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

for the year ended March 2015

Government of Karnataka

Report No.3 of the year 2015

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PREFACE

This Report for the year ended March 2015 has been prepared for submission to the Governor of Karnataka under Article 151 of the Constitution of India for being placed in the State Legislature.

The Report contains significant results of the performance audit and compliance audit of the Departments of Government of Karnataka under Revenue Sector, including Commercial Taxes Department, Department of Stamps and Registration, Revenue Department, State Excise Department, Transport Department and Department of Mines and Geology.

The instances mentioned in this Report are those which came to notice in the course of test audit for the period 2014-15 as well as those which came to notice in earlier years, but could not be reported in previous Audit Reports. The instances relating to the period subsequent to 2014-15 have also been included wherever found necessary.

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

OVERVIEW

This Report contains 31 paragraphs including two Performance Audits relating to non/short levy of tax, interest, penalty, revenue foregone, etc. involving ₹ 337.65 crore. Some of the major findings are mentioned below:

I General

Total revenue receipts of the State Government for the year 2014-15 amounted to ₹ 1,04,142.15 crore against ₹ 89,542.53 crore for the previous year. 72 *per cent* of this was raised by the State through tax revenue (₹ 70,180.21 crore) and non-tax revenue (₹ 4,688.24 crore). The balance 28 *per cent* was received from the Government of India as State's share of divisible Union taxes (₹ 14,654.25 crore) and grants-in-aid (₹ 14,619.45 crore).

(Paragraph 1.1)

A total of 4,022 Inspection Reports issued up to December 2014 containing 9,573 observations involving money value of ₹ 2,061.05 crore were pending for settlement at the end of June 2015.

(Paragraph 1.5)

Test check of the records of 459 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Goods and Passengers, and other Departmental offices conducted during the year 2014-15 showed under assessment/short levy/loss of revenue aggregating ₹ 331.99 crore in 1471 cases.

(Paragraph 1.8)

II Taxes/VAT on Sales, Trade, etc.

Additional tax liability of ₹ 3.37 crore determined by the Auditors in the audited statement of accounts was not paid by 59 dealers.

(Paragraph 2.4)

Non-levy of penalty under Section 72(1) of the KVAT Act for delay in payment of monthly taxes amounted to ₹ 3.68 crore in respect of 54 dealers.

(Paragraph 2.5)

The non/short levy of interest under Section 36(2) of the KVAT Act for delay in payment of tax by 54 dealers amounted to ₹ 2.33 crore.

(Paragraph 2.6)

Input tax credit of ₹ 36.62 crore against admissible credit of ₹ 34.41 crore was brought forward by 54 dealers, resulting in excess adjustment of credit amounting to ₹ 2.31 crore.

(Paragraph 2.7)

III State Excise

Non-levy of penalty for short lifting of 7,47,957 bulk litres of IML by 113 licensees amounted to ₹ 7.47 crores.

(Paragraph 3.4)

Levy of fee applicable to transfer of licences at the pre-revised rate in respect of 51 cases resulted in short levy of fees of ₹ 2.11 crore.

(Paragraph 3.5)

IV Stamp Duty and Registration Fees

Undervaluation of properties in respect of 58 sale deeds due to adoption of incorrect rates of market value guidelines or misclassification of instruments resulted in short levy of Stamp Duty of ₹ 1.47 crore and Registration Fee of ₹ 0.25 crore.

(Paragraph 4.4)

V Taxes on Motor Vehicles

Performance Audit Report on "Levy and collection of Motor Vehicles Tax" revealed that:

Control lapses resulted in 4,281 transport vehicles escaping the tax net, with a revenue loss of ₹ 13.17 crore, at the time of their migration between jurisdictions.

(Paragraph 5.4.2.1)

Only 21.01 *per cent* of transport vehicles and 19.38 *per cent* of non-transport vehicles have complied with periodical fitness test and certification. Failure to ensure compliance in respect of other vehicles, had the additional consequence of depriving Government of revenue of ₹ 74.07 crore between April 2010 and March 2015.

(Paragraph 5.4.2.2)

Arrears of revenue amounting to ₹ 141.65 crore from 68,653 transport vehicles were not booked in DCB and followed up by the Department.

(Paragraph 5.4.3.1)

Lack of adequate controls in respect of collection of quarterly tax led to 22,002 transport vehicles skipping payment of tax for one to 16 quarters resulting in non-realisation of ₹ 45.31 crore.

(Paragraph 5.4.3.2)

Lack of adequate controls in respect of collection of Life Time Tax from battery operated vehicles and construction equipment vehicles resulted in failure to recognise the arrears of revenue of ₹ 4.61 crore.

(Paragraph 5.4.4)

Non-realisation of Green Tax amounting to ₹ 23.52 crore from 4,02,666 transport vehicles and ₹ 29.01 crore from 9,69,706 non-transport vehicles.

(Paragraph 5.4.5)

VI Mines and Geology

Performance Audit Report on "Computerisation of the Department of Mines and Geology" revealed that:

ILMS does not have provision to generate receipts for payments received resulting in continuation of manual processes and duplication of work.

(Paragraph 6.4.2.1)

DMG had failed to re-establish the m-pass service which was disrupted due to technical incompatibility since February 2015 thereby depriving the generation of sms based tripsheets for the leaseholders, particularly those of minor minerals which are located in remote places.

(Paragraph 6.4.2.2)

Modification of an existing mining plan results in creation of new mining plan without deactivating the earlier plan and consequently monitoring the production and despatch of mineral based on the aggregate of both the plans.

(Paragraph 6.4.3.2)

Transport of mineral through rail by issue of RAKE permits in ILMS in not integrated with Railway data for complete monitoring of mineral movement.

(Paragraph 6.4.3.5)

Objective of real time monitoring of mineral carrying vehicles not achieved due to incomplete implementation of RFID surveillance systems at all leases and DMG not obtaining RFID data and absence of computerisation at all the checkposts.

(Paragraphs 6.4.4.1 and 6.4.4.2)

Compliance Audit

Non/incorrect adoption of sale prices published by Indian Bureau of Mines for levy of royalty resulted in short levy of royalty of ₹ 1.14 crore in respect of minerals like limestone, manganese and magnesite.

(Paragraph 6.7)

VII Land Revenue

Adoption of incorrect market value resulted in short collection of cost of government land to the extent of ₹ 1.57 crore.

(Paragraph 7.3)

Chapter–I General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Karnataka 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-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-1.1.1.**

Table 1.1.1

Trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2010-11	2011-12	2012-13	2013-14	2014-15
1.	**Revenue raised by the State Government**					
	• **Tax revenue**	38,473.12	46,475.96	53,753.55	62,603.53	**70,180.21**
	• **Non-tax revenue**	3,358.29	4,086.86	3,966.11	4,031.90	**4,688.24**
	Total	**41,831.41**	**50,562.82**	**57,719.66**	**66,635.43**	**74,868.45**
2.						
	• **Share of net proceeds of divisible Union taxes and duties**[1]	9,506.32	11,075.04	12,647.14	13,808.28	14,654.25
	• **Grants-in-aid**	6,868.51	8,168.41	7,809.42	9,098.82	14,619.45
	Total	**16,374.83**	**19,243.45**	**20,456.56**	**22,907.10**	**29,273.70**
3.	**Total revenue receipts of the State Government (1 and 2)**	**58,206.23**	**69,806.27**	**78,176.22**	**89,542.53**	**1,04,142.15**
4.	**Percentage of 1 to 3**	**72**	**72**	**74**	**74**	**72**

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹ 74,868.45 crore) was 72 *per cent* of the total revenue receipts. The balance 28 *per cent* of the receipts during 2014-15 was from the Government of India.

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

[1] Figures under the major heads of account 0020-Corporation Tax, 0021-Taxes on Income other than Corporation Tax, 0032-Taxes on Wealth, 0037-Customs, 0038-Union Excise Duties, 0044-Service Tax, 0028-Other Taxes on Income and Expenditure-Minor head 901 and 0045-Other taxes and Duties on Commodities and Services- Minor head-901 as Share of net proceeds assigned to States booked in the Finance Accounts of the Government of Karnataka for 2014-15, 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 1.1.2

Details of Tax Revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1.	Taxes on sales, trade etc.	20,160.00	20,234.69	24,170.00	25,020.02	27,735.00	28,414.44	33,590.00	33,719.35	37,250.00	38,286.03	10.90	13.54
2.	State Excise	7,425.00	8,284.74	9,115.00	9,775.43	10,775.00	11,069.73	12,600.00	12,828.36	14,430.00	13,801.08	14.52	7.58
3.	Stamps Duty	3,500.00	3,531.08	4,030.00	4,623.20	5,200.00	5,225.02	6,500.00	6,188.76	7,450.00	7,025.85	14.62	13.53
4.	Taxes on Vehicles	2,050.00	2,550.02	2,630.00	2,956.72	3,350.00	3,829.52	4,120.00	3,911.50	4,350.00	4,541.57	5.58	16.11
5.	Others	3,093.31	3,872.59	3,872.09	4,100.59	4,760.69	5,214.84	5,653.99	5,955.56	6,389.75	6,525.68	13.01	9.57
	Total	36,228.31	38,473.12	43,817.09	46,475.96	51,820.69	53,753.55	62,463.99	62,603.53	69,869.75	70,180.21	11.86	12.10

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

Table 1.1.3 - Details of Non-tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1	Non – ferrous mining and metallur-gical Industries	1,000.00	1,185.96	1,500.00	1,326.84	1,500.00	1,496.49	1,750.00	1,474.49	1,750.00	1931.10	0.00	30.97
2.	Other Non-tax receipts	1,819.90	2,172.33	2,174.79	2,760.02	1692.82	2469.62	2,288.28	2,557.41	2,723.43	2757.14	19.02	7.81
Total		**2,819.90**	**3,358.29**	**3,674.79**	**4,086.86**	**3,192.82**	**3,966.11**	**4,038.28**	**4,031.90**	**4,473.43**	**4688.24**	**10.78**	**16.28**

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 on some principal heads of revenue amounted to ₹ 6,704.90 crore as detailed in the **Table-1.2**.

Table-1.2

Arrears of revenue

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2015	Replies of Department
1.	0030	83.27	NF
2.	0039	808.59	Out of the total arrears, ₹ 75.07 crore was stayed by courts, ₹ 303.87 crore was covered by Revenue Recovery Certificates.
3.	0040	5,813.04	Out of the total arrears, ₹ 1,019.61 crore was stayed by courts, ₹ 156.46 crore was before BIFR[2], ₹ 191.64 crore was under liquidation process, ₹ 137.74 crore was covered by Revenue Recovery Certificates, ₹ 3,671.20 crore was covered by Departmental recovery, write off proposals were made for ₹ 57.33 crore and payments of ₹ 136.76 crore received were under verification.
Total		**6,704.90**	

NF : Not Furnished

1.3 Evasion of tax detected by the department

The details of cases of evasion of tax detected by the Transport and State Excise Departments are given in **Table 1.3**.

Table 1.3
Evasion of tax

(₹ in crore)

Sl. 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 of demand	
1.	0039	02	0	02	0	0	02
2.	0041	04	02	06	0	0	06

As seen from the above, there has been no improvement in the clearance of cases of evasion of tax. Early action may be taken by the Departments to conclude these cases in the interest of revenue.

Details of frauds and evasions detected, if any, by Commercial Taxes, Energy and Revenue Departments, though called for (July 2015) had not been received (November 2015). The Department of Mines and Geology reported that no such cases have been detected.

[2] Board for Industrial and Financial Reconstruction.

1.4 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year, claims received during the year, refunds allowed during the year and the cases pending at the close of the year for the years 2013-14 and 2014-15 as reported by the Commercial Taxes Department is given in **Table 1.4.**

Table 1.4
Details of pendency of refund cases

(₹ in crore)

Sl. No.	Particulars	2014-15	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,423	241.68
2.	Claims received during the year	5,761	1616.39
3.	Refunds made during the year	6,079	1427.95
4.	Balance outstanding at the end of year	1,105	430.12

1.5 Response of the Government/Departments towards Audit

Accountant General (Economic & Revenue Sector Audit) (AG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the Inspection Reports (IRs) incorporating irregularities detected during the inspections and those not settled on the spot 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 AG within one month from the date of issue of IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

For 4,022 Inspection Reports (issued up to December 2014), 9,573 paragraphs involving ₹ 2,061.05 crore remained outstanding at the end of June 2015. The details along with the corresponding figures for the preceding two years have been given in the **Table 1.5**.

Table 1.5
Details of pending Inspection Reports

	June 2013	June 2014	June 2015
Number of IRs pending for settlement	3,363	4,114	4,022[3]
Number of outstanding audit observations	7,283	8,753	9,573
Amount of revenue involved (₹ in crore)	1,550.33	1,851.83	2,061.05

1.5.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are given below in **Table 1.5.1**.

[3] Inclusive of Land Revenue Offices which were brought under Revenue Sector Audit with effect from 1 July 2013

Table 1.5.1
Department-wise details of IRs

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Numbers of outstanding audit observations	Money value involved
1.	Finance	Commercial taxes	1,657	4,894	443.34
2.		State excise	589	900	374.36
3.	Revenue	Land Revenue	533	1,403	314.69
4.		Stamps and Registration fees	704	1,351	360.69
5.	Transport	Taxes on motor vehicles	379	607	59.56
6.	Commerce and Industries	Mineral receipts	154	404	503.92
7.	Energy	Electricity tax	6	14	4.49
Total			**4,022**	**9,573**	**2,061.05**

Audit did not receive even the first replies, required to be received from the heads of offices within one month from the date of issue of the IRs, for 358 out of the 459 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 offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

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

1.5.2 Departmental Audit Committee meetings

The Government issued (March 1968) instructions to constitute 'Adhoc Committees' in the Secretariat of all the Departments to expedite the clearance of audit observations contained in the Inspection Reports (IRs). These Committees are to be headed by the Secretaries of the Administrative Departments concerned and attended by the designated officers of the State Government and a nominee of the AG. These Committees are to meet periodically and, in any case, at least once in a quarter.

