
| 3. | Other irregularities | 24 | 13.42 |
| Total | | 76 | 24.23 |

During the course of the year, the Department accepted underassessment and other deficiencies of ₹14.00 crore in 78 cases, which were pointed out in earlier years out of which an amount of ₹3.22 crore was realised in 62 cases of which ₹2.28 crore in 48 cases pertain to earlier years and ₹0.94 crore in 14 cases for the year 2014-15.

A few illustrative cases involving ₹9.01 crore are discussed in the following paragraphs.

3.3 Non-levy of additional fee on short lifting of Minimum Guaranteed Quota

Additional fee payable for short lifting of 16,17,994 pls of liquor during 2013-14 by 725 vends were not demanded by the concerned AETCs, resulting in short recovery of additional fee amounting to ₹3.24 crore, out of which ₹50.28 lakh has been recovered after being pointed out by audit.

The Minimum Guaranteed Quota (MGQ) of Country Liquor (CL), Foreign Spirit Indian Made Foreign Spirit (IMFS) and Imported Foreign Spirit (IFS) both bottling in India and bottling in original is fixed in proof litres (pls) by the

¹ South Zone (Shimla, Solan, Sirmour, Kinnaur and Spiti area), North Zone (Chamba, Kangra and Una) and Central Zone (Bilaspur, Hamirpur, Kullu, Lahaul area and Mandi)

Government for the State. It is further allotted for each vend at the District level by the respective Assistant Excise and Taxation Commissioner of the district.

Para 4.3 of the Excise Announcement 2013-14 provides that licensee shall be required to lift cent *per cent* monthly Minimum Guaranteed Quota (MGQ) as fixed for each vend failing which he shall still be liable to pay license fee fixed on the basis of the MGQ. In addition, the licensee shall also be liable to pay additional fee at the rate of ₹20 per proof litre (PL) on un-lifted quota, which falls short of the MGQ. The AETC/ETO shall review the position of lifting of MGQ every month if the licensee is failed to lift the monthly MGQ, he shall proceed to recover the additional license fee.

Audit test checked the M-2 registers² between June 2014 and February 2015 of seven AETCs³ and noticed that licensees of 725 vends of 224 units had lifted 86,09,857 proof litre (pls) of liquor against the monthly MGQ of 102,27,851 pls which was short by 16,17,994 pls during 2013-14 for which an additional fee of ₹3.24 crore though payable was not demanded by the concerned AETCs. The mistake escaped the notice of the Excise and Taxation Commissioner also, to whom the 'Annual Lifting and Consumption Statements' were furnished with returns.

On this being pointed out, the ETC, Shimla intimated (August 2015) that out of ₹3.24 crore, an amount of ₹50.28 lakh⁴ had been recovered by the five AETCs from the licensees of 79 vends and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and March 2015; their replies have not been received (December 2015).

3.4 Short recovery of license fee

The Department could recover license fee of ₹12.83 crore only against the recoverable license fee of ₹17.25 crore during the year 2013-14, from the licensees of 28 vends, resulting in short recovery of license fee amounting to ₹4.42 crore, besides, interest of ₹46.81 lakh was also leviable.

The State excise authorities grant licenses for sale of various kind of liquor in State for which the licensee is required to pay annual license fee based on monthly Minimum Guaranteed Quota of liquor fixed at the prescribed rates. Para 4.4 (a) (b) and (c) of the Excise Announcement 2013-14 provides that the annual license fee of a particular vend shall be predetermined based on the Minimum Guaranteed Quota of liquor fixed for vend for whole of the year on the prescribed rates of license fee. The license fee shall be divided into 12 monthly instalments and the licensee shall deposit it into Government treasury by the last day of each month and last instalment for the month of March shall be

² A register showing the quantity of Foreign Spirit including IMFL and CL issued for sale, amount of additional license fee payable and recovered during the month.

³ Baddi: 39 vends: ₹16.93 lakh, Bilaspur: 58 vends: ₹32.60 lakh, Mandi: 375 vends: ₹83.74 lakh, Shimla: 118 vends: ₹74.32 lakh, Nahan: 24 vends: ₹31.26 lakh, Solan: 42 vends: ₹15.62 lakh and Una: 69 vends: ₹69.13 lakh

⁴ Baddi: seven vends: ₹4.06 lakh, Bilaspur: 35 vends: ₹25.92 lakh, Mandi: five vends: ₹0.36 lakh, Shimla: 21 vends: ₹13.85 lakh and Solan: 11 vends: ₹6.09 lakh

paid in full by 15th of March before obtaining the excise pass for issue of liquor. Para 4.5 (a), further, provides that if the licensee fails to deposit the license fee, interest is leviable at the prescribed rates and as per Para 4.5 (c) the AETC in-charge of the district, or any other officer authorised would ordinarily seal vend on 1st day of the following month or 16th March as the case may be.

Test check of the M-2 registers of five AETCs⁵ between June 2014 and February 2015 showed that against the recoverable license fee of ₹17.25 crore for the year 2013-14, from the licensees of 28 vends of 20 units, the department could recover only a sum of ₹12.83 crore. The concerned AETCs neither take any action to recover the balance amount of license fee nor they sealed vend, resulted in short recovery of license fee amounting to ₹4.42 crore. Besides, interest of ₹46.81 lakh was also accrued on unpaid amount of license fee.

On this being pointed out (June 2014 and February 2015), the ETC, intimated in September 2015 that out of ₹4.42 crore, an amount of ₹31.52 lakh had been recovered from owners of five vends by three AETCs, whereas AETC Shimla had declared ₹156.63 lakh as ALR and directed to recover the balance amount of ₹15.07 lakh immediately.

The matter was reported to the Government between July 2014 and March 2015; their replies have not been received (December 2015).

3.5 Non- recovery of bottling license/franchise fee and interest.

Bottling license fee of ₹27.58 lakh was neither demanded by AETCs nor deposited by three licensees and in another case interest of ₹2.14 lakh was leviable on belated payment of bottling license fee and franchise but had not been levied/recovered by the department. This resulted in non-recovery of bottling license fee and interest to the tune of ₹29.72 lakh.

Rule 9.5 of the Punjab Distillery Rules 1932 (PDR) as applicable to Himachal Pradesh, stipulates that the licensee shall pay license fee at the prescribed rates on the units of 750 mls of CL/IMFL bottled by them. These fees shall be paid by the licensee quarterly within seven days of the expiry of each quarter. Para 5.1 (29) (iii) and (iv) of the Excise Announcements 2013-14 provides that licensee of distilleries and bottling plants in Himachal Pradesh shall also pay franchise fee on the bottling of brands of IMFS of the distilleries and bottling plants situated outside the State of Himachal Pradesh. Rule 9.5 (8) of PDR, further, provides that if the licensee fails to pay the fee or part thereof by the due date, interest at the rate of 12 *per cent* per annum up to one month and if the default in payment exceeds one month, interest at the rate of 18 *per cent* for the entire delay shall be payable.

Audit test checked (between June 2014 and November 2014) the D-2 and D-15A register of two distilleries and breweries under the jurisdiction of two AETCs⁶ who were engaged in manufacturing of CL, and noticed that the bottling license fee for the period 2013-14, aggregating to ₹27.58 lakh was neither

⁵ Dharmshala (Kangra) 2 vends: ₹19.06 lakh, Mandi: 2 vends: ₹77.35 lakh, Nahan (Sirmour): 11 vends: ₹169.86 lakh, Shimla: 8 vends: ₹171.70 lakh and Solan: 5 vends: ₹3.83 lakh

⁶ Baddi: M/s Kala Amb Distillery and Brewery: ₹6.92 lakh and Sirmour at Nahan: M/s Tiloksons Distillery and Brewery: ₹20.66 lakh

demanding by AETCs nor deposited by the licensees. Similarly, in AETC, Nurpur (Kangra), a licensee⁷ had paid bottling license fee and franchise fee of ₹63.49 lakh belatedly with a delay ranged between nine to 122 days for the years 2012-13 to 2013-14 on which interest of ₹2.14 lakh was leviable but had not been levied/recovered by the department. Thus, inaction on the part of department resulted in non-recovery of bottling license fee and interest to the tune of ₹29.72 lakh (₹27.58 lakh + ₹2.14 lakh).

On this being pointed out (between June 2014 and November 2014), the ETC, intimated (June 2015) that out of ₹29.72 lakh an amount of ₹26.22 lakh had been recovered from the three licensees and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and December 2014; their replies have not been received (December 2015).

3.6 Non/short recovery of fixed/license fees for not opening of vends L-13/L-1B/L-1BB

Fixed fee for the year 2013-14 was recoverable from a licensee for not opening of four vends was neither demanded by the department nor deposited by the suppliers, which resulted in non-recovery of fixed fee of ₹8.00 lakh. Against fixed fee and license fee of ₹10.70 lakh, ₹6.15 lakh had only been recovered from these licensees for excess import of foreign liquor, resulted in short-recovery of fixed fee of ₹4.55 lakh.

Para 6.10 of the Excise Announcement for the year 2013-14 provides that Country Liquor suppliers were required to open L-13 vend (wholesale vends) in each of the districts allotted to them on payment of prescribed license fee. Rules, further, provide that the annual license fee of L-13 had been fixed at ₹2,00,000 for the year 2013-14. Para 5.1 (3) & (4) provides that fixed license fee and renewal fee for L-1B and L-1BB licensees (wholesale vends) of Foreign Liquor, Country Liquor and Beer per license for the year 2013-14 shall be paid as per the prescribed rate.

3.6.1 Audit test checked the records of two distilleries and bottling plant⁸ in June 2014 of AETC, Nahan and noticed that two licensees engaged in manufacturing of Country Liquor (CL) had not opened L-13 vends in four districts out of 10 districts allotted to them for the year 2013-14. Therefore, fixed fee of ₹8.00 lakh was recoverable from the licensee for not opening of four vends. This was neither demanded by the department nor deposited by the suppliers, which resulted in non-recovery of fixed fee of ₹8.00 lakh.

3.6.2 Audit, further, test checked the records relating to L-1B & L-1BB vend between November 2014 and January 2015 of AETCs, BBN Baddi and Bilaspur and noticed that fixed fee and license fee of ₹10.70 lakh was recoverable from these licensees⁹ for excess import of foreign liquor during the years 2013-14, out

⁷ M/s V. R. V. Foods Ltd., Sansarpur Terrance

⁸ M/s Tiloksons distillery and brewery: ₹2.00 lakh and Hill Vies distillery and bottling plant: ₹6.00 lakh

⁹ M/s Superior Ind. Ltd.: ₹0.10 lakh, M/s Pernold Recard India: ₹0.87 lakh (Baddi) and M/s Guru Narayan Suri & Co. ₹3.58 lakh (Bilaspur)

of which only ₹6.15 lakh had been recovered. This resulted in short-recovery of fixed fee of ₹4.55 lakh.

On this being pointed out (between June 2014 and January 2015), the ETC intimated (August 2015) that out of ₹12.55 lakh (₹8.00 lakh+₹4.55 lakh), an amount of ₹9.88 lakh had been recovered and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and February 2015; their replies have not been received (December 2015).

3.7 Non-levy of interest on belated payment of license fee

Interest amounting to ₹59.29 lakh on belated payment of license fee of ₹64.53 crore was not demanded by the department from the licensees of 130 vends, resulting in short levy of interest to that extent.

Para 4.4 (d) of the Excise Announcement 2013-14 provides that if licensee is unable to lift the Minimum Guaranteed Quota within a month he shall still be required to pay the full instalment of license fee for that month by the last day of the month and fee for the month of March shall be paid in full by 15th of March. Further, as per Para 4.5 (a) if the licensee fails to pay the amount of license fee on due dates, interest at the rate of 10 per cent upto one month and 18 per cent per annum thereafter shall be leviable.

Test check of the M-2 registers of seven AETCs¹⁰ between June 2014 and February 2015 showed that licensees of 130 vends of 123 units had deposited license fees of ₹64.53 crore belatedly (between April 2013 and June 2014) with a delay ranged between two and 276 days for the year 2013-14. They were, therefore, liable to pay interest of ₹59.29 lakh on belated payments but the concerned AETCs had not demanded the same. This omission resulted in non-levy of interest of ₹59.29 lakh.

On this being pointed out (between July 2014 and February 2015), the ETC intimated (September 2015) that out of ₹59.29 lakh, an amount of ₹15.54 lakh¹¹ had been recovered from 67 units and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and February 2015; their replies have not been received (December 2015).

¹⁰ Bilaspur: 14 vends: ₹6.71 lakh, Hamipur: 16 vends: ₹2.33 lakh, Mandi: 23 vends: ₹8.40 lakh, Nahan: 18 vends: ₹8.09 lakh, Shimla: 23 vends: ₹21.95 lakh, Solan: 24 vends: ₹10.75 lakh and Nurpur at Kangra: 12 vends: ₹1.06 lakh

¹¹ Bilaspur: 12 units: ₹6.17 lakh, Hamipur: 16 units: ₹2.33 lakh, Mandi: nine units: ₹0.73 lakh, Nahan: seven units: ₹1.82 lakh, Shimla: three units: ₹1.56 lakh, Solan: 14 units: ₹2.11 lakh and Nurpur at Kangra: six units: ₹0.82 lakh

3.8 Non-recovery of salaries of excise establishment posted at distillery/bonded ware houses

Dues on account of salaries of ₹33.63 lakh of excise establishment staff posted in a brewery, a distillery and two bottling plants were not recovered from the licensees for the year 2013-14.