The Department-wise number of Departmental Audit Committee meetings held and paragraphs settled during the year 2014-15 were as given in **Table 1.5.2**.

Table 1.5.2
Details of Departmental audit committee meetings

(₹ in lakh)

Department	No. of meetings held	No. of paragraphs settled	Money value
Commercial Taxes	05	205	345.05
Land Revenue	02	157	1554.64
State Excise	01	63	499.39
Motor Vehicle Taxes	01	28	91.06

The number of meetings held and progress of settlement of paragraphs was negligible as compared to the huge pendency of the IRs and paragraphs. Audit

committee meetings were not convened by three Departments viz. Stamps and Registration, Energy and Mines and Geology.

1.5.3 Non-production of records to audit for scrutiny

The programme of local audit of Tax Revenue/Non-tax Revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Offices to enable them to keep the relevant records ready for audit scrutiny.

During the year 2014-15 as many as 621 assessment files, returns, refunds, registers and other relevant records were not made available to Audit. Break up of these cases are given in **Table 1.5.3.**

Table 1.5.3
Details of non-production of records

Name of the Office/ Department	Number of cases not audited
Taxes/VAT on Sales, trade, etc.	528
State Excise	21
Land Revenue	49
Motor Vehicles Tax	13
Mines and Geology	10
Total	**621**

1.5.4 Response of the Departments to the draft audit paragraphs

Draft Paragraphs/Performance Audit Reports proposed for inclusion in the Audit Report are forwarded by the Accountant General to Principal Secretaries/Secretaries of the Departments concerned through demi-official letters. According to the instructions issued (April 1952) by the Government, all Departments are required to furnish their replies on the Draft Paragraphs/Performance Audit Reports within six weeks of their receipt. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Thirty two Draft Paragraphs (including two Performance Audits) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31 March 2015 were forwarded to the Additional Chief Secretaries/Principal Secretaries/Secretaries to the Government and copies endorsed to the heads of Departments concerned between May and September 2015.

Replies for 30 Draft paragraphs have been received from the Heads of the Departments of Commercial Taxes, State Excise, Transport, Stamps and Registration, Revenue and Mines and Geology. In respect of Performance Audits, Exit Conferences were held with the Government (October 2015) for discussing audit findings.

Government replies to 30 Draft paragraphs pertaining to Commercial Taxes Department, State Excise Department, Transport Department and Revenue Department have been received. Replies to the remaining two draft paragraphs have not been received from the Government (November 2015).

1.5.5 Follow up on the Audit Reports-summarised position

According to the Rules of Procedure (Internal Working) of the Committee of Public Accounts (PAC), the Departments of Government are required to furnish detailed explanations (departmental notes) on the audit paragraphs to the Karnataka Legislative Assembly Secretariat within four months of an Audit Report being laid on the Table of the Legislature. The Rules further require that before such submission, the departmental notes are to be vetted by the Accountant General.

175 paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Karnataka for the years ended 31 March 2010, 2011, 2012, 2013 and 2014 and one stand-alone report relating to Department of the Mines and Geology were placed before the State Legislative Assembly between March 2011 and February 2015.

As of November 2015, departmental notes from the Departments concerned on 130 of these paragraphs were received belatedly, with an average delay of nine months. The departmental notes on the remaining 45 paragraphs from seven Departments (Commercial Taxes, Land Revenue, Stamps and Registration, State Excise, Transport, Chief Electrical Inspectorate and Mines and Geology) have not been received (November 2015).

This indicates that more proactive action is required from the Executive to pursue the important issues highlighted in the Audit Reports. This would also help them in collection of unrealised revenue and improved governance.

1.6 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of compliance to 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 is evaluated and included in this Audit Report.

The succeeding paragraphs 1.6.1 and 1.6.2 discuss the performance of the Stamps and Registration Department[4] in respect of the cases detected in the course of local audit during the last ten years and also the cases included in the Audit Reports for the years 2004-05 to 2013-14.

1.6.1 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 below in **Table -1.6.1.**

[4] under revenue head 0030.

Table 1.6.1
Position of inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2005-06	253	602	60.99	107	151	2.30	63	131	4.77	297	622	58.53
2.	2006-07	297	622	58.53	64	69	1.89	33	90	5.10	328	601	55.33
3.	2007-08	328	601	55.33	31	47	1.51	12	27	0.49	347	621	56.35
4.	2008-09	347	621	56.35	59	57	64.38	13	22	0.18	393	656	120.56
5.	2009-10	393	656	120.56	108	135	141.19	04	30	0.14	497	761	261.61
6.	2010-11	497	761	261.61	104	108	95.04	23	68	1.00	578	801	355.66
7.	2011-12	578	801	355.66	143	285	7.34	73	120	1.06	648	966	361.93
8.	2012-13	648	966	361.93	113	328	14.24	30	82	1.27	731	1212	374.90
9.	2013-14	731	1212	374.90	132	350	43.51	156	462	16.63	707	1100	401.77
10.	2014-15	707	1100	401.77	134	375	19.41	37	121	0.62	804	1354	420.57

1.6.2 Recovery in 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 1.6.2**.

Table 1.6.2
Recovery of accepted cases

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year 2014-15	Cumulative position of recovery of accepted cases as of 31-03-2015
2004-05	-	-	-	-	-	-
2005-06	05	100.75	05	46.38	0	
2006-07	03	31.26	01	0.35	0	-
2007-08	02	2.44	01	0.03	0	0.03
2008-09	06	325.83	06	283.04	0	14.13
2009-10	07	16.49	07	12.03	0	0.15
2010-11	05	3.22	03	7.25	0	0.56
2011-12	06	2.39	05	1.21	0	0.03
2012-13	08	18.89	02	0.06	0	0.06
2013-14	05	3.84	04	0.96	0.94	0.94

It is evident from the above table that the progress of recovery even in accepted cases was very slow during the last ten years.

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

1.7 Audit planning

The unit offices under various Departments are categorized into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia includes critical issues in Government revenues and 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 1,218 auditable units, of which 456 units were planned and 459 units had been audited, which is 37.68 *per cent* of the total auditable units. The details are shown in the **Table 1.7.1** below:

Table 1.7.1
Details of units audited

Department	Number of units		
	Auditable Units during the year 2014-15	Units planned for audit during 2014-15	Units audited during 2014-15
Commercial Taxes	416	168	168
Stamp duty and Registration fee	283	132	133
Motor Vehicles Taxes	76	51	52
Land Revenue	253	60	60
State Excise	125	30	30
Mineral Receipts	34	14	15
Chief Electrical Inspectorate	31	1	1
Total	**1,218**	**456**	**459**

Besides the compliance audit mentioned above, two Performance Audits were also taken up during the year on the 'Levy and Collection of Motor Vehicles Taxes' by Transport Department and 'Computerisation of the Department of Mines and Geology '.

1.8 Results of audit

Position of local audit conducted during the year

Test check of the records of 459 units of sales tax/Value Added Tax, State Excise, Motor Vehicles, Goods and Passengers, and other Departmental offices conducted during the year 2014-15 showed under assessment/ short levy/loss of revenue aggregating ₹ 331.99 crore in 1,471 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 51.21 crore involved in 469 cases which were pointed out in audit during 2014-15 and the Departments also recovered ₹ 2.22 crore involved in 57 cases. The Departments collected ₹ 31.89 crore in 510 cases during 2014-15, pertaining to the audit findings of previous years.

1.9 Coverage of this Report

This Report contains 31 paragraphs selected from the audit observations made during the local audit referred to above and during earlier years, (which could not be included in earlier reports) including the two Performance Audits, involving financial effect of ₹ 337.65 crore.

The Departments/Government have accepted audit observations involving ₹ 20 crore out of which ₹ 4.61 crore had been recovered. The replies in the remaining cases had not been received (November 2015). These are discussed in succeeding Chapters II to VII.

Chapter–II
Taxes/VAT on Sales, Trade etc.

2.1 Tax Administration

Sales Tax/Value Added Tax (VAT) laws and Rules framed thereunder are administered at the Government level by the Principal Secretary, Finance Department. The Commissioner of Commercial Taxes (CCT) is the head of the Commercial Taxes Department (CTD) who is assisted by 14 Additional Commissioners. There are 13 Divisional VAT Offices (DVO), 13 Appeal offices, 13 Enforcement/Vigilance offices and one Minor Acts Division in the State managed by 42 Joint Commissioners (JCCTs). There are 123 Deputy Commissioners (DCCT), 321 Assistant Commissioners (ACCT) and 526 Commercial Tax Officers (CTO) in the State. At the field level, VAT is being administered through 118 Local VAT Offices (LVOs) and VAT Sub Offices (VSOs) headed by ACCTs and CTOs respectively. The DCCTs, ACCTs and CTOs head 266 Audit Offices where assessments/re-assessments are finalised by the Department.

2.2 Internal audit

The Department has an Internal Audit Cell under the charge of the JCCT (Internal Audit & Inspection). This cell is required 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.

As per the information furnished by the Department, the Internal Audit wing is functioning from the year 2011-12. During the year 2014-15, pendency in coverage of offices was furnished as 150 and the total number of offices to be audited was not furnished. The Department raised 1609 objections involving ₹ 176.99 crore during 2014-15. As at the end of 31 March 2015 there were 1,271 objections pending, involving ₹ 162.01 crore.

2.3 Results of audit

In 2014-15, test check of the records of 168 offices of the CTD relating to VAT, Sales Tax, Entry Tax, Professions Tax, Entertainment Tax and Agricultural Income Tax showed underassessment of tax and other irregularities involving ₹ 67.69 crore in 846 cases, which fall under the following categories.

Table 2.1
Results of audit

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
	Value Added Tax		
1.	Non/short levy of tax	206	31.10
2.	Non/short levy of penalty	209	10.13
3.	Non/short levy of interest	154	4.53
4.	Incorrect / excess carry forward of credit	83	4.53
5.	Non/short payment of output tax	44	1.31

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
6.	Incorrect / excess allowance of input tax credit	26	2.22
7.	Unacknowledged returns	13	2.80
8.	Incorrect allowance of TDS	9	6.52
9.	Other irregularities	37	3.45
	Total	**781**	**66.59**
	Tax on Entry of Goods		
10.	Non/short levy of tax under entry tax	16	0.31
11.	Other irregularities	35	0.50
	Total	**51**	**0.81**
	Tax on Professions		
12.	Non/short payment of tax	4	0.03
13.	Other irregularities	4	0.03
	Total	**8**	**0.06**
	Agricultural Income Tax		
14.	Non/short levy of tax	3	0.20
15.	Other irregularities	3	0.03
	Total	**6**	**0.23**
	Grand Total	**846**	**67.69**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 4.77 crore in 84 cases which were pointed out in audit during 2014-15 and recovered ₹ 2.22 crore in 57 cases. An amount of ₹ 10.47 crore was realised in 278 cases pointed out during earlier years. A few illustrative cases involving ₹16.07 crore are discussed in the following paragraphs.

2.4 Non/short payment of tax

According to Section 31(4) of the Karnataka Value Added Tax (KVAT) Act 2003, every dealer whose total turnover in a year exceeds a prescribed amount[1] shall have the accounts audited by a Chartered Accountant or a Cost Accountant or a Tax Practitioner (Auditor) and shall submit to the prescribed authority a copy of the audited statement of accounts in Form VAT-240 and other documents as prescribed in the Act.

Form VAT-240 provides for the auditor to file a comparative statement of dealers' liability to tax and his entitlements for input tax/refund as declared in the tax returns, and the corresponding correct amount determined in audit. In case of a difference between these, the auditor is to advise the dealer either to pay the differential tax together with the penalty and interest, if any, or to claim refund due to him, as the case may be.

During test check of records in 27 LVOs in 13[2] districts between January 2014 and January 2015, we noticed that 59 dealers in their audited accounts in Form VAT 240 had declared additional tax liability of ₹ 3.37 crore compared to the tax liability declared in the monthly returns for the years 2010-11 to 2013-14. As per the Act, this additional liability declared was to be paid by the dealers along with penalty (at 10 *per cent)* and interest (at 1.5 *per cent* per month).

[1] ₹ 40 lakh till 31 March 2010, ₹ 60 lakh from 1 April 2010 to 31 March 2011 and ₹ 100 lakh thereafter

[2] Belagavi, Bengaluru, Chikkamagaluru, Chitradurga, Davanagere, Haveri, Kalaburgi, Kodagu, Kolar, Mangaluru, Mysuru, Raichur and Uttara Kannada (Karwar)

However, the dealers concerned neither paid the dues on their own on filing the audited accounts, nor were the dues demanded by the LVOs concerned. This resulted in non/short payment of tax of ₹ 4.78 crore including penalty of ₹ 30.75 lakh and interest of ₹ 1.10 crore.

Audit is of the opinion that the enabling of the automatic calculation of the computed fields and ensuring referential integrity between the documents like VAT returns, annual statements and VAT-240 in the e Filing System (EFS) would mitigate this problem of non/short payment to a greater extent by automatically showing up such cases.

After these cases were brought to the notice of the Department between March and May 2015 and referred to Government in July 2015, ₹ 14.95 lakh was collected in 11 cases. Reply was awaited in the remaining cases (November 2015).

2.5 Non- levy of penalty under section 72(1) of the KVAT Act

According to Section 35 (1) of the KVAT Act, every registered dealer shall furnish a return in such form and manner, including electronic methods, and shall pay tax due on such return within twenty days after the end of the preceding month or any other tax period as may be prescribed.

Further, as per Section 72(1) of KVAT Act, a dealer who fails to furnish a return or who fails to pay the tax due on any return furnished as required under the Act, shall be liable to pay, together with any tax or interest due, a penalty equal to:

a) five *per cent* of the amount of tax due or ₹ 50 whichever is higher, if the default is not for more than 10 days, and
b) ten *per cent* of the tax due, if the default is for more than 10 days.

During test check of records of 26 Offices in 13[3] districts between April 2014 and March 2015, Audit noticed that 54 assessees had filed returns and paid tax of ₹ 45.51 crore belatedly, i.e., beyond 20 days after the expiry of the applicable tax period. Though all these cases attracted penalty u/s 72(1) of the Act, it was neither paid by the assessees nor was any effort made by the officers concerned to impose the same. This has resulted in non-levy of penalty of ₹ 3.68 crore.

After these cases were brought to the notice of the Department between March and April 2015 and referred to Government in July 2015, ₹ 1.15 crore was collected in 22 cases and demand notice for ₹ 40.28 lakh was issued in one case. In another case, it was replied that the observation may be dropped based on the assesses' reply that, according to the judgement passed by the Hon'ble High Court of Karnataka, penalty under Section 72(1) can be relaxed by the officer concerned. The reply is not acceptable as the competent authority has not examined the case for waiver of penalty.

Reply was awaited in the remaining cases (November 2015).

[3] Belagavi, Bengaluru, Bidar, Chikkaballapura, Chikkmagaluru, Chitradurga, Dharwad, Kolar, Madikeri, Mangaluru, Udupi, Uttara Kannada and Yadgir.

2.6 Non/short levy of interest

Under Section 36(2) of the, KVAT Act 2003, every dealer who fails to pay any amount of tax or additional tax declared in the returns or furnishes a revised return more than three months after the tax becomes payable, shall be liable to pay simple interest. The rate of interest was 1.25 *per cent* per month up to 31 March 2011 and 1.5 *per cent* per month with effect from 01 April 2011 under Section 37(1) of the above Act, leviable from the date on which any amount payable under this Act was due.

During test check of monthly returns filed in Form VAT-100, annual audited statements filed in Form VAT-240 and re-assessment orders passed under the Act in 33 offices (19 Audit Offices and 14 Local VAT Offices / VAT Sub-Offices) in eight[4] districts between January 2014 and January 2015, it was noticed that there was a delay in payment of tax either against original returns or against additional tax liabilities arising from re-assessments/ revised returns, in respect of 54 dealers. Though interest was leviable in these cases under Section 36(2) of the Act, it was either not levied or levied short. The total non/short levy of interest for the tax periods between April 2005 to March 2013 worked out to ₹ 2.33 crore.

After these cases were brought to the notice of the CCT between April 2014 and February 2015, and referred to Government in July 2015, ₹ 23.06 lakh was collected in respect of 13 dealers.

Reply in respect of remaining cases was awaited (November 2015).

2.7 Excess adjustment of credit amount

According to Section 10 of the KVAT Act 2003, the tax payable by a dealer under the Act on sale is called 'Output tax' while the tax paid by the dealer on purchases is called 'Input tax'. A dealer is liable to pay the net tax[5] after setting off input tax paid against output tax payable.

The said provision of the KVAT Act also stipulates that "where the input tax deductible by a dealer exceeds the output tax payable by him, the excess amount shall be adjusted or refunded together with interest, as may be prescribed". Rule 127 of the KVAT Rules, 2005, provides for the dealer to adjust the excess amount towards the tax payable by him for any other month or quarter.

Test check of VAT-100 returns, annual audited accounts filed in VAT-240 and re-assessment orders in 31 Offices (29 -LVOs and two -VSOs) in 15[6] districts were conducted between November 2013 and December 2014. Audit cross verified the credit amounts brought forward and adjusted against the output tax liability by the dealers in their returns with respect to returns/revised returns filed by them for previous tax periods, advices given by auditors in

[4] Bengaluru, Bengaluru Rural, Chikkamagaluru, Chitradurga, Dharwad, Haveri, Mysuru and Raichur

[5] Net tax = Output tax – Input tax

[6] Belagavi, Bangaluru Rural, Bangaluru Urban, Chikkamagaluru, Chitradurga, Dakshina Kannada, Davanagere, Hassan, Haveri, Kolar, Mysuru, Raichur, Shivamogga, Uttara Kannada and Yadgir

Form VAT-240 and re-assessments concluded by the prescribed authorities. The cross verification revealed in the case of 54 dealers that against the admissible credit of ₹ 34.31 crore from the earlier tax periods, credit of ₹ 36.62 crore had been adjusted by the dealers concerned. However, no action was taken by the LVOs/VSOs to reverse the adjustment made by the dealers or to demand and recover the same. This has resulted in excess adjustment of credit amount of ₹ 2.31 crore. The details are as under:

Table .2.2
Excess adjustment of unit amount

(₹ in lakh)

Sl. No.	Description	Credit amount adjusted	Admissible credit	Excess amount adjusted
1.	Amounts adjusted in excess of the amounts shown as carried forward in returns for previous tax periods.	59.82	30.51	29.31
2.	The dealers adjusted credits in the returns as per the excess amounts available to them in their previous returns. Subsequently, the auditors of the dealers reduced the excess amounts claimed in those previous returns, or, in audit it was noticed that credit claimed in previous returns were in excess though the auditors did not advise the dealers to reduce the credit. The dealers concerned, however, did not revise the returns in which the excess amount was adjusted. No action was taken by the LVOs/VSOs to reverse the adjustment made by the dealers or to demand and recover the same.	3579.13	3400.59	178.54
3.	The dealers adjusted credits in the returns as per the excess amounts available to them in their previous returns. Subsequently, the prescribed authorities of the Department, in the re-assessment orders, reduced the excess amounts carried forward by the dealers. No action, however, was taken to reverse the adjustment already availed of by the dealers in their subsequent returns.	22.90	Nil	22.90
	Total	3661.85	3431.10	230.75

After these cases were brought to the notice of the CCT between April 2014 and March 2015, and referred to Government in July 2015, ₹ 5.77 lakh was collected in respect of three dealers, the excess adjustment of credit was adjusted/rectified in the re-assessment orders in respect of two dealers, the excess adjustment of credit was demanded in the re-assessment orders in respect of two dealers and three dealers rectified excess adjustment of credit in VAT-100 return for the month of November 2014. Reply in respect of remaining cases was still awaited (November 2015).

2.8 Non levy of penalty under Section 72(2) of the KVAT Act

Under Section 72(2) of the KVAT Act, 2003, a dealer, who for any prescribed tax period, furnishes a return which understates his liability to tax or overstates his entitlement to a tax credit by more than five *per cent* of his actual liability

to tax or his actual tax credit, as the case maybe, shall, after being given an opportunity of showing cause in writing against the imposition of a penalty, be liable to a penalty equal to 10 *per cent* of the amount of such tax under or overstated.

During test check of VAT-100 returns, annual audited accounts filed in VAT-240 and re-assessment orders in 19 Offices (17 LVOs and 02 Audit Offices) in ten[7] districts between January and December 2014, we noticed that in respect of 28 assessees, tax liability was understated in original returns which were rectified either by filing revised VAT-100 returns or by filing of Annual Audit Accounts in Form VAT-240. We also noticed that in respect of two assessees, re-assessment orders were passed by the Department in which additional tax liability was raised. The understatement of tax in monthly returns and additional tax liability created in re-assessment orders in these cases amounted to ₹ 12.97 crore. Though penalty was leviable under Section 72(2), the same was not levied by the officers concerned and the non-levy worked out to ₹ 1.29 crore.

After these cases were brought to the notice of the CCT between May 2014 and February 2015, and referred to Government in July 2015, ₹ 84.89 lakh was collected in nine cases. Reply in respect of the remaining cases was awaited (November 2015).

2.9 Non-discharge of tax liability declared in the returns

Under Section 35(1) of the KVAT Act 2003, every registered dealer shall furnish a return in the prescribed form and shall pay the tax due on such return within 20 days (or 15 days[8]) after the end of the preceding month.

The CTD introduced (April 2010) online e-Filing System (EFS) for filing of returns, payment of taxes, issue of Forms and Transit Pass, etc.

Returns filed under EFS are assigned one of the following status:

Table 2.3
Status of refunds under EFS

Sl. No.	Status	Meaning
1.	Deemed acknowledged	Dealer files his return after making e-payment of tax liability declared in the return or has credit to be carried forward with no net tax liability for payment. This status is automatic.
2.	Acknowledged	Dealer files return online with details of cheque for payment of net tax liability. The return is acknowledged by the LVO on receipt of the cheque.
3.	Not acknowledged	Dealer files return online but is yet to discharge liability fully/partially.

When the return is acknowledged by the LVO, the cheque is posted to the bank statement in EFS and then sent for realisation. Status of 'Not acknowledged' implies that the dealer has not handed over the cheque to the

[7] Belagavi, Bengaluru Rural, Bengaluru Urban, Chikkamagaluru, Dakshina Kannada, Haveri, Madikeri, Mysuru, Udupi and Uttara Kannada

[8] 20 days for regular VAT dealers and 15 days for dealers who have opted for composition of tax.

LVO or that there is an omission on the part of the LVO to update the status of the return in EFS even after receipt of the cheque. All realised payments of the dealer are reflected in the EFS against the TIN[9] of the dealer.

During test check of returns filed in two LVOs[10] in Bangalore district between May and November 2014, Audit noticed that 38 returns filed for the tax periods between April 2011 and January 2013 by 20 assessees were under the category of 'not acknowledged' in the EFS. Scrutiny of the payment details of these assessees in EFS also showed that the respective liabilities were either not fully discharged or were only partially discharged. Thus, it indicates that the dealers had not made the payments to the LVOs concerned.

The total amount of tax realizable from such dealers worked out to ₹ 87.54 lakh. No action had been taken by the officers concerned to follow up these cases and ensure recovery.

These cases were brought to the notice of the Department in May 2015 and referred to Government in July 2015. Reply was awaited (November 2015).

2.10 Incorrect refund of tax

According to Rule 127 read with 128 of the KVAT Rules, 2005, any dealer in whose case the input tax deductible exceeds the output tax payable by him on the basis of the returns for any tax period, such dealer may claim refund of such amount or adjust such amount towards the tax payable by him for any other tax period.

During a test check of the records in LVO - 40, Bengaluru in October 2014, we noticed that a civil works contractor, in his return for the month of April 2011 (submitted on 20 June 2011), had brought forward a credit of ₹ 18.11 lakh from the previous monthly return of March 2011. Re-assessment order dated 28 February 2012 passed by the Department for the period 2010-11, however, concluded that the credit available for refund at the end of the tax period of March 2011 was only ₹ 13.09 lakh. Thus, an excess amount of ₹ 5.02 lakh[11]had been carried forward by the dealer, which was neither rectified by the dealer nor was demanded by the Department. Further, it was noticed that the credit of ₹ 13.09 lakh arrived as per the reassessment order was refunded on 09 May 2012.

In addition, an amount of ₹ 18.11 lakh carried forward by the dealer from March 2011 was refunded again, along with the excess credit available for the year 2011-12, vide another order dated 19 April 2014. This included the excess amount of ₹ 5.02 lakh carried forward as well as ₹ 13.09 lakh already refunded in May 2012, thereby resulting in an excess refund of ₹ 18.11 lakh. Interest and penalty under the Act work out to ₹ 9.05 lakh[12] and ₹ 1.81 lakh[13] respectively for overstatement of tax credit by the dealer.

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[9] Tax payers identification number.

[10] LVOs-20 and 40

[11] ₹ 18.11 lakh (less) ₹ 13.09 lakh

[12] 1.5 *per cent* on ₹ 5.02 lakh (excess credit brought forward) from 20 May 2011 to 09 May 2012 (12 months) (+) 1.5 *per cent* on ₹ 18.11 lakh (excess credit availed) from 10 May 2012 to 19 April 2014 (24 months) (+) 1.5 *per cent* on ₹ 18.11 lakh (incorrect refund) from 20 April 2014 to 29 October 2014 (06 months)

[13] 10% of ₹ 18.11 lakh

After this case was brought to the notice of the CCT in May 2015 and referred to Government in June 2015, ₹ 23.60 lakh was adjusted out of the amount refundable to the assessee for the tax period 2012-13. Balance of ₹ 5.37 lakh was yet to be recovered (November 2015).

2.11 Non-levy of interest on delayed payment of entry tax

Under Section 7(2) of the Karnataka Tax on Entry of Goods (KTEG) Act 1979, every dealer is required to pay the full amount of tax payable on the basis of turnover computed by him for the preceding month within 20 days after the end of that month. In case of default beyond 10 days after that period, the assessee is liable to pay interest at the rate of two *per cent* per month of the tax payable for every month or part thereof during which such default is continued.

Audit noticed between November 2014 and January 2015 that four dealers had brought goods valued at ₹ 16.83 crore into the local area. They were liable to pay advance tax of ₹ 39 lakh. However, the assessees filed incorrect returns and had paid only advance tax of ₹ 7.77 lakh. The mistake was detected by the Department while concluding the assessments but interest, though leviable, was not levied. This resulted in non levy of interest of ₹ 22.38 lakh.

After these cases were brought to the notice of the Department in April 2015 and referred to Government in July 2015, ₹ 4.90 lakh was collected in two cases. In one case, it was replied that a payment of ₹ 15.86 lakh made by the assessee for September 2006 was not considered while concluding the assessments. It was also mentioned that if the same were to be considered, there could not be any short levy and the question of levy of interest does not arise.

On verification of the return for the September 2006, Audit noticed that the payment mentioned was made against liability towards VAT and not KTEG. It was also noticed that the assessee had not declared any turnover under KTEG in that return. Hence, the reply in respect of that case cannot be accepted.

Reply was awaited in the remaining case (November 2015).

2.12 Non-levy of tax on warranty claims

According to Section 2 (29) of the KVAT Act, 2003, "sale" means every transfer of property in goods by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration.

Further, in Md. Ekram Khan & Sons vs Commissioner of Trade[14], Uttar Pradesh, the Hon'ble Supreme Court held that the 'transfer of property' on the parts replaced under warranty constituted a 'sale' and hence is liable to be taxed.

During test check of the records of one Audit Office and one LVO in Bengaluru and Davanagere Districts during June 2014 and September 2014, Audit noticed that three dealers had received credits worth ₹ 37.33 lakh as warranty claims from the manufacturer. Though the same was taxable as per

[14] Judgement (With CA No. 9619/2003) dated 21 July 2004

the judgement of the Hon'ble Supreme Court, it was not subjected to tax at the relevant rates prescribed under the KVAT Act. The resultant non-levy of tax aggregates to ₹ 6.60 lakh along with interest.