A Government Excise Establishment (Staff) is posted in distilleries, breweries, and bottling plants for ensuring the due observance of Rules and for watch and ward for which the licensee have to pay the salaries to that staff. Rule 9.13 and 9.16 of the Punjab Distillery Rules, 1932 as also applicable in Himachal Pradesh, stipulate that the licensee shall agree to the posting of a Government Excise Establishment to his distillery for the purpose of ensuring the due observance of the Rules and for watch and ward. The licensee shall, if required by the Excise Commissioner, make into the Government treasury such payment as may be demanded on account of the salaries of the Government excise establishment posted to the distillery, but he shall not make any direct payment to any member of such establishment.

Audit cross checked the records between October 2014 and January 2015 of a brewery, a distillery and two bottling plants with that of three AETCs¹² and noticed that the salaries amounting to ₹34.38 lakh of the excise establishment posted to the distillery/brewery/bottling plants required to be paid by the licensees for the year 2013-14, out of which they paid only ₹0.75 lakh, inspite of the fact that the AETCs, being the Drawing and Disbursing Officers, were aware of these postings. The AETCs did not take any action to raise the demand and collect the Government dues. Thus, non-claiming of salaries from the licensees in respect of the excise establishment, the Government deprived itself of recoverable dues of ₹33.63 lakh.

On this being pointed out (between October 2014 and January 2015), the ETC, Shimla intimated in July 2015 that out of ₹33.63 lakh an amount of ₹11.48 lakh had been recovered in respect of AETCs, Hamirpur and Una.

The matter was reported to the Government between November 2014 and February 2015; their replies have not been received (December 2015).

¹² Hamirpur: Him Queen distillers & bottling plant: ₹6.48 lakh, Mandi: Goverdhan bottling plant: ₹7.16 lakh and Basant Rai bottling plant: ₹7.01 lakh and Una: RBL: ₹12.98 lakh

CHAPTER-IV
STAMP DUTY

CHAPTER-IV STAMP DUTY

4.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899, (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Himachal Pradesh and are administered at the Government level by the Principal Secretary (Revenue). The Inspector General of Registration (IGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by the 12 Deputy Commissioners and 117 *Tehsildars/Naib-Tehsildars* acting as the Registrars and Sub-Registrars (SRs) respectively.

4.2 Results of audit

In 2014-15, test check of records of 59 units of the Revenue Department, showed non/short levy of stamp duty and registration fee, non/short realization of lease money, irregular exemption on housing loan and other irregularities amounting to ₹26.80 crore in 118 cases, which fall under the following categories given in **Table 4.1** below:

Table 4.1

| Sr. No. | Categories | ₹ in crore | |
|--------------|---|-----------------|--------------|
| | | Number of cases | Amount |
| 1. | Incorrect determination of market value of property and irregular exemption on housing loan | 19 | 1.27 |
| 2. | Non/short levy of stamp duty and registration fee | 57 | 0.69 |
| 3. | Non/short recovery of lease money | 11 | 24.53 |
| 4. | Other irregularities | 31 | 0.31 |
| Total | | 118 | 26.80 |

During the course of the year, the Department accepted underassessment and other deficiencies of ₹2.48 crore in 115 cases, which were pointed out in earlier years out of which an amount of ₹1.20 crore was realised in 85 cases of which ₹0.36 crore in 77 cases pertain to earlier years and ₹0.84 crore in eight cases for the year 2014-15.

A few illustrative cases involving ₹17.59 crore are discussed in the following paragraphs.

4.3 Incorrect preparation of valuation report by *Patwaris*

There was short realisation of stamp duty and registration fee of ₹1.82 lakh due to incorrect preparation of valuation reports by Patwaris in 171 cases.

As per clarifications issued by the Inspector General of Registration (IGR) in July 1997 and June 1998, market value of land is to be worked out on the basis of mutations done during the preceding 12 months. Under the Indian Stamp (IS) Act, the market value of land for levy of stamp duty and registration fee is assessed on the basis of classification of land and is calculated in accordance with the procedure given in Appendix-XXI of the Himachal Pradesh Land

Record Manual 1992. The registering officer is also required to verify the consideration amount shown in the sale deeds with valuation reports prepared by the concerned *patwaris*. In October 2004, the IGR, further, clarified that the average price should be based on the consideration amount or market value whichever is higher. Besides, as per the notifications of January 2012 and June 2013, the consideration amount or market value of land is to be worked on the basis of circle rates fixed by the Collector of the district and stamp duty and registration fee on such documents presented for registration shall be levied accordingly.

4.3.1 Audit test checked the documents of sale deeds of 17 Sub-Registrars (SRs)¹ between June 2014 and January 2015 and noticed that the valuation reports prepared by the *patwaris* were incorrect as the *patwaris* while preparing the valuation reports had taken incorrect/lower value of the land instead of higher value mentioned in the mutations done during preceding 12 months. Consequently, Registering Officers while registering 171 documents, registered these for ₹14.10 crore during 2011-12 and 2012-13 at lower rates whereas the actual market value of these properties as per the correct rates was ₹22.80 crore which resulted in short realisation of stamp duty of ₹42.24 lakh and registration fee of ₹9.58 lakh².

On these being pointed out between June 2014 and January 2015, the IGR intimated in May 2015 that out of ₹22.46 lakh, an amount of ₹6.43 lakh³ had been recovered in respect of five SRs. The replies from remaining SRs had not been received (December 2015).

The matter was reported to the Government between August 2014 and February 2015, the replies have not been received (December 2015).

¹ Baldwara, Bhatiyat, Bilaspur, Churah, Haroli, Indora, Jaisinghpur, Jhanduta, Kangra, Kullu, Nahan, Nalagarh, Padhar, Palampur, Sarkaghat, Shimla (Rural) and Solan

² Baldwara: 10 cases: ₹3.01 lakh, Bhatiyat: six cases: ₹5.70 lakh, Bilaspur: 10 cases: ₹0.85 lakh, Churah: five cases: ₹0.42 lakh, Haroli: eight cases: ₹0.99 lakh, Indora: six cases: ₹4.09 lakh, Jaisinghpur: seven cases: ₹1.17 lakh, Jhanduta: four cases: ₹1.33 lakh, Kangra: five cases: ₹4.22 lakh, Kullu: 35 cases: ₹9.06 lakh, Nahan: five cases: ₹0.81 lakh, Nalagarh: 26 cases: ₹8.28 lakh, Padhar: six cases: ₹0.56 lakh, Palampur: nine cases: ₹5.33 lakh, Sarkaghat: six cases: ₹2.88 lakh, Shimla (Rural): 17 cases: ₹2.86 lakh and Solan: six cases: ₹0.26 lakh

³ Baldwara: ₹0.91 lakh, Jhanduta: ₹1.34 lakh, Kangra: ₹1.44 lakh, Kullu: ₹2.08 lakh and Palampur: ₹0.66 lakh

4.3.2 Short levy of stamp duty and registration fee by taking lower consideration value

While registering 18 documents, the registering officers had taken lower consideration amount of properties which resulted in short realisation of stamp duty and registration fee of ₹29.06 lakh.

Audit test checked the records of six SRs⁴ between July and December 2014 and noticed that consideration amount of properties set forth in 18 documents registered between 2012 and 2013 was ₹1.90 crore which was much below the market value of ₹7.96 crore shown in the valuation report prepared by the concerned *patwaris*. While registering these documents, the registering officers were supposed to consider the higher value of properties of ₹7.96 crore for levy of stamp duty and registration fee but they registered the above documents on lower consideration amount and levied stamp duty of ₹11.35 lakh and registration fee of ₹2.56 lakh instead of ₹39.79 lakh and ₹3.18 lakh. This resulted in short realization of stamp duty of ₹28.44 lakh and registration fee of ₹0.62 lakh.

On this being pointed out (between July and December 2014), the IGR, Shimla intimated in August 2015 that an amount of ₹0.07 lakh had been recovered by the SR, Jawalamukhi. The replies from remaining SRs had not been received.

The matter was reported to the Government between August 2014 and January 2015; replies have not been received (December 2015).

4.4 Non/short recovery of lease money due to non-execution/renewal of lease deeds

The lease deeds were not executed/renewed within the period specified in the lease agreement and lease money was not fixed/revised as per prescribed rates on the basis of prevailing market value of the land. This resulted in non-realisation of lease money ₹12.47 crore in four cases.

Under the Himachal Pradesh Lease Rules (HPLR) 1993, Government land can be granted on lease to individual/private companies for various purposes in the interest of the development of the State. Section 8 (1) of lease rules provides that lease money is required to be revised after the period as specified in the lease agreement and is calculated at the rate of five/eight/18 *per cent* of the latest highest market value of land leased or double the average market value of five years whichever is less. These lease rules were revised/amended in September 2011, which provide that lease money is to be calculated at the rate of five *per cent* of the latest highest market value of land leased or double the average market value of five years whichever is less and rules, further, revised in March 2014 which stipulate that the lease amount shall be charged from the lessee at the rate of 10 *per cent* of the current circle rate in respect of hydroelectric

⁴SRs Baldwara: one case ₹3.11 lakh, Indora: six cases: ₹7.55 lakh, Junga: one case: ₹0.41 lakh, Jawalamukhi: three cases: ₹7.61 lakh, Sinhunta: three cases: ₹0.88 lakh and Sundernagar: four cases: ₹9.50 lakh

projects. Section 13 of these rules, further, stipulates that when a lease is sanctioned, the Collector shall execute and cause to execute a lease in Form-B within a period of six months from the date of sanction of lease by Competent Authority. Rules, further, provide that possession of the land shall not be given to the applicant until the lease deeds has been registered.

Audit test checked the records of three SRs⁵ between September and October 2014 and noticed that sanction for transfer of 1,643.01-18 *bighas* of Government land for establishment of hydroelectric projects⁶ in Chamba District was accorded in favour of four Power Project companies between 2001 and 2014 for the period of 40 years. As per lease Rules these lease deeds were required to be executed after the period specified in the lease agreement which were not executed by the concerned SRs. Consequently, the consideration amount of lease money of ₹12.47 crore was not realised by the Revenue Department for want of finalisation of these lease deeds as details given in the **Appendix-V**.

On this being pointed out the SR, Holi (Chamba) stated in January 2015 that lease deed was not executed; hence, no recovery could be effected. Whereas SR Churah stated (September 2015) that ₹84.09 lakh had been recovered. The remaining SRs stated that action would be taken as per the provisions of the Act/ Rules.

The matter was reported to the Government in November 2014; their replies have not been received (December 2015).

4.5 Short recovery of lease money

Non-fixation of lease rent on the basis of prevailing market value of the land resulted in short realisation of lease money of ₹4.24 crore in three cases.

Under the Himachal Pradesh Lease Rule (HPLR) 1993, government land can be leased out to individual/companies for various purposes. As per condition of the lease deed, the lease is required to be renewed after every 10 years on the basis of prevailing market rates of the land. The rule 8(1) of Himachal Pradesh Lease (Amended) Rules, 2012 provides that the lease money is required to be revised after the period specified in the lease agreement and is calculated at the rate of five/eight *per cent* of the latest highest market value of land leased or double the average market value of five years whichever is less in the case of individuals, private companies and educational institutions. Rule 8 (2), further, provides that the lease amount shall be increased every five years by 10 *per cent* of existing lease amount or lease value calculated on current value of the land whichever is less.

4.5.1 Audit scrutiny of records of two SRs⁷, between September and December 2014 showed that sanction for the transfer of government land measuring 30,984

⁵ SRs Bharmour, Kangra and Holi at Chamba

⁶ M/s Lanco Hydro Power Project a Hydro-electric company, Chirchind Hydroelectric Company in Bharmour, I.A. Energy, D-7 Lane-I, Sector-1, New Shimla, Hydroelectric Company and G.M.R. Energy Pvt. Ltd.

⁷ SRs Palampur (Kangra) and Sundernagar

sq. meter (9,682 and 21,212 sq. meter) was accorded in favour of two lessees⁸ for the period of 45 and 99 years for establishment of Dental College in Mohal Pung and construction of Electricity Sub-station at Palampur and these leases were executed during December 1994 and December 1998. As per conditions of lease deeds, these lease deeds were required to be renewed during December 2004 and December 2008 respectively but the same had not been renewed. The market value of the land on the prevailing market rates worked out to ₹798.44 lakh and lease money required to be fixed to ₹63.13 lakh per annum at the rate of five/eight *per cent* on market value. Therefore, lease amount to ₹444.21 lakh was required to be paid by these lessees for the period from 2004-05 to 2014-15. The department, incorrectly fixed the annual lease amount to ₹3.09 lakh instead of prevailing market rates, which worked out to ₹61.88 lakh in case of SR Sundernagar whereas in SR, Palampur, the annual lease amount was assessed correctly as ₹1.25 lakh but the lease money was not realised as per the assessment made and lessee had paid lease amount of ₹21.71 lakh only. This resulted in short realisation of lease money of ₹4.24 crore (₹11.08 lakh and ₹413.00 lakh) as detailed in the **Appendix-VI**.

On this being pointed out (December 2014) the IGR, Shimla intimated (January 2015) that in respect of SR Palampur, the necessary direction had been issued to the HPSEB to deposit the lease amount whereas SR, Sundernagar had not furnished any reply (December 2015).

4.5.2 Administrative failure to take back the possession of the land/ Non-renewal of lease deeds

Test check of the records of the SR, Palampur (Kangra) in December 2014 and noticed that sanction for the transfer of government land measuring 480.00 sq. meter was accorded in favour of Rajput Kalyan Sabha for establishment of Maharana Partap Bhawan (Marriage place) for a period of 10 years (i.e. 14 May 2002 to 13 May 2012) and lessee has paid lump-sum lease money of ₹2,534 subsequently, ₹ one per month was fixed as token lease money after execution of the lease deed. As per condition five of the sanction orders (14 May 2002), the lessee shall renew the lease after the expiry of lease period failing which lessee would vacate the possession of the said land. Condition six empowered the Revenue Officer to take back the possession of the land, if, lease was not renewed. Scrutiny, further, showed that the provisions of the above conditions were not complied with by the lessee and the SR also neither got the mutation of said land in favour of Government nor took back possession of the land from the lessee. Thus, inaction on the part of the department resulted in unauthorized occupation of Government land.

On this being pointed out (December 2014) the IGR, Shimla intimated (January 2015) that the lessee had been directed to deposit the amount and the detailed report of the case was also called for from the *Kanongoo/Patwari* concerned.

The matter was reported to the Government between October 2014 and January 2015; their replies have not been received (December 2015).

⁸ M/s Himachal Pradesh Electricity Board (HPSEB) and Dr. Puran Chand, Medical Charitable Trust, Yamunanagar

4.6 Short recovery of stamp duty and registration fee on lease deed

The SRs while registering nine industrial units during 2012 and 2013 levied stamp duty and registration fee of ₹1.70 lakh instead of ₹8.55 lakh which resulted in short realisation of SD and RF of ₹6.85 lakh.

Article 35 of schedule-I of IS Act, 1899, provides that where a lease is granted for a fine or premium or for money advanced in addition to rent received, the stamp duty as applicable to conveyance (No. 23), is chargeable. As per the Indian Stamp (Himachal Pradesh Amendment) Act 1970, where lease purports to be for a term exceeding 10 years but not exceeding 100 years, stamp duty is chargeable at the rate of three *per cent*. Besides, registration fee at the rate of two *per cent* is leviable in terms of Government of Himachal Pradesh, Department of Revenue notification dated 18 March 2002. The Revenue Department vide notification dated 12 January 2012 has, further, revised the rates of stamp duty from three to five *per cent* and registration fee of two *per cent* of the market value of the property or consideration amount as the case may be, whichever is higher.

Audit test checked the documents of lease deeds of four SRs⁹ between September and November 2014 and noticed that in nine cases, land was leased out during 2012 and 2013 for the period ranging 10 to 95 years and registered these lease deeds at the consideration amount of premium of ₹1.23 crore. Audit scrutiny, further, showed that the SRs while registering these documents did not levy the stamp duty and registration fee on the prevailing market value of property of ₹2.39 crore on which stamp duty and registration fee of ₹8.55 lakh was leviable against which ₹1.70 lakh levied. This resulted in short realisation of stamp duty and registration fee of ₹6.85 lakh.

On this being pointed out (between September and November 2014), the IGR intimated in May 2015 that out of ₹2.22 lakh, an amount of ₹3724 had been recovered in respect of SR, Baldwara and efforts were being made to recover the balance amount. The reply from remaining SRs was awaited.

The matter was reported to the Government between October and December 2014; their replies have not been received (December 2015).

⁹ SR Baldwara: Five cases: ₹2.22 lakh, Churah: One case: ₹0.92 lakh, Fatehpur: One case: ₹1.63 lakh and Indora: Two cases: ₹2.08 lakh

CHAPTER-V
TAXES ON VEHICLES, GOODS AND
PASSENGERS

CHAPTER-V TAXES ON VEHICLES, GOODS AND PASSENGERS

5.1 Tax administration

Additional Chief Secretary (Transport) is the administrative head at the Government level. The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder and are under the administrative control of the Director Transport. The receipts from the goods and passengers tax are regulated under the provisions of the Himachal Pradesh Passengers and Goods Taxation Act 1955, which are administered by the Excise and Taxation Commissioner of the state.

5.2 Results of audit

In 2014-15, test check of the records of 40 units relating to token tax, special road tax, registration fee, permit fee, driving license fee, conductor license fee, penalties and composite fee under the National Permit Scheme showed under assessment of tax and other irregularities involving ₹119.96 crore in 227 cases, which fall under the following categories in the **Table 5.1**:

Table 5.1

| Sr. No. | Category | Number of cases | ₹ in crore |
|--------------|---------------------------------|-----------------|---------------|
| | | | Amount |
| 1. | Non/short realisation of | | |
| | • Token tax and composite fee | 68 | 29.19 |
| | • Special Road Tax | 50 | 24.30 |
| | • Passenger and goods tax | 16 | 0.93 |
| 2. | Evasion of | | |
| | • Token tax | 31 | 2.25 |
| | • Passenger and goods tax | 20 | 60.81 |
| 3. | Other irregularities | | |
| | • Vehicles tax | 27 | 1.91 |
| | • Passenger and goods tax | 15 | 0.57 |
| Total | | 227 | 119.96 |

During the course of the year, the Department accepted underassessment and other deficiencies of ₹26.34 crore in 349 cases, which were pointed out in earlier years out of which an amount of ₹6.06 crore was realised in 291 cases, of which ₹4.03 crore in 246 cases pertain to earlier years and ₹2.03 crore in 45 cases for the year 2014-15.

A few illustrative cases involving ₹102.54 crore are discussed in the following paragraphs.

5.3 Non-realisation of arrears of Transport Department

Arrears amounting to ₹98.35 crore were pending for collection since 1971-72. Out of which ₹72.81 lakh referred to Collector for recovery as Arrear of Land revenue (ALR), an amount of ₹20.42 lakh only had been recovered.

Introduction

Levy and collection of taxes under Motor Vehicles are regulated under the Motor Vehicle (MV) Act, 1988, Central Motor Vehicles Rules, 1989; Himachal Pradesh Motor Vehicles Taxation (HPMVT) Act, 1972; Himachal Pradesh Motor Vehicles Rules (HPMVR), 1974 and Himachal Pradesh Motor Vehicles Rules (HPMVR), 1999.

The Major source of revenue of vehicles under Transport Department comprises of token tax, special road tax (SRT), registration fee, permit fee, driving license fee, penalties and composite fee under the National Permit Scheme. Token tax is leviable on the motor vehicles and paid in advance either quarterly or annually in accordance with Rule 3 of the HPMVR, at the prescribed rates. In addition to token tax, SRT is also levied on all stage carriage transport vehicles payable in advance on 15th of every month at the rates prescribed from time to time.

Audit on '*Non-realisation of arrears of Transport Department*' covering the period from 2011-12 to 2013-14 was conducted between June 2014 and March 2015 through test check of the records maintained in the offices of the State Transport Authority (STA), five out of 10 Regional Transport Officers (RTO)¹ and 17 out of 54 Registering and Licensing Authorities (RLA)². The following are the audit findings:

5.3.1 Position of arrears

Year wise position of arrears for the period 2011-12 to 2013-14 as on 31 March 2015 as per the information supplied by the department is given in **Table 5.2**:

Table 5.2

| ₹ in crore | | | | | | |
|------------|----------------------------|--------------------------|-------------------------------------|---------------------------|--|--------------------------------------|
| Year | Opening balance of arrears | Addition during the year | Arrears recoverable during the year | Recovered during the year | Outstanding arrears at the end of year | Outstanding for more than five years |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 2011-12 | 174.03 | 23.32 | 197.35 | 3.34 | 194.01 | 84.69 |
| 2012-13 | 194.01 | 32.88 | 226.89 | 15.24 | 211.65 | 90.37 |
| 2013-14 | 211.65 | 123.06 | 334.71 | Not available | 98.35 (for 18 units) | 30.91 |

Source: Figures supplied by the department

The department supplied the information of arrears of ₹98.35 crore pending for collection as on 31 March 2014 about only for 18 units (out of total 69 units), and out of this ₹30.91 crore was pending for more than five years. Due to the absence of a centralised database, actual position of the recoverable amount of arrears could not be ascertained in audit.

5.3.2 Non-recovery/declaration of Arrear of Land Revenue (ALR)

The Transport Department is responsible for recovery of dues pertaining to its own Department. If Government dues cannot be recovered by means available

¹ Kullu, Shimla, Sirmour, Solan and Una

² Amb, Arki, Bilaspur, Dehra, Kangra, Kullu, Mandi, Manali, Nahan, Nalagarh, Nurpur, Paonta, Rohroo, Shimla (R), Shimla (U), Solan and Una

with the department, such arrears are certified as ALR. These cases referred to Collector of the district concerned or the officer who has been delegated such powers provided under the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954).

Scrutiny of records of 17 RLAs, five RTOs and STA, Shimla and information supplied by the department showed that arrears of ₹98.35 crore were still pending for collection since 1971-72. The department had neither initiated any action to refer these cases to the Collector to effect the recovery of tax as ALR nor to recover the pending arrears in a time bound manner even after elapse of 30 to 45 years. However, in two RLAs³, 247 cases involving ₹72.81 lakh, were referred to Collector, pertaining to the period falling between 1993-94 and 2012-13, out of which an amount of ₹20.42 lakh⁴ in 44 cases had been recovered during the years 2011-12 to 2013-14.

5.3.3 Non-monitoring of arrears

Rule 18 of the HPMVR, 1974 provides that all registering and licensing authorities in the state shall submit a return in Form-VIII to the STA within a month of the expiry of each quarter showing the details of numbers of vehicles registered and payment of tax made etc. to maintain centralised database of vehicles at the apex level for proper monitoring of realisation of revenue. Since computerisation (April 2005), all the registering authorities were also required to be connected to strengthen the revenue collection on account of taxes.

Audit scrutinised the information collected from 17 RLAs, five RTOs and STA, Shimla between June 2014 and March 2015 and noticed that no return containing outstanding amount of arrears pending for collection was being furnished by the field units to Director Transport. After being requested, the department was also unable to provide the same. The registering authorities were also not found connected with centralised database. This was indicative of the fact that the department was unaware of the number of vehicles registered and realisation of tax from them. In absence of this, the monitoring for recovery of the arrears at apex level was not possible in the Department.

On this being pointed out, the STA admitted (April, 2015) the audit observations and stated that there was no such mechanism in the software from which exact position of the arrear could be evaluated and in the post computerised scenario there was provision to arrive at the centralised data of vehicle population and there was no need to get this return from the field offices. The reply is not tenable because even after computerisation, the position of defaulters was not be monitored at the Directorate level and factual position of recoverable taxes was not available.

5.3.4 Renewal fee of Non-transport vehicle

As per the Transport Department's notification dated August 2007, there shall be levied, charged and paid to the State Government, a tax on personal vehicles for every further period of five years from the date of renewal of certificate of registration (RC) under Sub-Section 10 of Section 41 of the MV Act, 1988, used

³ Arki: 36 cases: ₹11.18 lakh and Nalagarh: 211 cases: ₹61.63 lakh

⁴ Arki: 13 cases: ₹5.34 lakh and Nalagarh: 31 cases: ₹15.08 lakh

or kept for use in HP at the rate of 50 per cent of the tax already paid at the time of first registration of such personal vehicle. As per Government Notification of April 1992, the minimum rate for the renewal of RC of personal vehicles fixed at ₹960 and ₹2,000 for two wheelers and four wheelers respectively.

Audit test checked (between June 2014 and February 2015) the records of database maintained in 'VAHAN' software of 17 RLAs⁵ and STA, Shimla and noticed that out of 12,506 vehicles records, one-time tax validity of 9,330 vehicle owners had expired between 2011 and 2014 and the owners of these vehicles neither renewed their RCs nor were deposited in the RC deposit register in token of proof that these vehicles were not being used in the State. This resulted in non-recovery of revenue on account of onetime tax to the tune of ₹60.63 lakh.

5.3.5 Non-renewal of permits

The MV Act, 1988 and HPMVR, 1974 provides that no owner shall use or permit to use the vehicle as transport vehicle in public place unless the owner of such vehicle has obtained a valid route permit from the Regional/STA. The rates chargeable for issue of such permits have also been prescribed in the rules. In case, the owner does not get the permit renewed/counter signed within the period of three months, it shall be deemed to have been cancelled.

Audit test checked the records of four RTOs (between June 2014 and February 2015) and noticed that 1,575 vehicle owners whose permits expired between September 2005 and March 2014 had not renewed their regular permits after expiry of validity period. The renewal fee on this account works out to ₹16.18 lakh⁶. There was nothing on record to show that RTOs had initiated any action to get the permit renewed or cancelled. This resulted in revenue to that extent remained uncollected.