After these cases were brought to the notice of the CCT in May 2015 and referred to Government in June 2015, ₹ 2.94 lakh was collected in two cases. Reply was awaited in the remaining cases (November 2015).

2.13 Non-levy of tax on purchases from unregistered dealers

According to Section 3(2) of the KVAT Act 2003, "the tax shall also be levied, and paid by every registered dealer or a dealer liable to be registered, on the sale of taxable goods to him, for use in the course of his business, by a person who is not registered under this act".

Under Section 15(5)(e) of the Act ibid, a works contractor who had opted for composition of tax shall be liable to pay tax u/s 3(2) of the Act in respect of purchases from unregistered dealers (URDs) in addition to tax by way of composition on the total consideration of the works contract executed.

During test check of records of an Audit Office and an LVO in Raichur and Belagavi districts respectively during April 2014 and November 2014, Audit noticed that six works contractors who had opted for composition of tax had made purchases of sand, murram and jelly worth ₹ 93.6 lakh from URDs during the years 2010-11 to 2012-13. Though such purchases were liable to tax at the rates prescribed in the Act, the same was not paid by the assessees or levied by the assessing officers. The resultant non-levy of tax on such purchases works out to ₹ 7.94 lakh. The aforesaid understatement of tax also attracts penalty of ₹ 0.67 lakh and interest of ₹ 2.21 lakh. Total non-levy aggregates to ₹ 10.82 lakh.

After these cases were brought to the notice of the CCT in May 2015 and referred to Government in July 2015, ₹ 4.46 lakh was collected in six cases in which two cases were recommended for reassessment and one case for rectification. Action taken in the matter was awaited (November 2015).

2.14 Excess/incorrect allowance of Input Tax Credit

Under Section 10(3) of the KVAT Act, 2003, the tax payable by a registered dealer under the Act on sale is called 'Output Tax' while the tax paid by the registered dealer under the Act on purchase is called 'Input Tax'. A dealer is liable to pay the net tax[15] after adjustment of input tax paid against output tax.

Audit conducted test check of monthly returns filed in Form VAT-100, annual audited statements filed in Form VAT-240 and re-assessment orders passed under the Act in five offices (four Audit Offices and one LVO) in two[16] districts between June 2014 and February 2015. During cross-verification of the purchase statements filed by dealers with the returns filed by their supplying dealers, Audit found that in four cases, dealers had claimed Input Tax Credit (ITC) of ₹ 3.49 lakh in their monthly returns on purchases from five dealers whose registration was not current during the period of sale.

[15] (Output tax –Input tax)
[16] Belagavi and Bengaluru

Three supplying dealers had filed 'nil' returns or did not file returns for the tax periods in which ITC of ₹ 0.96 lakh was claimed. Audit also noticed that one dealer had claimed ITC of ₹ 2.37 lakh in excess due to arithmetical error in VAT-240 for the year 2012-2013. These resulted in excess/incorrect claim of ITC of ₹ 6.82 lakh. Besides, penalty of ₹ 0.68 lakh and interest of ₹ 2.50 lakh were leviable aggregating to ₹ 10.00 lakh.

After these cases were brought to the notice of the CCT between September 2014 and April 2015, and referred to Government in July 2015, ₹ 4.86 lakh was collected in three cases. Reply in respect of remaining two cases was still awaited (November 2015).

Chapter-III
State Excise

3.1 Tax Administration

The State Excise duty is levied on any liquor, intoxicating drug, opium or other narcotics and non-narcotic drugs which the State Government may, by notification, declare to be an excisable article. The Karnataka Excise (KE) Act, 1965 and Rules made thereunder govern the law relating to the production, manufacture, possession, import, export, transport, purchase and sale of liquor and intoxicating drugs and levy of duties of excise thereon. The State Excise Department is working under the administrative control of the Finance Department and is headed by the Excise Commissioner, who is assisted by Joint Commissioners of Excise. The excise duty is administered by the Deputy Commissioners of Excise (DCOE) at the district level and the Superintendents of Excise, Deputy Superintendents of Excise, Inspectors of Excise (IOE) and other sub-ordinate officers at the distilleries and range offices.

3.2 Internal audit

The Internal Audit Wing (IAW) is functional in the Department since 1990. It is headed by an Accounts Officer on deputation from the Office of the Principal Accountant General (Accounts & Entitlements) under the overall control of the Commissioner.

As per the information furnished by the Department, out of 109 offices due for audit during 2014-15, only five (5.59 *per cent*) were audited. The shortfall in coverage of offices was attributed to the shortage of staff in the Wing. Year wise details of the number of objections raised, settled and pending along with tax effect, as furnished by the Department, are as under:

Table 3.1
Year wise details of observations raised by IAW

(₹ in lakh)

Year	Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2010-11	424	508.44	22	6.47	402	501.97
2011-12	37	39.52	16	31.09	21	8.43
2012-13	75	1153.05	5	6.59	70	1146.46
2013-14	0	0	0	0	0	0
2014-15	6	2.87	0	0	6	2.87
Total	**544**	**1706.88**	**47**	**49.15**	**505**	**1666.73**

As seen from above, the number of paragraphs and amount do not tally. Further, during the year, only 47 objections (8.6 *per cent*) involving ₹ 49.15 lakh (2.88 *per cent*) were cleared out of the 544 objections involving ₹ 1706.88 lakh. The inconsistency in figures, low coverage of offices and large pendency in the outstanding observations indicate that the Department is not according due importance to internal audit.

It is recommended that measures may be taken expeditiously to strengthen IAW, as internal audit is an important mechanism to ensure the compliance of the department with the applicable laws, regulations and approved procedures.

3.3 Results of audit

Test check of records of 30 offices of the State Excise Department during the year 2014-15 revealed non/short levy of licence fee, non-levy of transfer fee, non levy of penalty on short lifting of Indian Made Liquor (IML) and other irregularities amounting to ₹ 11.96 crore involving 57 cases:

Table 3.2
Results of Audit

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Non-levy of penalty for short lifting of IML	12	7.76
2	Short levy of transfer fee	17	2.60
3	Non/short levy of licence fee	6	0.72
4	Other irregularities	22	0.88
	TOTAL	**57**	**11.96**

During the course of the year 2014-15, the Department accepted under assessment of ₹ 3.55 crore in 18 paragraphs and recovered ₹ 7.40 crore involved in 57 paragraphs pointed out in earlier years.

A few illustrative cases involving ₹ 10.57 crore are mentioned in the following paragraphs.

3.4 Short lifting of IML

According to rule 14(2)[1] of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, the licensees holding retail shop licences in Form CL-2 and Bar licences in Form CL-9 shall lift for sale, from a distributor licensee, the minimum quantity of liquor fixed per month for the shop. The minimum limit is based on the licence fee prescribed for each type of licence, overheads, other expenses incurred, location of the shop, area of operation, sale of liquor in the previous years and similar factors, to ensure that illicit liquor is not obtained by the licensees and sold in the shop and to ensure that no attempt is made to undersell the liquor and thereby wholesome liquor obtained from authorised sources alone is sold to customers. In case, the licensee fails to lift the minimum quantity of liquor fixed for the month, he shall be liable to pay ₹ 100 for every bulk litre on the quantity short lifted.

To watch the actual monthly lifting of IML by each licensee against the minimum quantity fixed as per the rule, the range offices maintain a 'consumption register'. It was observed that the same was not periodically reviewed by the officers concerned to identify and correct instances of short lifting in a timely manner.

[1] Rule 14(2) of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, was deleted through amendment of the Rule with effect from 1 August 2014.

Test check of the consumption registers maintained by 11[2]IOEs under DCOEs Bengaluru (North), Bengaluru (South), Bengaluru (East), Belagavi and Bellari between July 2014 and December 2014 revealed that 113 licensees (109 CL-9 and four CL-2) had short lifted 7,47,957 bulk litres of IML for the period from 2009-10 to 2013-14. Though these licensees had violated the minimum limits prescribed for lifting of IML, no action was taken by the Department to levy penalty for short lifting of IML as prescribed under the Rules. The non levy of penalty worked out to ₹ 7.47 crore.

After these cases were brought to the notice of the Department in March 2015 and referred to Government in May 2015, ₹ 18.12 lakh was collected from six licensees. In respect of the remaining cases, it was stated that notices have been issued and the recoveries were under progress (November 2015).

3.5 Short levy of fee on transfer of licences due to application of pre-revised rates

According to Rule 17-B(1) of the Karnataka Excise Licences (General Conditions) Rules, 1967, the Deputy Commissioner may, on an application by the licensee and subject to payment of transfer fee equivalent to annual licence fee and with the prior approval of the Excise Commissioner, transfer licence in favour of any person named by such licensee. As per Notification No. FD 05 PES 2013 dated 28 February.2013, the transfer fee leviable was revised to an amount equivalent to twice the annual licence fee and the same was effective from 01 March 2013.

While conducting test check of records in 11 DCOEs[3] between September 2014 and March 2015, Audit noticed that in respect of 51 cases of transfer of licences, the fee levied was at the pre-revised rate (equivalent to the annual licence fee) as against the revised rate of twice the annual licence fee, though these transfers were effected on or after 01 March 2013. Fee leviable on transfer of licences at the revised rate amounts to ₹ 4.96 crore where as the fee levied was only ₹ 2.85 crore due to application of the pre-revised rate. The resultant short levy of fees works out to ₹ 2.11 crore.

Audit reported these cases to the Excise Commissioner between January 2015 and April 2015 and referred to the Government in June 2015. An amount of ₹ 6.42 lakh was recovered from two licensees. In respect of the remaining cases, it was stated that notices have been issued (November 2015).

3.6 Short levy of licence fee due to incorrect classification of licence

According to Rule 3(6-A) of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, a licence in the Form CL-6A shall be issued by the DCOE to Star Hotels for possession and sale of liquor. As per Explanation under this Rule, 'Star Hotel' means "the hotel recognised as such by the Ministry of Tourism, Government of India". Licence in Form CL-7, on the other hand, is applicable to 'Hotels and Boarding Houses'.

[2] Ashoknagar, Basavanagudi, Belagavi South, Frazer Town, Hosapete, Jayanagar, Rajajinagar, Shivajinagar, Srirampura, Ulsoor and Viveknagar

[3] Bagalkot, Ballari, Bengaluru (East), Bengaluru (North), Bengaluru (South),Bengaluru (West), Dharwad, Hassan, Kalaburgi, Madikeri and Mangaluru

As per Ministry of Tourism, Government of India, four hotels in three districts[4] were issued classification under star hotel category from different dates mentioned against each hotel in the table below. A test check of records of the DCOEs in the three districts, between August 2014 and January 2015, however, revealed that these hotels obtained licences in Form CL-7 which was applicable to 'Hotels and Boarding Houses' instead of the appropriate licences in Form CL-6A. The Department did not ascertain the status of the hotels while renewing the licences. Thus, incorrect classification of licenses has resulted in short levy of ₹ 78.74 lakh as detailed below:

Table 3.3
Short levy of licence fee due to incorrect classification

(₹ in lakh)

Name of hotel / Date from which 3 star category was effective	Year	Licence fee and additional licence fee (₹ in lakh)		
		leviable under CL-6A	levied under CL-7	Short levy
Hotel E.A.C.Kubera Palace, Raichur/ 13.04.2012	2011-12	5.86[5]	4.95	0.91
	2012-13	9.20	4.95	4.25
	2013-14	9.20	4.95	4.25
	2014-15	9.20	4.95	4.25
Rock Regency Hotel Pvt. Ltd., Bellari/ 30.07.2012	2012-13	8.71[6]	3.22	5.49
	2013-14	9.20	3.22	5.98
	2014-15	9.20	3.22	5.98
Siddharta Resorts and Foods Pvt. Ltd, Madikeri/ 11.06.2010	2010-11	9.20	3.22	5.98
	2011-12	9.20	3.22	5.98
	2012-13	9.20	3.22	5.98
	2013-14	9.20	3.22	5.98
	2014-15	9.20	3.22	5.98
Vasavi Hotel Pvt. Ltd, Madikeri/ 19.12.2011	2011-12	6.85[7]	4.18	2.67
	2012-13	9.20	4.18	5.02
	2013-14	9.20	4.18	5.02
	2014-15	9.20	4.18	5.02
Total		**141.02**	**62.28**	**78.74**

After these cases were brought to the notice of the Department between January 2015 and April 2015 and referred to Government in May 2015, ₹ 23.40 lakh was collected in respect of three licensees. Reply in respect of the remaining case was awaited (November 2015).

3.7 Excess wastage of spirit on maturation

According to Schedule B under Rule 4 of the Karnataka Excise (Regulation of Yield, Production, etc) Rules, 1998, the maximum wastage allowable in the case of maturation of reduced, blended or compounded spirit when stored in wooden casks for manufacture of IML ranges from 3 to 22 *per cent*, depending upon the period of maturation from 6 to 36 months. After

[4] Ballari, Madikeri and Raichur,

[5] Arrived pro rata as licence fee under CL-7 till 13 April 2012 and thereafter, licence fee under CL-6A

[6] Arrived pro rata as licence fee under CL-7 till 30 July 2012 and thereafter, licence fee under CL-6A

[7] Arrived pro rata as licence fee under CL-7 till 19 December 2011 and thereafter, licence fee under CL-6A

maturation, further manufacturing loss allowable is five *per cent*. Rule 8 of ibid also empower the Excise Commissioner to levy penalty equivalent to the excise duty leviable on the quantity of liquor short produced on account of wastage in excess of the prescribed limit.

In the distillery, M/s. Khoday India Limited, Bengaluru, during the period from 2009-10 to 2013-14, the maturation loss claimed and allowed on malt spirit and neutral spirit stored in wooden casks for periods from 3 to 36 months exceeded the maximum limits by 13,083.50 proof litres of spirit. By utilising this quantity of spirit, 17,444.69 bulk litres of liquor could have been produced, even after allowing maximum permissible manufacturing loss of five *per cent*. On this, Government could have earned revenue amounting to ₹ 20.46 lakh.