5.4 Non-realisation of taxes

Token tax and entry tax of ₹17.73 crore in respect of 22,527 vehicles for the years 2010-11 to 2013-14 was neither demanded by the Department nor paid by these vehicle owners.

5.4.1 Token tax

Under the Himachal Pradesh Motor Vehicles Taxation (HPMVT) Act, 1972 and rules made thereunder, token tax by vehicle owners is payable in advance quarterly or annually in the prescribed manner. As per Transport Department's notification dated 15 March 2012, token tax in the case of construction equipments vehicles and crane mounted vehicles (based on the maximum prescribed mass) was leviable at the rate of ₹8,000 (light), ₹11,000 (medium) and ₹14,000 (heavy) per annum with effect from March 2012. As per provisions contained in Sub-Section (2) of Section 3-A of the Act *ibid*, if an owner of motor vehicle fails to pay the tax due within the prescribed period, the taxation

⁵ Amb, Arki, Bilaspur, Dehra, Kangra, Kullu, Manali, Mandi, Nahan, Nalagarh, Nurpur, Paonta, Rohroo, Shimla (R), Shimla (U), Solan and Una

⁶ Kullu: 613 vehicles: ₹5.44 lakh, Shimla: 654 vehicles: ₹7.39 lakh, Solan: 223 vehicles: ₹2.41 lakh and Una:85 vehicles: ₹0.94 lakh

authority after giving him an opportunity of being heard, shall direct him to pay in addition to tax, a penalty at the rate of 25 per cent per annum of the tax due.

Audit test checked between June 2014 and March 2015 the Token Tax registers and data maintained in 'VAHAN' software of 27 Registering and Licensing Authorities (RLAs)⁷, 10 Regional Transport Offices (RTOs)⁸ and State Transport Authority (STA) Shimla and noticed that out of 55,407 test checked vehicles' records, token tax amounting to ₹17.56 crore in respect of 22,445 vehicles for the years 2011-12 and 2013-14, was not deposited by the vehicle owners. There was nothing on record to indicate that any initiative had been taken by the taxation authorities to recover the tax from the defaulters. This resulted in non-recovery of token tax of ₹17.56 crore as details given in **Table 5.3**.

Table - 5.3

| Sr. No. | Category of vehicle | Name of RLAs/RTOs | Period | Total No. of vehicles not paid tax/ Test checked vehicles | Amount recoverable (₹ in lakh) |
|--------------|---|---|--------------------|---|--------------------------------|
| 1. | Private Stage Carriages Buses/Mini Buses/Maxi Cabs/Taxi (Passenger Vehicles) | RLAs Amb, Arki, Banjar, Barsar, Bilaspur, Chopal, Dehra, Gohar, Kalpa, Kangra, Keylong, Kullu, Mandi, Manali, Nahan, Nalagarh, Nurpur, Palampur, Parwanoo, Paonta Sahib, Rajgarh Rohroo, Sarkaghat Shimla (R), Shimla (U), Solan and Una RTOs Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una | 2011-12 to 2013-14 | 4,571/1,2405 | 865.53 |
| 2. | Heavy Goods Vehicles/Medium Goods Vehicles/Light Goods Vehicles/ Tractors (C) (Goods vehicles) | | | 17,087/40,903 | 742.93 |
| 3. | Construction Vehicles | | | 787/2,099 | 147.39 |
| TOTAL | | | | 22,445/55,407 | 1,755.85 |

On this being pointed out, the State Transport Authority (STA) intimated (between February and September 2015) that 10 RLAs and five RTOs, had recovered token tax of ₹2.07 crore in respect of 2,628 vehicles⁹ and efforts were being made to recover the balance amount. The remaining taxation authorities intimated that either notices would be issued to the defaulters to deposit the tax or action will be taken as per the provisions of the Act/Rules.

The matter was reported to the Government between August 2014 and April 2015; their replies have not been received (December 2015).

⁷ RLAs Amb, Arki, Banjar, Barsar, Bilaspur, Chopal, Dehra, Gohar, Kalpa, Kangra, Keylong, Kullu, Mandi, Manali, Nahan, Nalagarh, Nurpur, Palampur, Parwanoo, Paonta Sahib, Rajgarh Rohroo, Sarkaghat Shimla (R), Shimla (U), Solan and Una

⁸ RTOs Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una

⁹ RLAs Banjar: 11 vehicles: ₹1.69 lakh, Gohar: nine vehicles: ₹45,075, Kalpa: seven vehicles: ₹16,500, Keylong: 13 vehicles: ₹30,750, Mandi: 93 vehicles: ₹5.68 lakh, Nahan: six vehicles: ₹35,000, Nalagarh: 574 vehicles: ₹75.74 lakh Palampur: 24 vehicles: ₹1.13 lakh, Parwanoo: two vehicles: ₹32,000, Sarkaghat: 28 vehicles: ₹1.32 lakh, RTOs Dharmshala: eight vehicles: ₹46,150, Hamirpur: 30 vehicles: ₹1.51 lakh, Kullu: 1,578 vehicles: ₹58.42 lakh, Nahan: eight vehicles: ₹59,040 and Una: 237 vehicles: ₹58.83 lakh

5.4.2 Entry Tax

According to the Excise and Taxation Department notification of October 2010, issued under the Section 4 (1) of the Himachal Pradesh Tax on Entry of Goods into Local Area Act 2010, entry tax at the rate of five *per cent* shall be deposited on the invoice value of the motor vehicles purchased from any place outside the State for use in the State and registerable in Himachal Pradesh under the Motor Vehicle Act, 1988. It, further, provides that no Registering and Licensing Authority shall register such motor vehicle unless the person making application for registration furnishes proof of having deposited the tax payable under this section from the Assessing Authority.

Audit noticed between June 2014 and March 2015 from the registration files of the vehicles maintained in two RTOs¹⁰ and six RLAs¹¹ that entry tax amounting to ₹16.51 lakh, in respect of 82 vehicles purchased from other States and registered in Himachal Pradesh between August 2010 to March 2014 at the prescribed rates, was required to be deposited by the owner of the vehicles with the Excise and Taxation department but these vehicles owners had not deposited the same. This resulted in non-realisation of entry tax of ₹16.51 lakh¹².

5.5 Short deposit of user charges

The e-Governance societies collected receipt of ₹87.69 lakh on account of user charges of which 25 per cent worked out to ₹21.92 lakh required to be deposited in the Government account out of which ₹1.14 lakh had only been deposited and ₹20.78 lakh remained out of the Government account.

The Government of Himachal Pradesh vide Notification dated 3 September 2005 accorded approval to the formation of e-Governance Societies, one at the level of Directorate of Transport and one each at the district level for computerisation of all transport related activities in the offices of the Registering and Licensing Authorities (RLAs). These e-Governance Societies have been functioning since September 2005 under the chairmanship of the Deputy Commissioner of the respective district. The societies collect user charges as approved by the government and 25 *per cent* of these charges are required to be deposited in the government account.

Audit noticed from the service charges collection registers of four RLAs¹³ between June and September 2014 that e-Governance Societies collected ₹87.69 lakh on account of user charges during 2012-13 and 2013-14. However, 25 *per cent* of receipts collected as user charges, which worked out to ₹21.92 lakh to be deposited in the Government account as required, out of which ₹1.14 lakh had

¹⁰ RTOs Solan and Una

¹¹ RLAs Amb, Arki, Nahan, Rohroo, Shimla (R) and Shimla (U)

¹² RLAs Amb: two vehicles: ₹0.25 lakh, Arki: 18 vehicles: ₹2.30 lakh, Nahan: six vehicles: ₹1.83 lakh, Rohroo: 11 Vehicles: ₹1.23 lakh, Shimla (R): three vehicles: ₹1.65 lakh, Shimla (U): 20 vehicles: ₹3.46 lakh, Una: six vehicles: ₹0.30 lakh, RTO Solan: six vehicles: ₹2.12 lakh and RTO Una: 10 vehicles: ₹3.37 lakh

¹³ RLAs Bilaspur, Nurpur, Shimla (U) and Shimla (R)

only been deposited. Thus, ₹20.78 lakh¹⁴ remained out of the Government account, which also resulted in understatement of revenue to that extent. Further, the schedule of periodical payment of 25 per cent of the user charges and interest/penalty to be levied in case of delayed payments etc. had not been prescribed by the Government.

On this being pointed out (between July and September 2014), the taxation authorities intimated that action would be taken to deposit the amount of user charges in government treasury.

The matter was reported to the department and the Government between August and October 2014; their replies have not been received (December 2015).

5.6 Non-recovery of Special Road Tax (SRT)

5.6.1 Himachal Road Transport Corporation (HRTC)

SRT amounting to ₹20.47 crore was payable by the HRTC for the period April 2013 to March 2014 and ₹1.15 lakh in 167 cases was recoverable from the PSCs as on March 2015, which was neither being deposited by the HRTC and owners of the PSCs nor demanded by the department. This resulted in non-recovery of SRT of ₹21.38 crore.

Under the Section 3-A of HPMVT Act, 1972, as amended from time to time, there shall be levied, charged and paid to the State Government, monthly SRT on all transport vehicles used or kept for use in State and will be payable in advance by 15th of every month at the prescribed rates. As per Transport Department notification dated 26 July 2006, deemed to have come into force on 31st July 2002, if the owner of a vehicle fails to pay the SRT due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay the penalty at the rate of 25 per cent per annum of the tax due. The rates of SRT are based on the classification of routes on which vehicles are plying such as National Highways, State Highways, Rural Roads and Local buses/mini buses operating within a radius of 30 kilometers. The rates of SRT for the above routes are as ₹6.04, ₹5.03 and ₹4.03 per seat per kilometer respectively effective from 1st April 2005.

Audit scrutiny of the records of SRT registers of nine RTOs between June 2014 and February 2015 showed that the SRT for the period from April 2013 to March 2014 aggregating ₹20.47 crore¹⁵ was neither being deposited by the HRTC nor demanded by the RTOs till March 2015. Besides, a minimum penalty of ₹2.75 crore at the prescribed rates was also leviable for non-payment of SRT.

5.6.2 Private stage carriages (PSCs)

Audit scrutiny of the records of SRT registers of five RTOs between August 2014 and February 2015, showed that out of 750 test checked cases, SRT amounting to ₹91.15 lakh in 167 cases was recoverable from the owners of PSCs

¹⁴ Bilaspur: ₹2.01 lakh, Nurpur: ₹1.92 lakh, Shimla (U): ₹3.63 lakh and Shimla (R): ₹13.22 lakh

¹⁵ Bilaspur: ₹1.07 crore, Chamba: ₹1.26 crore, Kangra at Dharamshala: ₹5.11 crore, Kullu: ₹2.07 crore, Mandi: ₹3.11 crore, Nahan: ₹1.15 crore, Shimla: ₹5.18 crore, Solan: ₹0.76 crore and Una: ₹0.76 crore

as on March 2015. The department had, neither demanded the SRT nor was paid by the owners of the vehicles. This resulted in non-recovery of SRT of ₹91.15 lakh¹⁶.

On this being pointed out, the STA intimated (August 2015) that out of ₹15.24 lakh, an amount of ₹8.17 lakh had been recovered in respect of 43 vehicles by RTOs Kullu and Sirmour and effort were being made to recover the balance amount. The reply from the remaining registering authorities had not been received (December 2015).

5.7 Short realisation of SRT from PSCs

An amount of ₹65.93 lakh was payable by the PSCs owners out of which only ₹14.03 lakh was paid, this resulted in short realisation of SRT of ₹51.90 lakh in 89 cases. Besides, a minimum penalty of ₹7.28 lakh at the prescribed rates was also leviable.

Under Section 3-A of Himachal Pradesh Motor Vehicles Taxation Act, 1972, as amended from time to time, there shall be levied, charged and paid to the State Government, monthly SRT on all transport vehicles used or kept for use in State. SRT will be payable in advance on the 15th of every month. As per the Transport Departments' notification dated 26 July 2006, deemed to have come into force on 31 July 2002, if the owner of a vehicle fails to pay the SRT due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay the penalty at the rate of 25 per cent per annum of the tax due. The rates of SRT are based on the classification of routes on which vehicles are plying such as national highways, state highways, rural roads and local buses/mini buses operating within a radius of 30 kilometers.

Audit scrutiny between August 2014 and February 2015, of the SRT Registers of seven RTOs showed that in 89 cases, out of 485 test checked cases, the SRT of ₹65.93 lakh was payable for the period 2013-14. Against this, the owners of the PSCs paid ₹14.03 lakh only. This resulted in short realisation of SRT of ₹51.90 lakh¹⁷. The RTOs neither initiated any action to recover the SRT from the defaulters nor issued any notices to the owners of the vehicles to deposit the tax. Besides, minimum penalty of ₹7.28 lakh at the prescribed rates was also leviable.

On this being pointed out (October and December 2014), the Additional Commissioner Transport cum State Transport Authority intimated in February 2015 that out of ₹51.90 lakh, an amount of ₹14.78 lakh had been recovered by the RTOs Kangra and Una from 16 vehicles owners and notices had been issued to the remaining defaulters to deposit the outstanding amount of tax.

Audit reported the matter to the Government between November 2014 and February 2015; their reply has not been received (December 2015).

¹⁶ Kullu: 20 cases: ₹9.97 lakh, Sirmour: 42 cases: ₹5.27 lakh, Shimla: 51 cases: ₹25.87 lakh, Solan: 35 cases: ₹42.36 lakh and Una: 19 cases: ₹7.68 lakh

¹⁷ RTOs Hamirpur: nine vehicles: ₹0.95 lakh, Kangra: 32 vehicles: ₹26.71 lakh, Kullu: five vehicles: ₹1.94 lakh, Mandi: five vehicles: ₹1.47 lakh, Shimla: eight vehicles: ₹3.98 lakh, Solan: 16 vehicles: ₹10.83 lakh and Una: 14 vehicles: ₹6.02 lakh

5.8 Short assessment of SRT due to application of incorrect rate

The rates of SRT were not applied according to the classification of routes in 12 cases, which resulted in short assessment of SRT of ₹8.69 lakh. Besides, a minimum penalty of ₹2.17 lakh at the prescribed rate was also leviable.

As per the HPMVT (Amendment) Act, 1999, SRT shall be levied and charged on all transport vehicles used or kept for use in Himachal Pradesh and will be payable in advance on the 15th of every month. If, the owner of a vehicle fails to pay the SRT due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay penalty at the rate of 25 per cent per annum of the tax due. As per the notification of January 2006, the rates of SRT were based on the classification of routes on which vehicles were plying such as National Highways (NH), State Highways (SH), Rural Roads (RR) and class of bus services.

Audit Scrutiny (between October 2014 and January 2015) of the records of route permit and SRT assessments maintained in four RTOs¹⁸ for the year 2013-14 showed that the RTOs concerned did not scrutinise the SRT statement of 12 cases properly as to whether the rates applied were according to the classification of route. Thus, application of incorrect SRT rates resulted in short assessment of SRT of ₹8.69 lakh¹⁹, besides a minimum penalty of ₹2.17 lakh at the prescribed rates was also leviable.

On this being pointed out (between October 2014 and January 2015), the Additional Commissioner Transport-cum-State Transport Authority intimated (January 2015) that RTO, Dharamshala, had issued notices the concerned Regional Manager to deposit the amount of SRT. The remaining RTOs stated that efforts were being made to recover the outstanding amount.

The matter was reported to the Government between November 2014 and January 2015. The replies have not been received (December 2015).

5.9. Incorrect assessment of SRT from the stage carriages of other states

Assessments of SRT in 14 cases were not made correctly as per the distance covered by the other state carriages plying on different routes of Himachal Pradesh which resulted in short levy of SRT of ₹12.12 lakh.

As per sub-section 4 of Section 3A of the HPMVT (Amendment) Act, 1999, if a transport vehicle registered in a state other than the state of Himachal Pradesh, enters and is used on any public road, or is kept for use in the State, SRT shall become chargeable on such entry in the prescribed manner. The SRT shall also be applicable and charged in respect of stage carriages of other states on the entire distance covered in Himachal Pradesh on the basis of route permits issued by the State Transport Authority of other States, duly countersigned by the RTOs of Himachal Pradesh under whose jurisdiction the vehicle is plied.

¹⁸ RTOs Bilaspur, Chamba, Kangra and Mandi

¹⁹ Bilaspur: ₹1.08 lakh, Chamba: ₹2.22 lakh, Kangra: ₹4.58 and Mandi: ₹0.81 lakh

Audit test checked in January and February 2015 the records of route permits countersigned by the RTO and SRT registers, maintained in the RTOs, Solan and Una for the year 2013-14 and noticed that records of permits countersigned by these RTOs and vehicles which were plying in Himachal Pradesh were not being maintained properly. Audit scrutiny of the permits issued or the reciprocal agreements executed by the respective States and tax paid by the State Transport Authority of other States, showed that assessments of SRT in 14 cases were not made correctly as per the distance covered by the other state carriages²⁰ plying on different routes of Himachal Pradesh. This resulted in short levy of SRT of ₹12.12 lakh by the stage carriage owners of other States.

On this being pointed out (January 2015), the department stated that the matter would be taken up with the concerned depots of the Roadways after re-examination of the case.

The matter was reported to the Government and Department in February 2015. The replies have not been received (December 2015).

5.10 Non-registration of Goods and Passenger Vehicles with Excise Department

The owners of the 1,251 commercial vehicles did not register their vehicles with the concerned Excise and Taxation Authorities after getting these registered with Motor Vehicles Tax Department. As a result Passenger and Goods Tax amounting to ₹89.07 lakh was not realised due to lack of co-ordination between the concerned RLAs/ RTOs and AETCs.

Under the Himachal Pradesh Passenger and Goods Taxation (HPPGT) Act, 1955 and the rules framed there under, owners of stage/contract carriages and goods carriers are required to register their vehicles with the concerned Excise and Taxation Offices to pay passenger and goods tax at the prescribed rates. Administrative instructions, issued in December 1984 stipulate that the Excise and Taxation Department shall take suitable measures to ensure registration of all vehicles under the Act *ibid* to maintain close co-ordination with the RLAs/ RTOs. Further, as per Excise and Taxation Department notification dated 5 May 2004, the lump-sum passenger tax of Educational Institutions Buses specified in sub-clauses (i), (ii) and (iii) of clause (a), shall payable in equal quarterly instalments within 30 days of the commencement of the quarter to which it relates on the basis of seating capacity²¹ of the vehicles. Failure to apply for registration, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of ₹500 is also leviable.

Audit cross checked the registration records between June 2014 and February 2015 of 12 RLAs and five RTOs with that of six AETCs²² and noticed that 1,251 commercial vehicles, which were registered with RLAs/RTOs during 2012-14 but not found registered with the concerned AETCs as required under the Act *ibid*. Audit, further, noticed that there was no co-ordination of AETCs with the

²⁰ CTU of Chandigarh UT, Hoshiarpur, Jalandhar-I, Ferozepur, Batala, Jagron, Amritsar depots of Punjab Roadways and Karnal, Faridabad, Yamuna Nagar depots of Haryana Roadways

²¹ Mini bus seating capacity upto 30 and Big bus seating capacity more than 30

²² AETCs Baddi: ₹20.70 lakh, Bilaspur: ₹9.73 lakh, Dharamshala: ₹11.47 lakh, Nahan: ₹12.76 lakh, Shimla: ₹27.98 lakh and Solan: ₹6.43 lakh

concerned RLAs/RTOs or *vice-versa* to ensure the registration of all the commercial vehicles with Excise and Taxation Department. As a result, passenger and goods tax of ₹89.07 lakh for the period 2012-13 to 2013-14 was not realised from the owners of the vehicles. Besides, a minimum penalty of ₹6.26 lakh was also leviable as per the details given in **Table 5.4**.

Table 5.4

| ₹ in lakh | | | | | | | |
|--------------|--|---------------------------|---|--------------------|---------------|--------------------------|-------------------------------------|
| Sr. No. | Category of vehicle | Period | No. of vehicles not registered with Excise Department | Amount recoverable | | | |
| | | | | Passenger tax | Goods tax | Total amount recoverable | Minimum penalty (₹500/-per vehicle) |
| 1. | Passenger Vehicles (Maxi Cabs/ Taxi) | 2012-13 and 2013-14 | 376 | 22.46 | -- | 22.46 | 1.88 |
| | (Educational Institution Buses) | | 37 | 3.24 | -- | 3.24 | 0.19 |
| 2. | Goods vehicles (HGV/MGV/LGV/ Tractors) | | 838 | -- | 63.37 | 63.37 | 4.19 |
| Total | | | 1,251 | ₹25.69 | ₹63.37 | ₹89.07 | ₹6.26 |

On this being pointed out (between December 2014 and January 2015), the ETC, Shimla intimated (August 2015) that out of ₹89.07 lakh an amount of ₹15.02 lakh (Passenger Tax: ₹4.45 lakh and Good Tax: ₹10.57 lakh) had been recovered from the owners of 242 vehicles by six AETCs and efforts were being made to recover the balance amount.

The matter was reported to the Government between September 2014 and March 2015; their replies have not been received (December 2015).

5.11 Non-realisation of Goods and Passenger tax

The passenger and goods tax amounting to ₹93.82 lakh was neither paid by the owners of 856 commercial vehicles for the period 2012-13 to 2013-14 nor demanded by the department.

Under the Himachal Pradesh Passenger and Goods Taxation (HPPGT) Act, 1955, and rules made thereunder, owners of vehicles are required to pay tax etc. at the prescribed rates either monthly or quarterly. However, if the owner of vehicle fails to pay the tax due, the taxation authority may direct him to deposit the tax due alongwith a penalty not exceeding five times of the amount of tax so assessed subject to a minimum of ₹500. Section 9-B (2) of Act *ibid* and rule 22 of the HPPGT Rules, 1957, further, provides that the taxation authority can serve a demand notice to the owners of the vehicle to deposit tax.

Audit test checked the Demand and Collection Registers (DCR) between June 2014 and February 2015 of six AETCs²³ and noticed that the owners of 856 commercial vehicles had not paid passenger and goods tax amounting to ₹93.82 lakh for the period 2012-13 to 2013-14. The certificate of registration of the

²³ Baddi: ₹29.86 lakh, Bilaspur: ₹8.59 lakh, Dharamshala: ₹11.20 lakh, Nahan: ₹5.87 lakh, Shimla: ₹14.19 lakh and Solan ₹24.11 lakh

vehicles were not deposited by the owner of the vehicles with the registering authorities and entries in support of this were also not found on record for allowing exemption of tax. The AAs did not issue demand notices to the owners of the vehicles. This resulted in non-realisation of tax of ₹93.82 lakh, besides minimum penalty of ₹4.28 lakh was also leviable on these vehicles as per the details given below in Table 5.5.

Table 5.5

| ₹ in lakh | | | | | | | |
|--------------|--|---------------------|------------------------------------|--------------------|--------------|--------------------------|-------------------------------------|
| Sr. No. | Category of the vehicles | Period | Total No. of vehicles not paid tax | Amount recoverable | | | Minimum penalty (₹500/-per vehicle) |
| | | | | Passenger tax | Goods tax | Total amount recoverable | |
| 1. | Passenger Vehicles (Maxi Cabs/Taxi) | 2012-13 and 2013-14 | 276 | 39.98 | -- | 39.98 | 1.38 |
| | (Educational Institution Buses) | | 39 | 5.03 | -- | 5.03 | 0.20 |
| 2. | Goods vehicles (HGV/MGV/LGV/ Tractors) | | 541 | -- | 48.81 | 48.81 | 2.70 |
| Total | | | 856 | 45.01 | 48.81 | 93.82 | 4.28 |

The matter was reported to the Department and the Government (September 2014 and March 2015), the ETC, Shimla intimated (August 2015) that out of ₹93.82 lakh an amount of ₹28.39 lakh²⁴ (Passenger Tax ₹18.62 lakh and Good Tax ₹9.77 lakh) had been recovered from the owners of 262 vehicles by five AETCs and also directed to recover the balance amount immediately whereas the remaining AETCs had not been furnished any reply. The reply of Government has not been received (December 2015).

5.12 Non-levy and collection of Additional Goods Tax (AGT)

Additional Goods Tax of ₹59.90 crore was neither paid by two cement companies who had transported limestone and shale from mining areas to cement plants for manufacturing of cement and clinker nor was it demanded by the department, resulting in evasion of revenue and caused loss to that extent.

Section 3-B of the HPPGT (Amendment) Act 1996 (inserted with effect from 1st October 1996), provides that Additional Goods Tax shall be levied, charged and paid to the State Government, on the transport of the goods specified in column (2) of the Schedule-II at the prescribed rates for every slab of two hundred and fifty kilometers or part thereof covered or being covered by road within the State. The payment of additional goods tax shall be made by the person-in-charge or the driver of the vehicle. The Rule 9-D of HPPGT Rules, 1957 (inserted on 24 November 2006), further, provides that a person selling or causing or authorizing to cause dispatch for transport of goods specified in Schedule-II to the Act and duly authorised by the State Government by notification, shall be duly registered by the AETC or ETO in-charge of the district under the HPGST Act, 1968 of HPVAT Act, 2005 in the concerned district office. The authorised person shall collect amount of AGT from the

²⁴ Baddi: 72 vehicles: ₹12.97 lakh, Dharamshala: 96 vehicles: ₹8.88 lakh, Nahan: eight vehicles: ₹0.52 lakh, Shimla: 47 vehicles: ₹3.68 lakh and Solan: 39 vehicles: ₹2.34 lakh

person-in-charge or the driver of the motor vehicle in or on which goods are to be transported, as the case may be, and issue certificate in Form-PGT 21-A showing the receipt of the amount so collected and shall deposit into the Government treasury.

Audit scrutiny of records/data collected from the MO, Solan (February 2015) showed that two cement companies²⁵ were using limestone and shale as raw material for manufacturing of cement and clinker. The Government had authorised these cement companies vide notification of January 2012 for collection of AGT. Audit scrutiny of records, further, showed that these Cement companies had transported 1,66,58,437 MT of limestone and 21,33,544 MT of shale from mining areas to cement plants for manufacturing of cement and clinker for the period April 2012 and March 2014 for which companies were liable to pay AGT of ₹59.90 crore²⁶. However, it was neither paid by these companies nor was it demanded by the department, resulting in evasion of revenue and caused loss to that extent.