After these cases were brought to the notice of the Department in May 2015 and referred to Government in June 2015, it was replied that the State cannot demand duty on spirit which is not alcoholic liquor fit for human consumption. In the case reported in the paragraph, there is no event of manufacture of IML that would attract duty. Further, the reply added that existing rules with regard to maturation under the Excise Act were framed in the year 1977 and were not comprehensive enough and needed revision. A technical committee has already been constituted by G.O. dated 17 June 2014 for this purpose and its decision was awaited.

The first part of the reply is not acceptable as the issue raised is not the levy of duty on spirit. Audit has only reiterated the rule position under Karnataka Excise (Regulation of Yield, Production, etc) Rules, 1998, and brought non compliance of the same to the notice of the Department. The revenue worked out in this respect is also as per the sub-rules framed under the aforesaid Rules. However, if in the opinion of the Department, the rules are outdated, immediate action is required as there is ample scope of misuse in claiming wastage on maturation, if no guidelines are prescribed in this respect. The committee formed in this regard may be instructed to expedite their processes so as to put in practice the new norms as soon as possible (November 2015).

Chapter–IV
Stamp Duty & Registration Fee

4.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) are regulated by the Indian Stamp Act (IS Act), 1899, the Karnataka Stamp Act (KS Act), 1957, the Registration Act, 1908 and the Rules made thereunder. In Karnataka, the levy and collection of SD and RF is administered at the Government level by the Principal Secretary, Revenue Department. The Inspector General of Registration and Commissioner of Stamps (IGR&CS) is the head of the Department of Stamps and Registration who is empowered with the task of superintendence and administration of registration work. There are 34 District Registrar (DR) offices and 248 Sub-Registrar Offices (SRO) in the State.

4.2 Internal audit

The Department stated that though an Internal Audit Cell was constituted in December 2012, it was still not functional (November 2015) due to lack of manpower.

4.3 Results of audit

In 2014-15, test check of the records of 105 units of the Department of Stamps and Registration disclosed non/short levy of SD, and RF and other irregularities amounting to ₹ 14.47 crore in 291 cases, which fall under the categories.

Table 4.1
Results of audit

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Short/non levy of SD and RF due to misclassification of documents	101	4.55
2	Short/non levy of SD and RF due to incorrect application of market value	125	3.88
3	Short/non levy of SD and RF due to suppression of facts	20	0.88
4	Other irregularities	45	5.16
	TOTAL	**291**	**14.47**

During the course of the year, the Department accepted short/ non levy of ₹ 7.87 crore in 205 cases. An amount of ₹ 53.26 lakh was also recovered in 23 cases pointed out in earlier years.

A few illustrative cases involving ₹ 3.72 crore are discussed in the following paragraphs. Responsibility may be fixed on the officials concerned for their failure in assessing the correct amount of SD and RF.

4.4 Short levy of SD and RF due to undervaluation

According to Section 3 of the KS Act 1957, SD is levied on instruments chargeable with duty as prescribed under various Articles in the Schedule of the Act ibid. Under Article 20, for instruments of conveyance, SD is charged as a percentage of the consideration or of the market value of the property, whichever is higher. Market value guidelines are prescribed for properties situated in the State by the Central Valuation Committee under Section 45-B of the Act. This forms the basis for estimation of market value by the registering officer while registering documents chargeable with stamp duty.

During test check of records of 30[1] SROs between May 2014 and December 2014, Audit noticed 58 cases of undervaluation of properties. The reasons for undervaluation were adoption of incorrect rates of market value guidelines or misclassification of instruments during registration. The resultant short levy of SD and RF worked out to ₹ 1.47 crore and ₹ 0.25 crore respectively.

After these cases were brought to the notice of the IGR&CS between January and May 2015 and referred to the Government during July 2015, ₹ 8.90 lakh was recovered in five cases and in the remaining cases, it was stated that the jurisdictional DRs have been instructed to take action under relevant sections of the Act (November 2015).

4.5 Short levy of SD and RF due to misclassification of document

Section 54 of the Transfer of Property Act, 1882 defines 'sale' as the transfer of ownership in exchange for a price and Section 105 of the same defines 'lease' of immovable property as the transfer of right to enjoy such property, made for a certain time, or in perpetuity, in consideration for a price.

A test check of records in SRO Belagavi revealed that in respect of one document, a converted non-agricultural property measuring 53,633 square feet with roads on two sides, had been leased out originally for 999 years on an annual rent of ₹ 75. Both the lessor and the lessee had died, after which their legal heirs registered a 'deed of transfer consent i.e. absolute sale deed of ground lease hold rights' by which the lessee paid the equivalent of the entire annual rent of ₹ 28,992.75 for the remaining 930 years of the lease and obtained in return the conveyance of 'all the rights, titles and interest' in the property.

Since the recital of the document expressly transferred the title of the property, SD of ₹ 71.36 lakh, as conveyance under Article 20(1) at the rate of 5.6 *per cent* on the market value of the property of ₹ 12.74 crore, is leviable as against the levied amount of ₹ 1,915. Registration Fee of ₹ 12.74 lakh is also leviable, thereby resulting in total short levy of ₹ 84.10 lakh.

After this was brought to the notice of IGR&CS during January 2015 and referred to Government during May 2015, it was stated that the jurisdictional

[1] Attibele, Belagavi, BTM layout, Challakere, Chamarajanagar, Chamarajapete, Channagiri, Chikkodi, Chitradurga, Doddaballapur, Gudibande, Halasur, Hiriyur, Hoskote, J.P.Nagar, Kadur, K.R.Puram, Kushtagi, Maddur, Moodbidri, Nelamangala, Nippani, Peenya, Rajajinagar, Sagar, Sarjapura, Shahapura, Sindhanoor, Sira and Yadgir.

DR has been instructed to take action under relevant sections of KS Act (November 2015). Further action would be awaited.

4.6 Short levy of SD and RF due to escapement of barter consideration

According to Article 20(1) of the Schedule under the KS Act, 1957, SD on conveyance is chargeable on the "market value of the property which is the subject-matter of conveyance". Market value, as defined under Section 2(1)(mm) of the Act, is "the price which the property would have fetched if sold in open market on the date of execution of the instrument or the consideration stated in the instrument, whichever is higher".

By way of a sale deed registered in SRO, Banashankari, a residentially converted land measuring two Acres and 35 Guntas was sold for a consideration comprising of ₹ 5.20 crore and an additional, future barter consideration of 35,684 square feet of built-up area, 36 car parking lots and the proportionate undivided interest in the land. As per clause 23 of the sale deed, the parties have mutually agreed that, "apart from the financial sale consideration, the purchaser would also pay a barter consideration of 35,684 square feet of built-up area along with 36 car parks and the proportionate undivided interest in the schedule land or adjoining land". Thus, SD and RF were leviable on the entire consideration. But the same was charged only on the financial sale consideration. Applying the then prevailing rates as mentioned in the guidelines issued by the Central Valuation Committee for built-up area (₹ 2376 per square feet) and open car parking (₹ 1.15 lakh per car parking), the barter consideration is to be valued at ₹ 8.89 crore. SD and RF on the same, at 5.6 and one *per cent* respectively, works out to ₹ 58.69 lakh as given in **Table 4.2**.

Table 4.2
Short levy of SD & RF

(₹ in lakh)

Item	Value	SD leviable at 5.6 *per cent*	RF leviable at one per cent	Total
Built-up area	35684 sq.ft X ₹ 0.02376 = 847.85	47.48	8.48	55.96
Car parking	36 Nos. X ₹ 1.15 = 41.40	2.32	0.41	2.73
				58.69

After this was brought to notice of IGR&CS in January 2015 and referred to Government during May 2015, it was stated that the jurisdictional DR has been instructed to take action under relevant sections of KS Act (November 2015). Further action in the matter would be awaited.

4.7 Short levy of SD and RF due to suppression of facts

Section 28(1) of the KS Act, 1957, stipulates that the consideration (if any) and all other facts and circumstances affecting the amount of duty with which an instrument is chargeable shall be fully and truly set forth therein. Further, under Section 61(a) of the Act, any person, who with intent to defraud the Government, executes any instrument in which all the facts and circumstances

required by Section 28 to be set forth in such instrument are not fully and truly set forth, shall be punishable with fine which may extend to five times the deficient duty thereof.

a. Short levy of SD and RF due to suppression of consideration

On test check of documents in four[2] SROs, Audit observed that in 11 instruments (absolute sale deeds), actual consideration for which the properties were sold were not truly set forth. In all these cases, 'agreements for sale' registered prior to the sale deeds contained declarations of amounts paid in advance. While registering the sale deeds the amounts received in advance were not considered for levy of SD and RF. Short levy of SD and RF due to this amounted to ₹ 9.37 lakh

b. Short levy of SD due to registration of sale agreements without reference of general power of attorney

According to Article 5(e)(i) and 5(e)(ii) of the Schedule under KS Act, 1957, an agreement for sale is chargeable with SD at the rate of 10 paise for every ₹ 100 of the market value of the property if possession of the property is not delivered. On the other hand, if possession of property is delivered, same duty as a conveyance (five *per cent* of the market value) is chargeable. Further, even if possession is not delivered, if a reference of a power of attorney granted separately by the seller to the purchaser in respect of the same property is made in the agreement, possession of the property is deemed to have been delivered according to Explanation I under the article.

Test check of documents in three[3] SROs revealed that along with three 'agreements for sale' without delivery of possession of properties, corresponding powers of attorney were also registered. Hence, possession of the properties should have been deemed to be delivered in the sale agreements, as per explanation quoted above, for levy of SD.

Reference of such powers of attorney was, however, not made in the agreements, resulting in levy of SD at a lower rate than was applicable. Short levy of SD works out to ₹ 28.64 lakh.

Fine under Section 61(a) of KS Act, upto five times the amount pointed out, is also leviable in both sets of observations.

The issue was brought to the notice of the IGR&CS in May 2015 and referred to the Government in July 2015. The Government replied that the jurisdictional DRs had been instructed to take action under relevant sections (November 2015).

4.8 Loss of revenue due to inadmissible adjustment of SD

According to Article 41(eb) of the Schedule under the KS Act, 1957, same SD as a conveyance under Article 20(1) on the market value of the property is leviable on a power of attorney if it authorises the attorney holder to sell immovable property situated in Karnataka State. The duty so paid is adjustable towards duty payable on an agreement for sale or on an instrument of sale or transfer, only if it is "executed between the same parties in respect of the same property".

[2] Devadurga, Hiriyur, Jamakhandi, and Nelamangala
[3] Banashankari, Basavanagudi and Sarjapura

In respect of four documents registered in the SRO, Sarjapura, Audit observed that General Powers of Attorney (GPA) were granted to a person purely in his *personal* capacity. Thereafter, the subsequent sale of the property was to a house building co-operative society represented by the same person in his *official* capacity as President of the co-operative society. SD payable on the sale deed, however, were allowed to be adjusted against SD paid on the respective GPAs. Although the individual is the same, he has represented first in his personal capacity which qualifies him as a GPA holder for that property and in the second case, he has represented in his capacity as 'President' of the co-operative society for which the SD paid on GPA should be disallowed against denotation mentioned in the sale deed. Thus, his representations are for two different legal entities (parties). Hence, the condition -"executed between the same parties in respect of the same property"- is not satisfied and therefore SD has to be paid at regular rates. This loss of revenue due to inadmissible adjustment of SD works out to ₹ 18.95 lakh.

Table :4.3
Loss of SD

(₹ in lakh)

Sl. No.	GPA	Sale deed	Sy. No. and extent of land in Adigarakallahalli, Sarjapura Hobli	Parties involved	Amount of SD Adjusted
1	151/ 12-13, dt.30-6-12	1820/13-14, dt.29-7-13	Sy.No.34 - 3 acres	GPA to Shri. Shanker G.Beleri. Sale Deed - in favour of President, Remco (BHEL) HBCS Ltd.	4.50
2	738/11-12, dt.24-12-11	1821/13-14, dt.29-7-13	Sy.No.134 - 4 acres		7.20
3	211/11-12, dt.27-7-11	1822/13-14, dt.29-7-13	Sy.No.43/2 - 1 acres, 5 guntas		4.55
4	251/11-12, dt.2-9-11	1824/13-14, dt.29-7-13	Sy.No.176/2 - 3 acres		2.70
				Total	18.95

The SRO stated, in reply, that the sale deed is also in favour of the person himself and hence the denotation allowed is as per law.

The reply is not acceptable since the Income Tax Permanent Account Number (PAN) of the buyer as given in the sale deed conforms to the format of that belonging to an association of persons (fourth character is an 'A') and not an 'individual' (where the fourth character should be 'P') which proves conclusively that the buyer is the society and not the person. Further, in the sale deed, the GPA holder has signed 'for' the society.

After this was brought to the notice of IGR&CS in March 2015 and referred to Government during May 2015, it was stated that the jurisdictional DR has been instructed to take action under relevant sections (November 2015).

CHAPTER-V
Taxes on Motor Vehicles

5.1 Tax administration

The provisions of the Karnataka Motor Vehicles Taxation (KMVT) Act, 1957 and rules made thereunder govern the levy and collection of taxes on motor vehicles. The levy of taxes on motor vehicles is administered by the Transport Department headed by the Commissioner for Transport and Road Safety who is assisted by Joint Commissioners of Transport. There are 59 Regional Transport Offices (RTOs)/Assistant Regional Transport Offices (ARTOs) and 15 check posts in the State.

5.2 Internal audit

The Internal Audit Wing (IAW) is functioning in the Transport Department since 1960.

As per the information furnished by the Department, even though 74 offices were identified for audit during 2014-15, none of the offices were audited due to shortage of staff.