On this being pointed out (February 2015), AETC stated that concerned authorities would be directed to make compliance in this regard.

The matter was reported to the Department and the Government in February 2015; their reply has not been received (December 2015).

5.13 Follow-up Audit on 'Levy and Collection of Motor Vehicle Tax'

Introduction

A performance audit of 'Levy and collection of Motor Vehicle Tax' with financial impact of ₹57.95 crore was conducted for the period 2004-05 to 2008-09 in the office of the Director Transport Himachal Pradesh, STA Shimla, eight RTOs²⁷ and eight RLAs²⁸ and featured in the Audit Report (Revenue Receipt) for the year 2009-10 as a paragraph 4.6. The report was placed before the State Legislature Assembly during April 2011. The action for recoveries of non-levy/ short levy of taxes pointed out by the audit is required to be taken promptly so that there may not be loss of legitimate revenue of the Government. As per the provisions contained in the Section 12 of HPMVT Act 1972, if the recoverable amounts not recovered by the department, such cases are required to be processed as Arrear of Land Revenue (ALR). For the purpose of proper watch over the recoveries/compliance effectively, Government/Department should prescribe quarterly/annual returns for field units to be submitted to the apex level.

²⁵ M/s Ambuja Cement, Darlaghat and J.P. Cement Himachal Plant Bagha

²⁶ M/s Ambuja Cement: ₹33.74 crore and J.P Cement Himachal Plant: ₹26.16 crore

²⁷ Bilaspur, Hamirpur, Kangra, Kullu, Mandi, Shimla, Solan and Una

²⁸ Amb, Bilaspur, Jogindernagar, Nalagarh, Nurpur, Parwanoo, Solan and Una

5.13.1 Follow -up Audit

Follow-up audit on above performance audit was conducted between May and June 2015 by issuing a well-structured questionnaire to the State Government and the Department in May 2015 and their responses/replies on the matter were called for. The views and responses of the department had been collected between May and June 2015, which are commented in the following paragraphs.

5.13.2 Department Compliance on observations/findings

Audit scrutinised the records (between May and June 2015) maintained in the office of the Director (Transport) and called for their further replies on the subject.

On being requested (May 2015), the Director (Transport) furnished the detailed replies on the 13 accepted observations/findings in June 2015. Audit scrutinised these replies and found that out of ₹19.78 crore involved in the 13 accepted audit observations/findings, the department had only recovered ₹15.73 crore upto June 2015 and completed their action only on four audit findings. The para-wise details are given below:

| (₹ in lakh) | | | | |
|---------------|---|-----------------|---------------------------------|--|
| Paragraph No. | Title of paragraph | Amount accepted | Amount recovered upto June 2015 | Further reply on the paragraph furnished by the department |
| 4.6.8.3 | Non-maintenance of centralised data | 481.73 | 239.00 | An amount of ₹2.39 crore had been recovered and notices to the defaulters had been issued for recovery of remaining amount ₹2.43 crore. No case was referred to collector for recovery as ALR even after the lapse of six years and centralised database on the server for online application software for collection and deposit of motor vehicles taxes was not yet completed and was still under process. |
| 4.6.9.1 | Fraudulent use of bank draft | 1.03 | 1.03 | Recovery of total amount had been made hence, action of the department was complete. |
| 4.6.9.2 | Non-transmission of bank drafts to other states/UTs | 70.51 | 70.51 | Recovery of total amount had been made hence, action of the department completed. |
| 4.6.9.3 | Non-deposit/late deposit of bank draft of SRT | 5.61 | -- | Out of seven banks drafts the amount of five banks drafts were deposited into the Government Account after their revalidation and the revalidation of remaining two bank drafts was under process. However, the strict instructions for timely disposal of bank drafts had been issued by RTO Una and such irregularity was noticed, action of the Department completed. |
| 4.6.9.4 | Non-deposit of bank drafts of composite fee | 5.81 | 5.81 | Recovery of total amount had been made hence; action of the department was completed. |

| | | | | |
|--------------|--|--------------------------------------|-------------------------------------|---|
| 4.6.11 | Short determination of SRT in respect of private stage carriages | 8.06 | 2.25 | An amount of ₹.2.25 lakh had been recovered and the directions were issued to the field offices in April 2015 and May 2015 for the recovery of the balance amount and redetermination of correct SRT. The reply is not satisfactory as the irregularity had been pointed out by audit in 2009-10 and the department has taken cognizance in 2015-16 only. |
| 4.6.11.2 | Short determination of SRT in respect of private stage carriages of RTO Shimla | 2.89 | -- | Matter had been taken up with the quarter concerned during April 2015 but no recovery had been made after elapse of six years. |
| 4.6.12 | Loss of SRT due to fake entries | 21.61 | 4.56 | An amount of ₹4.56 lakh had been recovered/ adjusted and necessary directions to recover the balance amount of ₹17.05 lakh was issued to all the field offices in April 2015. |
| 4.6.13.1 | Incorrect determination of SRT by HRTC | 24.31 | -- | The directions had been issued to all the field offices to recover the amount of SRT. These cases were not referred to Collector, to recover the tax as arrear of land revenue. |
| 4.6.13.2 | Incorrect determination of SRT by HRTC | 36.62 | -- | Efforts were being made to recover the amount of SRT. These cases were not referred to Collector, to recover the tax as arrear of land revenue. |
| 4.6.14 | Issue of no objection certificate without clearance of tax | 3.83 | -- | The notices to the defaulters were issued in 2009 but recovery was yet to be made. These cases were not referred to Collector, to recover the tax as arrear of land revenue. |
| 4.6.15.1 | Arrear of HRTC | 1,141.00 | 1,141.00 | Recovery of total amount had been made hence, action of the department was completed. |
| 4.6.15.2 | Arrear of private stage carriage | 174.75 | 108.78 | An amount of ₹.108.78 lakh had been recovered and the directions was issued to all the field offices to recover the balance amount of ₹65.97 lakh. |
| Total | | 1,977.76 ₹19.78 cr. | 1,572.94 ₹15.73 cr | |

This showed the facts that the Government and the Department did not initiate concrete action to recover the outstanding revenue in a time bound manner. The progress of recovery even in accepted cases was very slow and even after lapse of five years an amount ₹4.05 crore was still pending for recovery, of audit observations/findings included in the above review.

5.13.3 Non-declaration of Arrear of Land Revenue (ALR)

If government dues cannot be recovered by means available with the department, such arrears are certified as ALR and such cases should referred to the Collector of the district concerned or the officer who has been delegated such powers provided under the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954).

Audit noticed that the remaining amount of ₹4.05 crore could not be recovered even after elapse of five years and was not referred to the Collector to affect the recovery of tax as an ALR.

On this being requested (June 2015), the Director (Transport) had not furnished any concrete reason for non-declaration of ALR. However, it was intimated that efforts were being made to recover the remaining outstanding amount. Further, report on recovery and replies has not been received (December 2015).

Conclusion

From the above, it appears that the Government/Department had not taken any initiative for expeditious settlement of the outstanding audit observations/findings. No time period had been framed for recovery of outstanding amount of tax and reporting the cases to the Collector to recover the dues as ALR which led to accumulation of arrears.

The above points were reported to the Government (August 2015); their reply was still awaited (December 2015).

CHAPTER-VI
FOREST RECIEPTS

CHAPTER-VI FOREST RECEIPT

6.1 Tax administration

The Principal Chief Conservator of Forests (PCCF) heads the Forest Department under the administrative control of the Additional Chief Secretary (Forests) who is assisted by eight Conservators of Forests (CFs) in 37 territorial divisions. Each CF controls the exploitation and regeneration of forest activities being carried out by divisional forest officers (DFOs) under their control. Each DFO is in-charge of assigned forest related activities in his territorial division.

6.2 Results of audit

In 2014-15, test check of the records of 22 units relating to forest receipts showed non/short recovery of royalty, non-levy of interest/extension fee, blockade/loss of revenue due to seized timber and other irregularities involving ₹102.35 crore in 94 cases, which fall under the following categories shown in the **Table 6.1** below:

Table-6.1

| ₹ in crore | | | |
|--------------|---|-----------------|---------------|
| Sr. No. | Categories | Number of cases | Amount |
| 1. | Non/Short recovery of royalty | 22 | 86.16 |
| 2. | Non-levy of interest/extension fee | 22 | 1.52 |
| 3. | Blockade/Loss of revenue due to seized timber | 12 | 2.80 |
| 4. | Other irregularities | 38 | 11.87 |
| Total | | 94 | 102.35 |

During the course of the year, the Department accepted underassessment and other deficiencies of ₹230.80 crore in 93 cases, which were pointed out in earlier years, out of which an amount of ₹5.63 crore was realised in 64 cases which pertain to earlier years.

A few illustrative cases involving ₹11.90 crore are discussed in the following paragraphs.

6.3 Short realisation of cost of trees

The department incorrectly charged the cost of 1,569 trees/saplings of different species having standing volume 65.75 cu.m falling in the alignment area of project/road from the user agency amounting to ₹4.11 lakh instead of ₹12.84 lakh, resulting in short recovery of revenue of ₹9.93 lakh including VAT of ₹1.20 lakh.

As per the Department instructions of September 1991, the cost of trees standing on the forest land diverted/transferred for non-forestry purposes is to be recovered at the prevailing market rate from the user agencies before handing over the area to them, in whose favour the approval for transfer of the forest land has been granted by the Government of India (GOI), Ministry of Environment and Forest.

Audit test checked the records (January 2015) of cost of trees bills maintained in the office of DFO, Mandi and noticed that the principal approval of diversion of 1.70 hectare of forest land was granted in April 2013 in favour of user agency HPPWD for construction of a road from Jablahi Nalah to Barnota Karkoh. 1,569 trees/saplings of different species having standing volume 65.75 cu.m were coming in the alignment of the road. The department incorrectly charged cost of trees of ₹4.11 lakh in respect of trees/saplings falling in the alignment of the road at the market rates applicable in 2009-10 instead of ₹12.84 lakh chargeable at the revised market rates prevailing during 2013-14. This resulted in short recovery of Government revenue of ₹9.93 lakh including VAT of ₹1.20 lakh.

The matter was reported to the Department and the Government in March 2015; their replies have not been received (December 2015).

6.4 Non-crediting of departmental charges

The departmental charges of ₹1.30 crore in 18 cases recovered from the user agencies under the Compensatory Afforestation (CA) schemes were deposited in CAMPA account instead of depositing it in the revenue head of the Government. This resulted in understatement of revenue to that extent.

As per instructions of Principal Chief Conservator of Forests (PCCF), Himachal Pradesh, issued in May 2004, departmental charges at the rate of 17.50 per cent shall be charged under the Compensatory Afforestation (CA) schemes to cover the establishment and infrastructure expenditure of the department. As per PCCF letter of March 2003, the amount so realised on account of the departmental charges should be deposited as revenue of the department instead of depositing in compensatory afforestation head.

Audit noticed between June 2014 and March 2015 from the CA bills records of eight forest divisions¹ that in 18 cases of diversion of forest land for non-forestry purposes, an amount of ₹9.52 crore on account of CA inclusive of departmental charges of ₹1.30 crore, was realised from the user agencies. The departmental charges of ₹1.30 crore so realised, were credited in Compensatory Afforestation Fund Management and Planning Authority (CAMPA) account instead of revenue head of the Government. Thus, non-credit of departmental charges in the Government account resulted in understatement of revenue of ₹1.30 crore.

On this being pointed out (between June 2014 and March 2015), CF Chamba (July 2015) intimated that departmental charges would be demanded and deposited in the revenue head whereas five DFOs stated that after reconciliation of the amount, the matter would be taken up with the State CAMPA authority to refund the amount as per the instructions of PCCF whereas remaining DFOs had not furnished any reply.

The matter was reported to the Department and the Government between August 2014 and April 2015; no reply has been received (December 2015).

¹ DFOs Bharmour: ₹1.90 lakh, Chamba: ₹28.05 lakh, Chopal: ₹3.84 lakh, Keylong: ₹0.73 lakh, Mandi: ₹2.02 lakh, Nalagarh: ₹10.93 lakh, Rajgarh ₹18.25 lakh and Suket (Sundernagar): ₹64.75 lakh

6.5 Non-levy of extension fee

36 timber lots were handed over to HPSFDCL for exploitation during the lease period between 31 March 2011 and 31 March 2014 for which extension fee ₹33.44 lakh neither demanded by the department nor was it paid by the HPSFDCL.

As per clause-3 of standard lease deed agreement for exploitation of timber/trees, on the expiry of lease period the Himachal Pradesh State Forest Development Corporation Ltd. (HPSFDCL) shall have no right on such trees, as are left standing in the leased forest, felled trees and any scattered/stacked timber un-removed from leased forest. Further, as per decision of the Pricing Committee of September 2007 the extension fee at the rate of 0.2 per cent per month of the total royalty whether paid or unpaid shall be levied for the extension of the working period beyond the lease period.