5.3 Results of audit

Test check of records of 52 offices of the Transport Department, conducted during the year 2014-15, disclosed underassessment of tax and other irregularities amounting to ₹ 309.81 crore in 83 cases, which fall under the categories given in **Table 5.1**:

Table 5.1
Results of audit

(₹ in crore)

Sl. No.	Category	Number of paragraphs	Amount
1.	**Performance Audit Report on Levy and collection of Motor Vehicles Tax**	1	302.19
2.	Non/short levy of Life Time Tax (LTT) on construction equipment vehicles.	22	1.91
3.	Non/short levy of LTT on non-transport vehicles.	13	0.11
4.	Non/short levy of quarterly tax.	24	2.12
5.	Other irregularities	23	3.48
	TOTAL	**83**	**309.81**

During the course of the year, the Department accepted underassessment and other deficiencies involving ₹ 3.02 crore in 58 cases. An amount of ₹ 4.06 crore was also recovered in 72 cases pointed out in earlier years during the year 2014-15.

A Performance Audit on 'Levy and collection of Motor Vehicle Tax' involving ₹ 302.19 crore and a few illustrative cases involving ₹ 1.32 crore which came to notice during compliance audit are mentioned in the following paragraphs.

5.4 Performance Audit Report on 'Levy and collection of Motor Vehicles Tax'

Highlights

Control lapses resulted in 4,281 transport vehicles escaping the tax net, with a revenue loss of ₹ 13.17 crore, at the time of their migration between jurisdictions.

(Paragraph 5.4.2.1)

Only 21.01 *per cent* of transport vehicles and 19.38 *per cent* of non-transport vehicles have complied with periodical fitness test and certification. Failure to ensure compliance in respect of other vehicles, had the additional consequence of depriving Government of revenue of ₹ 74.07 crore between April 2010 and March 2015.

(Paragraph 5.4.2.2)

Arrears of revenue amounting to ₹ 141.65 crore from 68,653 transport vehicles were not booked in DCB and followed up by the Department.

(Paragraph 5.4.3.1)

Lack of adequate controls in respect of collection of quarterly tax led to 22,002 transport vehicles skipping payment of tax for one to 16 quarters resulting in non-realisation of ₹ 45.31 crore.

(Paragraph 5.4.3.2)

Lack of adequate controls in respect of collection of Life Time Tax from battery operated vehicles and construction equipment vehicles resulted in failure to recognise the arrears of revenue of ₹ 4.61 crore.

(Paragraph 5.4.4)

Green Tax amounting to ₹ 23.52 crore from 4,02,666 transport vehicles and ₹ 29.01 crore from 9,69,706 non-transport vehicles was not realised.

(Paragraph 5.4.5)

5.4.1 Introduction

Levy and collection of Motor Vehicles Tax (MVT) is regulated by the provisions of The Motor Vehicles (MV) Act 1988, the Central Motor Vehicles (CMV) Rules 1989, the Karnataka Motor Vehicles (KMV) Rules, 1989 and the Karnataka Motor Vehicles Taxation (KMVT) Act, 1957 and Rules made thereunder. The Transport Department is mainly concerned with regulation of the use of Motor Vehicles in the State and collection of MVT in accordance with the provisions of these Acts and Rules.

The regulations are aimed at ensuring that all the transport or non-transport vehicles running in the State are registered with the Department and are either paying quarterly tax regularly or have paid Life Time Tax (LTT). Regulatory functions of the Department also include ensuring that all transport vehicles in use are issued permits and Fitness Certificates (FC) which are to be renewed periodically. The Department is also required to verify the fitness of non-transport vehicles for their use on roads by issuing Registration Certificates (RC) and their further renewal. Collection of taxes as prescribed under the KMVT Act from such vehicles which are registered in other States but plying in the State is also to be ensured by the Department.

The activities of the Department such as registration of vehicles, collection of tax, fee, fine, etc., issue and renewal of permits and FCs are computerised using an application software developed by National Informatics Centre (NIC) called VAHAN.

An information system Audit entitled 'Performance Audit on Computerisation of Transport Department' was conducted on the above software. This was reported in the Audit Report of the year 2010-2011 (paragraph No.4.7).

5.4.1.1 Organisational Setup

The Department is headed by the Commissioner for Transport and Road Safety and is under the administrative control of the Additional Chief Secretary to Government of Karnataka, Transport Department. He is assisted by four Additional Commissioners one each for Administration, Enforcement South, Enforcement North and Karnataka State Transport Authority (STA), one Joint Commissioner (Environment and e-Governance), one Law Officer, two Financial Advisers and an Assistant Director of Statistics at Headquarters Office. There are six transport divisions in the State, each headed by a Joint Commissioner. Under the divisions, there are 59 Regional Transport Offices (RTOs)/Assistant Regional Transport Offices (ARTOs) headed by Deputy Commissioners for Transport/Senior Regional Transport Officers/ Regional Transport Officers or Assistant Regional Transport Officers (ARTOs). Of the 59 field offices (RTOs/ ARTOs), one RTO stationed in Bangalore deals exclusively with auto rikshaw permits and issues relating to Public Sector Undertakings in the Transport Sector.

RTOs and ARTOs are assisted by Superintendents, Inspectors of Motor Vehicles (IMVs) and other administrative and clerical staff. Besides, the Department has established 15 Check Posts bordering the State to monitor inter-State movement of vehicles and to levy and collect tax from vehicles registered in other States but plying in the State.

5.4.1.2 Audit Objectives

The objectives of the Performance Audit (PA) were to ensure whether:

1. The system in existence in the department is sufficient to exercise effective control over registration and regulation of all the vehicles plying in the State, including inter-State vehicles; and
2. The system of levy and collection of tax, fees and penalties on motor vehicles is effective and adequate to comply with the provisions of the KMVT Act.

5.4.1.3 Audit Criteria

The following were used as sources of criteria:

1. The Motor Vehicles Act, 1988
2. The Central Motor Vehicles Rules, 1989
3. The Karnataka Motor Vehicles Rules, 1989
4. The Karnataka Motor Vehicle Taxation Act, 1957
5. The Karnataka Motor Vehicle Taxation Rules, 1957

5.4.1.4 Scope

The period of audit was for five years from 2010-11 to 2014-15. Adequacy of the systems and controls within the Department for registration and regulation of the vehicles plying in the State, efficiency in levy and collection of tax, fees, fines and penalties were analysed in the PA.

Twenty[1] out of the fifty nine RTOs/ARTOs were selected for detailed scrutiny of records by random sampling method using IDEA software with random number seeding on the list of RTOs/ARTOs arranged in alphabetical order. Data analysis of all the RTOs/ARTOs was also carried out. In addition, records maintained in six[2] out of 15 check posts, one bordering each of the six neighboring States, were also checked.

5.4.1.5 Methodology

The database back-up of VAHAN of all the RTOs/ARTOs and check posts was obtained from the Department and analysed using IDEA software. Records maintained in the 20 selected RTOs/ARTOs and six check posts were examined to ascertain follow-up action taken on vehicles declared as under non-use, collection of arrears of tax, vehicles which have not renewed FCs and renewal of RCs.

An Entry Conference was held with the Principal Secretary, Transport Department and the Commissioner for Transport and Road Safety in March 2015, in which the objectives, scope and methodology were discussed in detail. An exit conference was held on 21 October 2015 in which the audit

[1] Auto-rickshaw permits and Transport Corporation, Bagalkot, Belagavi, Bengaluru (Central), Bengaluru (East), Bhalki, Dharwad, Electronic City, Gadag, Hosapete, Hunsur, Kalaburgi, Koppala, K.R. Puram, Madhugiri, Mysuru (West) Raichur, Sagar, Sakaleshapura and Yelahanka.

[2] Attibele, Bagepalli, Humnabad, Nippani, Ramanagara and Talapady.

findings, conclusions and recommendations were discussed with Additional Chief Secretary to Government of Karnataka (ACS), Transport Department and the Commissioner for Transport and Road Safety.

5.4.1.6 Acknowledgement

We acknowledge the co-operation of the Transport Department, Government of Karnataka in providing the necessary information and records for audit. We also acknowledge the valuable inputs given by Government/Department in the entry and exit conferences and during the course of audit.

Important audit observations on the issue are mentioned in the following paragraphs.

5.4.2 Registration and Regulation of Motor Vehicles

Audit analysis revealed that in respect of registration of new vehicles, the controls employed by the Department were fairly adequate. Certain Control deficiencies were observed in the matter of:

(i) registration of migrated vehicles due to non-compliance with the provisions of MV Act, 1988;

(ii) issue/renewal of FCs to transport vehicles due to issue of FC with validity for more than two years in case the transport vehicles are identified to pay LTT at the time of registration, absence of follow-up action to ensure timely renewal of FC, absence of control mechanism in VAHAN to detect vehicles which are due for renewal of FC/RC, etc.

5.4.2.1 Transport vehicles escaping the tax net and the administrative control of the Department on migration

Under the CMV Act and Rules made thereunder, vehicles migrating from one State to another shall obtain a No Objection Certificate (NOC) from the RTO at the origin and produce before the RTO at the destination for registration in that State. Similarly, for a vehicle migrating from one RTO (origin) to another (destination) within the State, the procedure prescribed under Section 49[3] of the CMV Act has to be followed. In each of the RTOs/ARTOs, the NOC module of the VAHAN system is used to record vehicles moved out of the jurisdiction of that office either to other RTOs within the State or to other States. After recording the migration in the NOC module, the RTO stops further monitoring over that vehicle for collection of periodical taxes due, renewal of FC, etc. Subsequently, it shall be the duty of the destination RTO to exercise administrative control over the vehicle.

Audit examined the cases recorded in the tables of NOC module of all the RTOs in the State which were stated to be migrated to other RTOs within the State, to ensure continuity in administrative control over such vehicles.

[3] Section 49 of the Motor Vehicles Act, 1988 – If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration, and if the new address is within the jurisdiction of another registering authority, he shall, within thirty days of such change of address, intimate the new address and forward the certificate of registration to the registering authority other than original registering authority who shall communicate the altered address to the original registering authority.

Audit observed that there were entries relating to 59,939 transport vehicles in the NOC tables which were paying quarterly tax registered across all RTOs/ARTOs in the State as have migrated to other RTOs within the State between April 2009 and March 2015. Cross verification of these with reference to registration details of the destination office revealed that 4,281 vehicles failed to get enrolled at the destination. Verification of tax collection tables in VAHAN of all the RTOs/ARTOs and Check Posts revealed that these vehicles did not pay their quarterly taxes due after the date of migration. The total amount of quarterly tax due from these vehicles as on 31 March 2015 amounted to ₹ 13.17 crore. The omission on the part of the RTOs/ARTOs concerned in dispensing with their administrative control over these vehicles without ensuring their enrollment at the specified destination has allowed these vehicles to escape the tax net and other administrative controls exercised by the Department over transport vehicles.

The Government/Department stated in the exit conference that, the issue would be addressed in the newer version of VAHAN which would be having a centralised database network.

A centralised database with a web based application enabling the public to access the services offered by the Department and for registration, payment of fees, taxes etc., could provide an easy solution by capturing the new address of the vehicle and assigning it to the jurisdictional registering authority. For this purpose a master table of jurisdiction of each RTO has to be created and updated in the VAHAN. These measures were suggested to the Department in the Information Systems Audit on 'VAHAN', and were accepted by the Department. However, none of these suggestions have been implemented as of November 2015.

Recommendation No. 1: The Department may provide a web-based system with a centralized database by which the vehicle owners may avail the services offered by the Department, pay taxes and voluntarily update change of addresses etc., if any.

5.4.2.2 Fitness of vehicles not tested and certified periodically

The CMV Act stipulates that a certificate of registration issued for a non-transport vehicle shall be valid only for a period of 15 years from the date of registration and shall be renewable. In case of transport vehicles, a fitness certificate (FC) is issued for a period of two years from the date of registration and renewable every year thereafter. A transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness.

At the time of renewal of registration certificate of a non-transport vehicle or renewal of FC of a transport vehicle, fitness test has to be conducted by IMV as per the provisions of Rule 62 of CMV Rules, 1989. It stipulates that the FC has to be issued after conducting tests of 15 specified components in a vehicle. On an average, three different mandatory tests under each specified component have been prescribed. Therefore, an IMV, while issuing FC for a vehicle, should have performed a minimum of 45 tests of fitness.

Analysis of VAHAN database has revealed the following:

1. There were 12,02,838 non-transport vehicles registered between April 1995 and March 2000, which were due for renewal of their RCs between April 2010 and March 2015. Of this, only 2,33,132 vehicles (i.e., 19.38 *per cent*), renewed their RC and the balance 80.62 *per cent* of vehicles had not complied with the provisions of the Act.

2. FC data relating to 9,43,687 transport vehicles registered in the State between April 2000 and March 2013 were due for renewal of FC at least one time (maximum of five times) between April 2010 and March 2015. Of these, 4,04,385 vehicles (42.85 *per cent*) did not appear for fitness test even once between April 2010 and March 2015 and 2,05,868 vehicles (21.82 *per cent*) discontinued after appearing for the fitness test up to a certain period. Another 14.32 *per cent* (1,35,158 vehicles) appeared for the test only sporadically after a gap of two or more years as against the mandatory annual requirement. Aggregate percentage of non-compliance with FC provisions was 78.99 *per cent* (7,45,411 vehicles).

Failure to comply with the provisions of the MV Act in respect of FC renewal, and use of such vehicles in a public place constitute a danger to the public from road safety point of view and a compromise on the standards for controlling air pollution. Audit analysis of the data relating to high non-compliance level as also fitness test conducted by the Department revealed the following:

1. There were 2,44,737 cases, in which transport vehicles were given fitness validity for the period of 15 years from the date of their registration as against two years validity period stipulated under the MV Act. This was due to fitness validity period linked with tax option details in VAHAN instead of on vehicle category.

2. In respect of the 1,23,680 vehicles which appeared for fitness test after delay of seven months to 10 years, additional fee of ₹ 2.82 crore was leviable. Against this, the RTOs/ARTOs concerned collected fine of ₹ 54.90 lakh only, resulting in short levy of additional fee of ₹ 2.27 crore. Thus, the Department has failed to penalise the non-compliance appropriately.

3. It was seen that 2,61,395 transport vehicles which did not appear for FC renewal between April 2010 and March 2015 have transacted with the RTOs, on one to 10 times during the same period for various services such as change of address, quarterly tax payment, removal of entries relating to hypothecation, etc. But the FC default of those vehicles was not detected and enforced due to system lapses. This shows that Enforcement activities of the Department have not been upgraded to smarter ways to ensure compliance with the provisions the CMV Act.