Audit test checked the records of three forest divisions between July and November 2014 and noticed that 36 timber lots were handed over to HPSFDCL for exploitation during lease period ending between 31 March 2011 and 31 March 2014. Audit scrutiny, further, showed that exploitation work of these lots could not be completed within the lease period. The HPSFDCL, however, sought extension in working period of the salvage lots with delay ranging between five to 31 months and the competent authority had granted extension in 102 cases, for which the extension fee of ₹33.44 lakh² was neither demanded by the department nor was it paid HPSFDCL. Thus, by non-claiming of the extension fee, the Government suffered a loss of revenue to that extent.

On this being pointed out between July and November 2014, the PCCF, Shimla intimated (April 2015) that the bill for the payment of extension fee had been raised with DM, HPSFDC Ltd. by DFO, Shamshi at Parvati, the remaining DFOs stated that matter regarding claiming of extension fee from the HPSFDCL for various salvage lots was under process and extension fee bills were being raised shortly.

The matter was reported to the Department and the Government between August and December 2014. The replies have not been received (December 2015).

6.6 Short/non-payment of royalty and interest

The royalty of ₹13.54 crore was payable by the HPSFDCL out of which only ₹1.45 crore was paid on time and ₹4.82 crore were paid late on which interest of ₹43.03 lakh was accrued. The balance amount of royalty of ₹7.27 crore was neither demanded by the DFOs nor paid by the HPSFDCL. This resulted in short realisation of revenue of ₹7.70 crore.

As per Pricing Committee (PC) decision of July 2007, royalty on salvage lots was fixed 20th March for 1st instalment, 20th June for 2nd instalment in respect of low lying lots and 30th November and 20th March for high lying lots applicable for the lots of 2007-08 onwards. The PC in its meeting dated 15th February

² DFOs Parvati at Shamshi: 10 lots: ₹18.64 lakh, Shimla: Nine lots: ₹3.55 lakh and Theog:17 lots: ₹11.25 lakh

2005, decided that the HPSFDCL would pay interest at the rate of nine *per cent* per annum on belated payment of royalty. A grace period of 90 days is admissible if the payment is made within the grace period, otherwise HPSFDCL is liable to pay interest from the due date of payment of royalty.

Audit scrutiny of the records relating to payment of royalty etc., of eight DFOs³ between April 2014 and March 2015 showed that 127 timber lots (50 high and 77 low lying lots) were handed over to HPSFDCL for exploitation during 2011-12 and 2013-14. For this, royalty of ₹13.54 crore was payable by the HPSFDCL between March 2012 and June 2014 out of which ₹1.45 crore was paid on time and ₹4.82 crore was paid late between March 2014 and September 2014 with a delay ranged between 91 and 652 days. Thus, interest of ₹43.03 lakh on belated payment and balance amount of royalty of ₹7.27 crore was neither demanded by the DFOs nor was paid by the HPSFDCL on due dates. This resulted in loss of revenue of ₹7.70 crore including interest of ₹43.03 lakh.

On this being pointed out, the DFOs stated that matter would be taken up with the HPSFDCL to recover the amount of interest and royalty.

The matter was reported to the Department and the Government between August 2014 and April 2015. The replies have not been received (December 2015).

6.7 Blockade of revenue due to non-disposal of seized timber

Non-disposal of seized timber measuring 521.616 cu.m lying in various depots of the Department, resulted in blockade of revenue of ₹247.16 lakh including VAT of ₹29.88 lakh.

Section 52 of Indian Forest Act, provides for seizure of property liable to confiscation. As per departmental instructions April 1951, either the seized timber or forest produce should be kept in the *spurdagi* (safe custody) of a *sapurdar*⁴ or with the concerned field staff after it is accounted for in form-17. The timber/forest produce so accounted for is required to be disposed of after the offence has either been compounded or decided by the court. The PCCF instructed (April 1999) all the CFs that where the *spurdagi* of forest produce is taken for unduly long period, the concerned investigating officer should be asked to procure the orders of competent court for auctioning the seized property within 15 days, to minimise expenditure on watch & ward and deterioration/pilferage of such produce.

Audit scrutiny of timber forms of nine forest divisions⁵ between September 2014 and April 2015 showed that in 32 forest ranges, the department had seized (between 2011-12 and 2013-14) timber measuring 521.616 cu.m having value of ₹247.16 lakh including VAT of ₹29.88 lakh. Audit scrutiny, further, showed

³ DFOs Chopal: 11 lots: ₹0.31 lakh, Mandi: one lot: ₹0.56 lakh, Parvati at Shamshi: one lot: ₹16.39 lakh, Rajgarh: 76 lots: ₹404.99 lakh: Rohru: one lot: ₹15.17 lakh, Shimla: 20 lots: ₹184.05 lakh, Seraj at Banjar: six lots: ₹14.41 lakh and Theog: 11 lots: ₹133.94 lakh

⁴ A lambardar or any reliable person of a place


⁵ Chopal: vol: 87.73 cu.m ₹45.95 lakh, Dalhousie: vol.: 15.10 cu.m ₹5.37 lakh, Karsog: vol: 33.83 cu.m: ₹7.64 lakh, Parvati at Shamshi: vol: 49.92 cu.m ₹25.79 lakh, Rampur: vol: 60.09 cu.m ₹29.49 lakh Rohru: vol: 6.84 cu.m ₹3.09 lakh, Seraj at Banjar: vol: 31.23 cu.m ₹16.49 lakh, Shimla: vol: 137.356 cu.m ₹106.28 lakh and Theog: vol: 99.52 cu.m ₹7.06 lakh

that seized timber was lying in various depots of the department without any record to indicate whether the concerned DFOs/investigating officers had taken any concrete steps or obtained the orders of the Court to dispose of the seized timber. Thus, non-disposal of seized timber not only resulted in blocking of revenue to that extent but also incurrence of expenditure on watch and ward and further deterioration of timber.

On this being pointed out, the DFO, Theog stated (January 2015) that all ROs had been directed to prepare list of seized timber and confiscate as per the procedure so that auction process could be initiated and remaining DFOs stated that action would be taken to dispose of the seized timber as per the instructions of the PCCF of April 1999.


The matter was reported to the Department and the Government between September 2014 and May 2015. The reply has not been received (December 2015).

Shimla
The 22 February 2016


(R. M. Johri)
Pr. Accountant General
Himachal Pradesh

Countersigned

New Delhi
The 25 February 2016


(Shashi Kant Sharma)
Comptroller and Auditor General of India

APPENDICES

Appendix-I

Reference to Paragraph: 2.3.6

System for registration, assessment and recovery of tax revenue under HPVAT

| System of registration, assessment and recovery of tax revenue under HPVAT | | |
|---|--------|---|
| Registration of dealers | ⇒ | Section 4 and Section 14 of HPVAT Act, 2005 provide that no dealer shall, while being liable to pay tax under these Acts, carry on business as a dealer unless he has been registered and possesses a registration certificate. |
| Ascertainment of commencement of liability to pay tax for registration | ⇒ | Section 33 of HPVAT Act, 2005 provides that survey regarding ascertainment of commencement of liability to pay tax for registration under section 14 of this Act and extent of business in the jurisdiction/circle to be completed by an authority authorized by the commissioner. |
| Security/ Surety | ⇒ | Section 15 of HPVAT Act, 2005 provide for obtaining security in the shape of cash deposits, FDR, etc. to the satisfaction of AA. Besides, a dealer is also required to furnish personal bond with two sureties. |
| Payment of tax and Returns | ⇒ | Section 16 of HPVAT Act, 2005 requires a dealer to file his return, monthly/quarterly, alongwith treasury receipt of tax deposited. |
| Deemed/scrutiny Assessments of cases | ⇒ | Section 21 and rule 64 of the HPVAT Act/Rules, 2005 provides for Deemed assessments in respect of dealers having gross turnover up to a specified limit and not fall under the selection of cases for scrutiny. |
| Scrutiny of returns filed by the dealers | ⇒ | Section 21 of the HPVAT Act, 2005 read with Rule 66 of the HPVAT Rules, 2005 provides that returns furnished by a dealer shall be scrutinized in detailed and found any irregularity in respect of each selected cases, serve on the dealer a notice in the prescribed manner to attend in person or produce any evidence on which such dealer may rely in support of the return filed by him. |
| Notice for assessment | ⇒ | Rule 67 of HPVAT Rules provides for issue of notice for assessment to the dealer. Further, the assessment shall be completed within three months after service of notice. |
| Assessment and imposition of penalty | ⇒ ⇒ | Rule 69 of the HPVAT Rules, 2005 provides the procedure relating to assessment and imposition of penalty. As per Rule 69 (1), after considering any objection made by the dealer, any evidence produced in support thereof, the outcome of enquiries made under Rule 67 the appropriate Assessing Authority after giving the dealer an opportunity of being heard, shall assess the amount of tax and impose penalty, if any, paid by the dealer. |
| Tax demand notice | | Rule 69(4) of the HPVAT Rules, 2005 provides for delivery of certified copy of assessment orders alongwith tax demand notice (TDN), if any, to the dealers free of cost. |

Appendix-II

Reference to Paragraph: 2.3.7.2
Delay in finalizing the assessments

| Sr. No. | Name of the district | No. of cases | Year/ date of assessment | Date of service of first notice/ Delay in service of notice | Nature of observations | Amount involved ₹ in lakh |
|---------|----------------------|----------------|--------------------------|---|---|---------------------------|
| 1. | Baddi | 6 | 2005-06/ 4-04-13 | No notice was served/ 7 years | Due to incorrect computation, AA issued TDN of lesser amount, on ISS of ₹1.27 crore against short C and F forms and levied 4 per cent CST instead of 10 per cent as per prevailing rate up to 01-04-2007. ISS of ₹1.01 lakh and ₹3.06 lakh assessed at the rate of 4 per cent which the dealer made at the rate of 12 per cent and 10 per cent which resulted in under assessment of tax. | 22.58 |
| | | | 2006-07/ 31-08-13 | 8/13/ 6 years | The exemption on interstate sale of ₹389.58 lakh was allowed against the strength of invalid Forms- F. | 37.48 |
| | | | 2007-08/ 05-09-13 | 8/13 5 years | The exemption on interstate sale of ₹149.82 lakh was allowed against the strength of invalid Forms -F. | 13.33 |
| | | | 2006-07/ 25-07-13 | 7/13 6 years | Concessional rate of tax allowed on ISS of ₹226.58 lakh against the strength of duplicate Form -C was not included in GTO. | 33.83 |
| | | | 2007-08/ 30-04-13 | 4/13 5 years | Concessional rate of tax was allowed on ISS of ₹216.77 lakh against the strength of duplicate Forms- C. | 14.47 |
| | | | 2007-08/ 22-07-13 | 7/13 5 years | The exemption on interstate sale of ₹55.66 lakh was allowed against the strength of invalid Forms- F. | 4.95 |
| 2. | Una | 3 | 2004-05/ 10-09-13 | 9/13 8 years | The exemption on interstate sale of ₹26.95 lakh was allowed against the strength of invalid Forms- F. | 7.49 |
| | | | 2005-06/ 05-07-13 | No notice was served/ 6 years | Concessional rate of tax was allowed on ISS of ₹1.61 lakh against the strength of duplicate form C. | 0.12 |
| | | | 2006-07/ 05-07-13 | No notice was served/ 5 years | Concessional rate of tax was allowed on ISS of ₹3.31 lakh against the strength of duplicate Form- C. | 0.24 |
| | | 9 cases | Total | | | 134.49 |

Appendix-III

Reference to Paragraph: 2.3.11
Suppression of Purchase/ Sales

| Name of AETC | No. of cases involved | Tax period/ assessment made between | Amount of tax ₹ in lakh | Amount of interest/ penalty | Nature of observations |
|------------------|-----------------------|---|-------------------------|-----------------------------|---|
| Solan | 02 | <u>2011-12/</u> May 2013 and June 2013 | 4.03 | 8.06 | In case of two dealers, ITC of ₹3.44 lakh was allowed on the local purchases of ₹27.94 lakh. It was noticed that neither any sale was made against these purchases nor were disclosed in the Trading & Profit & Loss Account. The AAs while finalizing the assessment did not levy tax and penalty on the suppressed turnover of purchases. |
| Baddi and Shimla | 05 | 2008-09 to 2012-13/ May 2013 and Feb. 2015 | 0.82 | 0.39 | The purchase account of return version and Trading & profit and loss account of five dealers for the period 2009-10 to 2012-13 were not match with each other. The AAs computed gross turnover of purchases at ₹9.65 crore on the basis of return filed by the dealer instead of ₹9.72 crore as shown in the trading account. |
| Baddi | 01 | <u>2012-13/</u> April 2014 | 8.84 | 4.60 | In one case the opening stock figure of manufacturing and profit & loss account was disclosed ₹2.74 crore whereas closing stock figure of the previous year was ₹2.09 crore. The difference of ₹64.29 lakh was due to suppression of sales/ taxable turnover of the current year. The AA while finalizing the assessment did not include the difference of ₹64.29 lakh in the gross turnover. |
| Solan and Una | 02 | 2008-09 to <u>2012-13/</u> July 2013 and Feb 2015 | 0.63 | 0.38 | The AAs while finalizing the assessment of two dealers allowed deduction on account of other income/row material charges of ₹10.93 lakh which were not included in determining the GTO of ₹1.64 crore. In this way sales turnover of ₹10.93 lakh escaped from assessment |
| Total | 10 cases | | ₹14.32 | ₹13.43 | |

Appendix-IV

Reference to Paragraph: 2.5
Acceptance of invalid, duplicate and defective statutory forms

| Name of Unit | Name of the firm M/s | Year of assessment Date of assessment | Differential amount of tax leviable on Turnover exempted | Interest leviable u/s 19 (i) of HP VAT Act | Total | Reasons for rejection of the forms |
|----------------------------|--|--|--|--|------------------|---|
| AETC Chamba | Himachal States & Stones Chamba | 2010-11 26.09.13 | 13,799 | 9,659 | 23,458 | The forms were not available on record. |
| | | 2011-12 26.09.13 | 53,830 | 27,992 | 81,822 | |
| | <i>1 dealer</i> | <i>2 cases</i> | <i>67,629</i> | <i>37,651</i> | <i>1,05,280</i> | |
| AETC Nurpur | Rachil Pharma, Ind. Area Sansarpur Terrace | 2006-07 24.07.13 | 3,92,163 | 4,86,282 | 8,78,445 | The dealer neither furnished declaration in form 'C' in support of his claim. |
| | <i>1 dealer</i> | <i>1 case</i> | <i>3,92,163</i> | <i>4,86,282</i> | <i>8,78,445</i> | |
| AETC Solan | Siemens Industry Software Pvt. Ltd. | 2008-09 15.03.14 | 3,32,856 | 3,52,827 | 6,85,683 | Three forms were duplicate copies and five copies had wrong address. |
| | Jain Industrial Manufacturing Company | 2008-09 19.11.13 | 5,38,077 | 5,70,361 | 11,08,438 | Two forms were duplicate copies. |
| | Lakshya Healthcare Pvt. Ltd. | 2006-07 30.04.13 | 2,75,554 | 3,91,287 | 6,66,841 | Three forms were duplicate copies. |
| | Prem Steel, Parwanoo | 2010-11 05.08.13 | 1,20,089 | 84,063 | 2,04,152 | One form had wrong address. |
| | Image Master Sec-5 Parwanoo | 2008-09 09.07.13 | 14,108 | 14,955 | 29,063 | Short 'C' forms |
| | | 2009-10 03.08.13 | 11,527 | 10,143 | 21,670 | |
| | Biomarks Drug India Pvt. Ltd. Solan | 2009-10 26.06.13 | 41,853 | 36,831 | 78,684 | One form was duplicate and two forms had wrong address. |
| | <i>6 dealers</i> | <i>7cases</i> | <i>13,34,064</i> | <i>14,60,467</i> | <i>27,94,531</i> | |
| AETC Una | Ranger Breweries Ltd. Mehetpur | 2006-07 13.09.13 | 24,330 | 34,549 | 58,879 | In the year of 2006-07, the rate of tax was 4 per cent where as AA applied 2 percent under CST Act. |
| | <i>1 dealer</i> | <i>1 case</i> | <i>24,330</i> | <i>34,549</i> | <i>58,879</i> | |
| Total Sale exempted | | | 18,18,186 | 20,18,949 | 38,37,135 | |

Appendix-V

Reference to Paragraph: 4.4
Non/short recovery of lease money due to non-execution/renewal of lease deeds

| Sr. No. | Name of SR Unit | Name of project | Year of sanction/ measurement of Land | Period | Nature of irregularity | Amount involved ₹ in lakh |
|--------------|--------------------------|---|---------------------------------------|-------------|--|----------------------------------|
| 1. | Bharmour (Chamba) | Lanco Hydro Power Project a Hydro-electric company | 2004 267-08-00 Bigha | 40 Years | The Government land was granted in 2004 for establishment of 70 megawatt hydroelectric project in the Tehsil Bharmour, district Chamba. As per the lease Rules, the lease deed was required to be executed within six months, which were not executed by the SR. However, it was noticed that registering authority had imposed penalty of ₹53.60 lakh for unauthorised occupation of government land under section 163 of Land Revenue Act. Though, the company has started the production of electricity but no steps were taken to register the lease deed yet. After obtaining the price of the land (as on 2004) from concerned <i>Patwaris</i> audit has pointed out recovery. | 244.00 |
| 2. | Bharmour (Chamba) | Chirchind Hydroelectric Company | 2001 18-02-12 Bigha | 40 years | Himachal Pradesh Government had entered an agreement in 2001 and sanction, for establishment of 5.00 megawatt (enhanced capacity) hydroelectric project for 40 years, was accorded in favour of company. Scrutiny of the records showed that neither lease deed was executed by the lessee nor any action was taken by the department in this regard. Whereas the lessee had occupied the Government land unauthorised. | 11.14 |
| 3. | Churah at Tissa (Chamba) | M/s I.A.Energy, D-7 Lane-I Sector-1 New Shimla, Hydroelectric Company | 2012 427-09-14 Bighah | 40 years | Sanction for use of Government land was accorded in favour of company in July 2012 for establishment 36 Megawatt Hydroelectric Project for the period of 40 years. The lessee shall pay the annual lease amount of ₹42.05 lakh to the government. While executing the lease, this condition was not incorporated in the lease deed, therefore, the lessee had not deposited the lease money and the Sub Registrar had also not taken the cognigence of the sanction orders of Government. | 84.08 |
| 4. | Holi Chamba | M/s G.M.R. Energy Pvt. Ltd. | 2014 930-07-12 Bigha | 40 years | Sanction for use of Government land was accorded in favour of company (July 2014) for establishment of 180 megawatt hydroelectric project in Holi, Chamba for the period of 40 years. As per lease rules possession for use of land will be given to the party after lase deed got executed. The department has incorrectly fixed the annual lease money of ₹89.05 lakh (October 2014) on the basis of lease Rules 2011 and recovered an amount of ₹2.16 crore from the lessee for the period October 2012 to July 2014. Whereas the annual lease money was to be assessed to ₹1,124.43 lakh on the basis of lease Rules (2014) at the prevailing circle rates. This resulted short recovery of revenue ₹9.08 crore. | 908.00 |
| Total | | 4 Projects | 1,643.01-18 bigha | | | 1,247.22 ₹12.47 crore |

Appendix-VI

Reference to Paragraph: 4.5.1
Short recovery of lease money due to non-renewal of lease deed

| Sr. No. | Name of the Unit | Name of lessee | Year of sanction/ Land leased out | Period | Nature of irregularity | Amount involved ₹ in lakh |
|--------------|-----------------------|---|---|-------------|---|------------------------------|
| 1. | SR, Palampur (Kangra) | Himachal Pradesh State Electricity Board Ltd. | Dec-1994 0-96-82 hectare or 9,682 square meters | 99 years | Sanction for the transfer of government land was accorded in favour of Himachal Pradesh State Electricity Board Ltd. (HPSEBL) and lease was executed on 15-12-94. The lease was required to be renewed on 15.12.2004 but the same had not been renewed. The market value of the land, however, correctly assessed of ₹1.25 lakh per annum at the rate of five <i>per cent</i> . Therefore, an amount of ₹12.50 lakh was required to be paid by the lessee for the period 2004-05 to 2013-14 but the lessee had paid only lease amount of ₹1.42 lakh (at the rate of ₹17,228 for the years 2004-05 to 2007-08 and ₹18,142 per annum for the years 2009-10 to 2013-14). | 11.08 |
| 2. | SR, Sundernagar | Dr. Puran Chand Medical Charitable Trust, Yamunanagar | <u>Dec-1998</u> 21,212 square meters | 45 years | The Government approval for transfer of government land was accorded for establishment of Dental College in Mohal Pung (Sundernagar) and lease deed was registered (December 1998) for the period of 45 years which was required to be renewed on December 2008 on the basis of prevailing market rates of the land. The market value of the land on the prevailing market rates was ₹773.52 lakh and lease money of ₹61.88 lakh per annum required to be fixed at the rate of eight <i>per cent</i> (as per condition of lease deed) on market value. Therefore, an amount of ₹ 433.16 lakh was required to be paid by the lessee for the period from 2008-09 to 2014-15. Whereas the department had incorrectly fixed/ revised the lease money of ₹3.09 lakh per annum and lease amount to ₹36.14 lakh for the period 2008-09 to 2017-18 was calculated and demanded by the lessee, out of which ₹20.29 lakh had been paid by the lessee. | 413.00 |
| Total | | Two cases | 30,894 sq.m | | | 424.08 |

GLOSSARY

GLOSSARY OF ABBREVIATIONS

| Abbreviation | Full form of the abbreviation |
|--------------|---|
| AAs | Assessing Authorities |
| ACF | Assistant Conservators of Forest |
| AD | Additional demand |
| AETCs | Assistant Excise and Taxation Commissioners |
| AGT | Additional Goods Tax |
| ALR | Arrear of Land Revenue |
| BBMB | Bhakra Beas Management Board |
| BBN | Baddi, Barotiwala and Nalagarh |
| BDO | Block Development Officer |
| BEs | Budget Estimates |
| BWH | Bonded Ware House |
| CA | Compensatory Afforestation |
| CAATs | Computer Aided Audit Techniques |
| CAMPA | Compensatory Afforestation fund Management and Planning Authority |
| CEI | Chief Electrical Inspector |
| CF | Conservator of Forest |
| CGCR | Certain Goods Carried by Road |
| CL | Country Liquor |
| CS | Country Spirit |
| CST | Central Sales Tax |
| CZ | Central Zone |
| DC | Deputy Commissioner |
| DCR | Demand and Collection Register |
| DDO | Drawing and Disbursing Officer |
| DETC | Deputy Excise and Taxation Commissioner |
| DFOs | Divisional Forest Officers |
| DM | Divisional Manager |
| DVCs | District Valuation Committees |
| DR | Damage Report |
| EC | Empowered committee |
| ED | Electricity Duty |
| ENA | Extra Neutral Alcohol |
| ETC | Excise and Taxation Commissioner |
| ETI | Excise and Taxation Inspector |
| ETOs | Excise and Taxation Officers |
| FCA | Forest Conservation Act |
| GOI | Government of India |
| FS | Flying Squad |
| GST | General Sales Tax |
| GTO | Gross Turn Over |
| HOD | Head of the Department |
| HP | Himachal Pradesh |
| HPLR | Himachal Pradesh Land Revenue |
| HPGST | Himachal Pradesh General Sales Tax |

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| | |
|-------------|---|
| HP VAT | Himachal Pradesh Value Added Tax |
| HPID | Himachal Pradesh Infrastructure Development |
| HPMM | Himachal Pradesh Minor Minerals |
| HPMVR | Himachal Pradesh Motor Vehicle Rules |
| HPMVT | Himachal Pradesh Motor Vehicles Taxation |
| HPPGT | Himachal Pradesh Passengers and Goods Taxation |
| HPPGTR | Himachal Pradesh Passengers and Goods Tax Rules |
| HPPWD | Himachal Pradesh Public Works Department |
| HPSEBL | Himachal Pradesh State Electricity Board Ltd. |
| HPSFC | Himachal Pradesh State Forest Corporation |
| HRTC | Himachal Road Transport Corporation |
| IAC | Internal Audit Cell |
| IAW | Internal Audit Wing |
| IDEA | Interactive Data Extraction and Analysis |
| IFA | Indian Forest Act |
| IFS | Imported Foreign Spirit |
| IGR | Inspector General of Registration |
| IMFL | Indian Made Foreign Liquor |
| IMFS | Indian Made Foreign Spirit |
| IR Act | Indian Registration Act |
| IRs | Inspection Reports |
| IS Act | Indian Stamp Act |
| ISS | Inter State Sales |
| IT | Information & Technology |
| ITC | Input Tax Credit |
| MGQ | Minimum Guaranteed Quota |
| MIS | Management Information System |
| MPP & Power | Multi Purpose Projects and Power |
| MT | Metric Tonne |
| MVT | Motor Vehicles Tax |
| NH | National Highway |
| NIC | National Informatics Centre |
| NPV | Net Present Value |
| NZ | North Zone |
| PAG | Principal Accountant General |
| PC | Pricing Committee |
| PCCF | Principal Chief Conservator of Forest |
| PDR | Punjab Distillery Rules |
| PGT | Passenger and Goods Tax |
| PLs | Proof Liters |
| PSCs | Private Stage Carriages |
| RC | Registration Certificate |
| RR | Rural Road |
| RF | Registration fee |

| | |
|------|---------------------------------------|
| RLAs | Registering and Licensing Authorities |
| RS | Rectified Spirit |
| RTOs | Regional Transport Officers |
| SD | Stamp Duty |
| SDCs | Sub-Divisional Collectors |
| SFC | State Financial Corporation |
| SH | State Highway |
| SO | Section Officer |
| SRs | Sub Registrars |
| SRT | Special Road Tax |
| SSR | Spirit Store Room |
| STA | State Transport Authority |
| SZ | South Zone |
| TDN | Tax Demand Notice |
| TIN | Tax Identification Number |
| TTO | Taxable Turn Over |
| VAT | Value Added Tax |
| WP | Working Plan |