4. It was noticed that in 20 RTOs/ARTOs, fitness test for 5,69,224[4] transport vehicles were conducted during the years 2012-13 to 2014-15. On any given day, only one IMV is assigned to conduct fitness test of transport vehicles by the RTO. The average number of vehicles inspected by an IMV per day for an RTO ranged from one to 138. Though the Department has not made any realistic assessment of number of vehicles that could be inspected by an IMV in a day for the purpose of FC, it is clear from the above details

[4] These vehicles include vehicles registered prior to April 2000.

that an officer is left with an average[5] of only 15 minutes for each vehicle, which is hardly sufficient to perform a minimum of 45 tests per vehicle as discussed above.

5. Non-renewal of registration certificate by 9,69,706 non-transport vehicles and non-renewal or intermittent renewal of FC by 7,45,411 transport vehicles has also had an additional consequence of depriving State revenue by way of fees prescribed for these purposes under the MV Act amounting to ₹ 8.49 crore and ₹ 65.58 crore respectively.

While accepting audit observation in the exit conference, the Government/Department, stated that the non-transport vehicles are difficult to trace after a period of 15 years of registration. In respect of transport vehicles, it was stated that the onus to renew FC lies with the owner of the vehicle and if any vehicle plies on road without valid FC, statutory cases are booked and appropriate penal action is being taken. The Department, however, reiterated that the issue relating to FC will be taken up seriously and will be complied with.

Recommendation No. 2: The Department may consider the following:

- **VAHAN software may be modified to determine FC validity period based on vehicle category. Controls may also be built in to prompt the officials regarding FC default of vehicles appearing for obtaining other services from the Department.**
- **Service stations[6] having qualified personnel and testing equipments may be authorised for conduct of fitness test in an efficient manner with the task of fitness testing and certification in the interest of greater efficiency and effectiveness.**
- **Details of Vehicles in default of renewal of RC or FC may be generated through VAHAN and real time access may be given to all the Departments having stake in regulation of vehicle movements.**
- **Awareness among public may be created by advertising the necessity of renewal of registration/fitness certificate through audio visual media, particularly the FM Radio, which has currently the widest reach.**

5.4.3 Inadequate controls to monitor and follow up tax default cases

Demand, Collection and Balance (DCB[7]) statements are to be prepared periodically which provide management information on tax default cases and helps Department to follow them up with recovery proceedings. Non-utilization of DCB module of the VAHAN software was pointed out to the Department in the IS Audit in 2011.

[5] Considering at least 8 hours on the job on a daily basis.

[6] Section 56(2) of MV Act provides for notification of "authorised testing stations" for conducting fitness tests and issue of FCs.

[7] Preparation of DCB Statement involves booking of demand as and when tax becomes due for the State, posting of collection after reconciliation and striking of balance. Action taken for recovery of the balance shall also be prepared on each DCB statement. Scrupulous compliance with the above steps in preparation of DCB is essential for a proper tax administration.

The Government had replied in September 2012 that certain problems were encountered due to bifurcation of some RTOs by opening new offices, legacy data entry of all the RTOs/ARTOs, etc and stated that necessary action will be taken to implement the DCB module after addressing these problems.

On verification, it was noticed that the DCB module has not yet been put to use in 24[8] out of the 59 RTOs/ARTOs as of 31 March 2015, which is a matter of concern.

5.4.3.1 Failure to detect and follow-up arrears of tax

In the RTOs/ARTOs, where the module was being used, analysis revealed that processing of DCB statements in VAHAN software was erroneous and was not capable of detecting all the defaults in payment of quarterly taxes due from transport vehicles. For instance, no entries were found in the DCB tables in respect of 68,653[9] transport vehicles which had stopped payment of quarterly tax. In the absence of entry in DCB statements, the follow-up on the arrears of revenue in these cases is not possible.

In respect of these vehicles, 1 to 19 quarterly tax payments were in default as on 31 March 2015 and the total revenue due amounted to ₹ 141.65 crore.

Incorrect processing controls in VAHAN resulted in the following deficiencies as well:

1. The tax payments made in other RTOs/ARTOs in the State are not getting accounted for against the tax demand in the parent RTOs. During 2010-11 to 2014-15, it was noticed that 676 vehicles were mentioned in the DCB table as defaulters for the period for which tax had already been paid. It was also noticed that the VAHAN system does not exclude the vehicles which are exempted from payment of tax under non-use declaration while generating DCB statements. These errors resulted in overstatement of arrears. This issue was also pointed to the Department in the Performance Audit on 'Computerisation of Transport Department', for which Department had replied in September 2012 that all the offices of the Department would be networked. However, the same has not been implemented even as of November 2015.

2. Out of 15.67 lakh entries in the DCB tables, 8.58 lakh entries (54.75 *per cent*) were showing arrears for future periods. Hence, the figures generated did not represent a true picture of the position of arrears of the office.

3. DCB statements generated through VAHAN do not have provision for booking demand for penalty[10] due from defaulters. Consequently, there were omissions in collecting penalty from 39,194 vehicles which defaulted in

[8] Autorickshaw, Bagalkote, Balki, Ballari, Basavakalyana, Belagavi, Chamarajanagara, Davanagere, Hosapete, Hunsur, Jamkhandi, Jnanabharathi, Karwar, Kolar, Madikeri, Mandya, Mysore (West), Nagamalagala, Puttur, Raichur, Ramanagara, Sirsi, Tiptur and Yadgir.

[9] The list of these vehicles has been prepared considering all the aspects such as vehicles moved out on NOC/CC, exemption claimed on account of surrender of documents of vehicles under non-use, tax paid in any other RTO, etc.

[10] Section 12-B of KMVT Act, 1957, provides for composition of offences on payment of money as prescribed under the Act. Rule 29(1) of KMVT Rules, 1957, prescribes payment of penalty of 20 *per cent* of quarterly tax in case of default of tax.

making quarterly tax payments of ₹ 47.40 crore between April 2010 and March 2015, but paid the taxes due after delay ranging from seven days to over four years. Non-levy of penalty in these cases amounted to ₹ 9.48 crore.

Analysis of data also revealed that in respect of 1,23,716 vehicles, which had paid tax of ₹ 129.64 crore after the due dates prescribed under the Act, penalty of ₹ 7.78 crore only was levied and collected by the RTOs/ARTOs. The actual amount of penalty recoverable in these cases was ₹ 25.93 crore. Thus, the short levy of penalty amounts to ₹ 18.15 crore.

4. During 2010-11 to 2014-15, the DCB statements generated contained 12,093 entries involving ₹ 8.73 crore of negative arrears owing to negative figures in the opening and closing balances of the tables.

The reason for this as found in Audit analysis was that when any vehicle is in default for several quarters continuously, instead of booking the total amount of tax due from that vehicle, tax due for the first quarter of default alone is booked in the DCB. As a result, when a vehicle which is in default for more than one quarter, makes payment towards total arrears or any other sum exceeding tax for one quarter, the net closing balance of arrears would be a negative figure. This information is not only misleading with reference to the vehicle in particular (by way of not showing the correct tax due), the negative amount would, while summing up the arrears for that period for the RTO as a whole, affect the total amount. Due to this, total arrears for the RTO would invariably get understated.

Depiction of only one quarter tax in the DCB is being followed in the Department since April 1986 in accordance with a Circular[11] issued by the Commissioner for Transport on 8 April 1986.

In the said circular, the Commissioner had directed that in respect of the vehicles which have paid tax regularly for some time and discontinued thereafter, demand should be restricted to one quarter or one year, as the case may be, for the purpose of accounts. This decision was taken to avoid depiction of inflated arrears in DCB due to various reasons mentioned therein such as lack of information on vehicles that are scrapped or moved out of the State, etc.

The same reasons however, do not hold good for the present scenario, particularly post-2009, when the Department has completely switched over to computerised environment and information in digital form is available across various Departments of Government of Karnataka. Hence, the DCB generated are not reliable and not depicting the correct position of arrears of revenue.

In the exit conference, the Government accepted that booking of one quarter of tax in DCB against the total amount of arrears due from defaulting vehicles do not provide the correct position of arrears and hence the 1986 circular has to be withdrawn and correct procedure has to be followed.

Recommendation No. 3: The Department may take appropriate steps to modify VAHAN system to raise demand for tax from all the vehicles as and when the tax amount becomes due to the State Government and update the same with further periodical dues, so that the DCB statements

[11] Circular No. CT/DCB/PR-125/85.6 dated 8.4.1986

represent true and fair view of position of arrears in each RTO and for the Department as a whole.

5.4.3.2 Non detection of missing quarterly tax payments by transport vehicles

Owners of transport vehicles are permitted to pay quarterly tax in any of the 59 RTO/ARTO offices or 15 check posts established across the State border. It is a good facility offered by the Department to the public. But this facility requires an integrated system which can capture the details of payments made anywhere in the State in a central server, so that continuity in payment of tax could be ensured or default could be detected. As of June 2015, the Department does not have an integrated system, but all RTOs/check posts are functioning in distributed network systems which are not even inter-connected to share data.

With a view to ensure that adequate controls exist in the Department to ensure regular payment of quarterly tax by the transport vehicles and the tax paid are at the prescribed rate, quarterly tax payment details of transport vehicles under five[12] categories operating in all the 59 RTOs were examined.

Audit analysis revealed that adequate controls were not in place in the Department to ensure continuity in payment of quarterly tax and at the prescribed rate as mentioned below:

1. It was noticed that 22,002 (5.63 *per cent* out of 3,90,832 vehicles analysed) transport vehicles skipped payment of tax for one to 16 quarters and accepted for the intervening or recent quarters between 1 April 2010 and 31 March 2015. The Department also failed to detect the same and raise demands through DCB. The total amount of tax due in these cases was ₹ 45.31 crore. Besides, a mandatory penalty of ₹ 9.06 crore was also leviable.
2. Also, during the same period, short payment of quarterly tax to the tune of ₹ 2.71 crore by 4,575 (1.17 *per cent*) transport vehicles was noticed in 44 RTOs/ARTOs[13]. Though quarterly tax collected was less than the actual amount due, the differential amounts were not demanded by the RTOs/ARTOs concerned.

Thus, there was no effective control to detect missing quarterly tax payments or short payments and follow them up with suitable action. In the absence of centralised network system, the Department should have at least envisaged data porting from the RTO/ARTO or Check Post in which tax has been paid to the RTO in which the vehicle is registered ('parent' RTO). As of now, no such data porting is being done, leaving the system vulnerable to the possibility of skipping tax payment for intervening quarters/periods.

[12] HPV, MPV, LPV, HGV and MGV.

[13] Basavakalyana, Ballari, Belagavi, Bengaluru (Central), Bengaluru (West), Bengaluru (East), Bengaluru (North), Bengaluru (South), Bidar, Bhalki, Chickballapura, Chikkodi, Chitradurga, Davangere, Devanahalli, Dharwad, Electronic City, Gadag, Hassan, Honnavara, Hospet, Hunsur, Jnanabharathi, Kalaburgi, Kolar, Koppal, K.G.F, K.R.Puram, Madhugiri, Madikeri, Mangaluru, Mandya, Mysore East, Mysore West, Nagamangala, Nelamangala, Puttur, Raichur, Sagar, Sakaleshapura, Tumkur, Vijayapur, Yelahanka and Yadgir.

The payment made by vehicle owners in RTOs/ARTOs other than in the parent RTO is getting recorded in two different tables. The reason for having two different tables for the same purpose is not forthcoming. This would add to the difficulties to track payment and port data to the parent RTO/ARTO.

Proper maintenance of tax card[14] and insisting production of tax card, at the time of payment of tax by the owner of the vehicle, by the Department would be a appropriate control to ensure that quarterly tax for a vehicle is paid regularly without any missing tax periods and at the appropriate rate.

The Government/Department stated in the exit conference, that consolidated data of payment of quarterly tax in respect of transport vehicles is being taken up in a newer version of VAHAN software. The Government/Department also agreed to the suggestion to modify VAHAN Software so as to raise demand for tax from vehicle owners as and when due, update with further periodical dues, so that the DCB statements provide true and fair view of arrears.

Recommendation No. 4: The Department may switch over to centralised database network system and also introduce smart tax cards to access all the relevant information regarding transport vehicles, such as the date up to which quarterly tax has been paid by the vehicle, actual amount of quarterly tax fixed for the vehicle, etc. at the time of collection of tax at any RTO in the State.

5.4.3.3 Incorrect extension of tax exemptions[15] to transport vehicles

Tax exemption availed by transport vehicles for being under 'non-use' between April 2010 and March 2015 were analysed to verify whether adequate controls were in place to ensure that exemption granted were in accordance with the provisions of the KMVT Act and necessary action for cancellation of RC or collection of tax is taken after the period of exemption. The exemptions were granted after collecting all the prescribed documents, but there are no controls to ensure that period of such exemptions are restricted as per the provisions of the Act, i.e. one year on application and extendable up to three years continuously at a time. Also, there was no information in the VAHAN in respect of the cases where applications of 'non-use' were rejected by the Department. In the IS Audit of 'Computerisation of Transport Department' of the Audit Report of the year 2010-2011, it was commented (Paragraph 4.7.8.3), that the Surrender of Vehicles module was not being used by the Department as of November 2011. The Government

[14] Under Section 5 of the KMVT Act, 1957, when the tax levied under Section 3 in respect of a motor vehicle is paid, the taxation authority shall issue to the person paying the tax (a) a receipt in the prescribed form indicating therein the amount of tax paid; and (b) a taxation card in the prescribed form indicating therein the rate at which the tax is leviable and the period for which the tax has been paid.

[15] By a Notification dated 6.9.2007, Government of Karnataka exempted motor vehicles registered in the State of Karnataka and not used on roads, from payment of tax under the said Act for a period of one quarter, half year or year as the case may be. The owners are required to surrender the documents such as Registration Certificate, Permit and Fitness Certificate with the registering authority. The period of non-use shall not exceed three years at a time. Thereafter, the authorities may take action to cancel the registration.

replied that provision is made in VAHAN to record surrender of vehicle and training has been imparted to the officers of the Department to use this module. Details of the findings are mentioned below:

1. In 45 RTOs/ARTOs[16], 7,226 vehicle owners had applied for non-use and paid fee for the same as of 31 March 2015. Of these, only 4,961 vehicles were found in the surrender table of VAHAN. It was not ascertainable from the records whether the applications for non-use were rejected in respect of the remaining vehicles or were processed outside VAHAN software;
2. Between April 2010 and March 2015, 1,423 vehicles were granted exemption under 'non-use'. Of these, only 75 vehicles were released subsequently. The remaining 1,348 vehicles have not been released by their owners. Of these, 366 vehicles were found to be under non-use for more than three years. However, no action was taken by the RTOs to cancel the RCs in any of these cases;
3. It was also noticed in the table relating to revoking of exemption from payment of tax that 458 vehicles released between April 2010 and March 2015 were stated to be under surrender after 1.4.2010 in the release table. However, there was no corresponding entry in the table relating to grant of exemption. This indicates incorrect processing in VAHAN.

In view of the incomplete database in VAHAN in respect of vehicles claiming exemption for non-use, the manual records maintained in 15 RTOs/ARTOs[17] were test checked by Audit and noticed that from 1966-67, 2,991 vehicles were kept under non-use. The Department did not take any action to cancel the registration of vehicles under non-use for more than three continuous years.

Analysis of the data and the records maintained in the RTOs also revealed that the Department is not enforcing the renewal of the non-use period by the applicants. Government/Department did not furnish their reply in this regard (November 2015).

[16] Ballari, Belagavi, Bengaluru (Central), Bengaluru (West), Bengaluru (East), Bengaluru (North), Bengaluru (South), Bidar, Bhalki, Chamarajanagar, Chickballapura, Chikkodi, Chitradurga, Davangere, Devanahalli, Dharwad, Electronic City, Gadag, Hassan, Honnavara, Hospet, Hunsur, Kalaburgi, Koppal, K.G.F, K.R.Puram, Madhugiri, Madikeri, Mangaluru, Mandya, Mysuru (East), Mysuru (West), Nagamangala, Nelamangala, Puttur, Raichur, Jnanabharathi, Sagar, Sakaleshapura, Tumakuru, Vijayapur, Yelahanka, and Yadgir.

[17] Bengaluru (Central), Bengaluru (East), Bhalki, Electronic City, Gadag, Kalaburgi, Hosapete, Hunsur, Koppal, K.R. Puram, Madhugiri, Mysuru (West), Raichur, Sagar and Yelahanka

5.4.4 Demand and collection of Life Time Tax on non-transport and construction equipment vehicles

Life Time Tax (LTT) on non-transport vehicles and construction equipment vehicles[18] is levied on the invoice price of the vehicle. Design weakness in VAHAN in capturing the details of invoice price of each registered vehicle which was leading to incorrect invoice price or not capturing the invoice price in the registration table was pointed out to the Department in the IS Audit of Computerisation of Transport Department. It was also reported that the VAHAN system does not prompt for collection of tax on expiry of exempted period.

In their reply Government stated in September 2012 that matter has been referred to the NIC for rectification.

Audit analysis of the VAHAN database, however, revealed that, as of 31 March 2015, no improvement in the system has been implemented to address the above issues. In this connection, the following further observations are made:

(1) Out of 9,167 battery operated vehicles registered between April 2005 and March 2010, sale amount in respect of 2,147 vehicles was not captured in VAHAN and for the remaining vehicles, the data integrity is compromised because of unrealistic figures. Similarly, out of 12,618 construction equipment vehicles registered between April 2010 and March 2015, sale amount was not captured in respect of 790 vehicles.

(2) Between April 2005 and March 2010, 6,427 two wheelers and 2,740 LMVs operated on electricity were registered. After availing exemption for the initial five years, these vehicles were liable for payment of LTT between April 2010 and March 2015. Of these, 3,870 two wheelers and 529 LMVs failed to pay the tax dues. No action was taken by the RTOs/ARTOs concerned to demand and collect the tax due in these cases. No entries were found in the DCB Statements generated through VAHAN in respect of tax due from these cases. Non demand of LTT amounted to ₹ 83.14 lakh[19] in these cases.

[18] Construction equipment vehicle means "rubber tyred (including pneumatic tyred), rubber padded or steel drum wheel mounted, self propelled, excavator, loader, backhoe, compactor roller, dumper, motor grader, mobile crane, dozer, fork lift truck, self-loading concrete mixer or any other construction equipment vehicle or combination thereof designed for off-highway operations in mining, industrial undertaking, irrigation and general construction but modified and manufactured with "on or off" highway capabilities".

[19] Sale value of 3870 two wheelers was taken at ₹ 30,000 per vehicle and that of 529 LMVs taken at ₹3,50,000/- in the absence of invoice price data in the registration table.

(3) In 36 RTOs/ARTOs[20] in respect of 589 construction equipment vehicles registered between April 2010 and March 2015, only one instalment of tax had been paid by their owners. Second instalment of LTT[21] amounting to ₹ 3.78 crore was neither demanded nor paid by the owners of vehicles between April 2010 and March 2015. The LTT due from these vehicles were not depicted in the DCB tables of VAHAN software.

These cases would establish that the Department has not taken adequate measures to develop control mechanism in the VAHAN software to ensure capturing the correct invoice price of the vehicles registered and to watch recovery of LTT due from vehicles after the period of exemption. Besides, follow-up on LTT due from battery operated vehicles and construction equipment vehicles by the RTOs concerned were also inadequate.

The Government/Department stated in the exit conference, that construction equipment vehicles are used in project areas and rarely found on roads. It was difficult to trace these vehicles even by inspecting the project sites. Most of these vehicles would have moved out of the State also. But efforts are being made to trace these vehicles and recover tax. For new registration, entire amount of LTT due is being collected at the time registration and hence such cases of non-realisation of second instalment would not arise in future. It was also replied that the DCB will be updated with arrears in LTT on battery operated vehicles and construction equipment vehicles and would be followed up.

Excess collection of tax from the battery operated vehicles

Audit analysis revealed that in respect of 3,319 battery operated vehicles registered between April 2010 and March 2015, LTT was collected by 49 RTOs/ARTOs[22] on the date of registration, depriving the owners thereof of the exemption available under the notification.

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[20] Belagavi, Bengaluru (Central), Bengaluru (West), Bengaluru (East), Bengaluru (South), Bhalki, Bidar, Chamarajanagara, Chickballapura, Chikkodi, Chitradurga, Davangere, Devanahalli, Dharwad, Electronic City, Gadag, Hassan, Hosapete, Hunsur, Jnanabharathi, Kalaburgi, Kolar, Koppal, K.G.F, K.R.Puram, Madikeri, Mangaluru, Mandya, Mysuru (West), Nagamangala, Nelamangala, Raichur, Sagar, Tumakuru, Vijayapur and Yelahanka

[21] As per Schedule A-7 of KMVT, Act, 1957, the rate of LTT leviable on construction equipment vehicle is six *per cent* on the cost of the vehicle with effect from 1 April 2010. The Schedule also provides percentage of depreciation to be allowed in calculating LTT based on the age of the vehicle from the date of registration up to 1 April 2010. Section 3-A of KMVT Act, 1957, provides for levy of *cess* rate of 10 *per cent* with effect from 1 April 2010 and 11 *per cent* with effect from 1 April 2011 on LTT. Section 4 of KMVT Act, 1957, provides that LTT on these vehicles is to be paid in two equal installments i.e. first installment to be paid on the tax due or at the time of registration and second installment to be paid within six months from the date of payment of first installment. The benefit of payment of tax in two installments was removed with effect from 1 April 2013 in KMVT (Amendment) Act, 2013, and from that date entire amount of tax was payable on the date of registration.

[22] Bagalkote, Ballari, Belagavi, Bengaluru (Central), Bengaluru (West), Bengaluru (East), Bengaluru (North), Bengaluru (South), Bidar, Chickmagalur, Chitradurga, Davangere, Devanahalli, Dharwad, Electronic City, Gadag, Gokak, Hassan, Haveri, Honnavara, Hospet, Hunsur, Jnanabharathi, Jamakandi, Kalaburgi, Karwar, Kolar, Koppal, K.G.F, K.R.Puram, Madhugiri, Madikeri, Mangaluru, Mandya, Mysore East, Mysore West, Nagamangala, Nelamangala, Puttur, Ramnagar, Raichur, Sagar, Shimoga, Sirsi, Tiptur, Tumkur, Udupi, Vijapura and Yelahanka.

The total LTT collected from these vehicles amounted to ₹ 3.25 crore. The tax amount that would be due from these vehicles after five years from the date of registration would be ₹ 2.24 crore, which resulted in excess collection of tax of ₹ 1.01 crore.

The concession/exemption granted to the battery operated vehicles by the Government is to promote use of alternate sources of energy in vehicles.

The Department stated that the issue of collection of tax in advance in respect of battery operated vehicles will be examined and that the Notification granting exemption of tax for a period of five years will be looked into.

5.4.5 Non demand/escapement of levy of Green Tax

Data analysis was carried out with a view to ensure that the system of levy and collection of Green Tax (GT)[23] is effective and adequate in respect of non-transport vehicles and transport vehicles.

Analysis of 5,29,159 transport vehicles was done which were registered between April 2000 and 31 March 2007 and were liable for payment of GT at least one time between 2010 and 2015. It was noticed that department had not realised GT of ₹ 23.52 crore from 4,02,666 vehicles.

For the same period i.e. between 2010 and 2015, GT of ₹ 29.01 crore due from 9,69,706 non-transport vehicles was also not realised by Government as these vehicles did not appear for renewal of RC.

It was noticed that the non-realisation was mainly due to GT getting collected at the time of vehicles being presented for FC/renewal of RC. Whenever vehicles fail to appear for FC or renewal of RC, as the case may be, collection of GT also gets affected.

The ACS stated in the exit conference, that the Green Tax is an annual levy after seven years of initial registration of transport vehicles and has to be collected at the time of renewal of FC of transport vehicles for all earlier years for which it was due.

Recommendation No. 5: Section 3-B of the KMVT Act may be amended to ensure collection of green tax from all vehicles after their prescribed age.

[23] Under Section 3-B of the KMVT Act 1957, GT shall be levied and collected from the owners of non-transport vehicles and transport vehicles for the purpose of implementation of various measures to control air pollution. The rates for collection GT are as below:

Class and age of the vehicle	Rate of GT
Non-transport vehicle after completing 15 years from the date of its registration or at the time of renewal of certificate of registration	
(a) Two wheelers	250
(b) Other than two wheelers	500
Transport vehicles after completing seven years from the date of its registration or at the time of renewal of fitness certificate	200 per annum

5.4.6 Conclusion

System in place seems to be fairly adequate to ensure proper registration of vehicles and for levy and collection of LTT on non-transport vehicles at the time of registration. But adequate controls are not built into the system to ensure regular payment of quarterly tax at prescribed rate in case of transport vehicles. The system of monitoring and follow-up in this regard are also found to be lacking due to incorrect DCB statements generated through VAHAN and booking of only one quarter tax per vehicle as arrears as against actual amount of tax due from the tax defaulting vehicles. Controls with regard to regulation of use of motor vehicles were also found to be inadequate due to poor compliance level with FC/renewal of RC provisions. Department had not made any realistic assessment of number of vehicles that could be tested by an IMV in a day for the purpose of FC. Recovery of 'Green Tax' was impaired due to its collection being linked with FC/renewal of RC. The Department accepted the recommendations in the exit conference.

5.5 Non-demand and collection of LTT on construction equipment vehicles

Construction equipment vehicles, which were taxed at quarterly rates upto 31 March 2010, were brought under LTT by the KMVT (Amendment) Act, 2010 with effect from 1 April 2010. By the KMVT (Second Amendment) Act, 2010, the rate of tax was fixed at six *per cent* of the cost of the vehicle at the time of registration of new vehicles. Appropriate reduction in rates according to the age of the vehicle was prescribed for those already registered. This tax was permitted to be paid in two equal instalments, half the amount of tax at the time of registration or the date when it becomes due and the balance within six months from the date of payment of the first instalment. Cess at 10 *per cent* of the tax upto 31 March 2011 and at 11 *per cent* from 1 April 2011 was also leviable.

On test check of records of 10 RTOs/ARTOs between May 2014 and November 2014, Audit noticed the following:

In six[24] RTOs/ARTOs, LTT and cess of ₹ 77.46 lakh in respect of 67 construction equipment vehicles were not collected. In one case in RTO, Mysuru (East), tax was levied at quarterly rates instead of LTT for a vehicle registered during October 2011. In the remaining 66 cases, LTT was not collected.

Further, in 21 cases in six[25] RTOs/ARTOs, we noticed that the owners of the vehicles had paid the first instalment, but not paid the second instalment amounting to ₹ 15.02 lakh.

The total non-demand and short/non collection of LTT works out to ₹ 92.48 lakh.

After this was brought to the notice of the Commissioner for Transport and Road Safety during March 2015 and referred to Government during June 2015, ₹ 18.66 lakh was recovered in 22 cases. Reply is awaited in respect of the remaining cases (November 2015).

5.6 Non-demand of quarterly tax

Section 3 of the KMVT Act, 1957 provides for levy of tax on all motor vehicles that are suitable for use on roads. Taxes for different categories of vehicles are to be levied at the rates specified in the schedule to the Act. The tax levied shall be paid by the registered owners of the vehicles in advance for a quarter, half year or year, within fifteen days from the commencement of such period. In addition, cess at 11 *per cent* of the tax is also leviable.

During test check of records of seven[26] RTOs between September 2014 and January 2015, Audit noticed that tax and cess of ₹ 34.08 lakh, due for the various periods from January 2012 to May 2014 in respect of 93 vehicles of different classes, were not paid. The RTOs concerned had not taken action to raise demand and recover the taxes due.

[24] Bengaluru (West), Belagavi, Kalaburgi, Mysuru (East), Kolar Gold Fields (KGF)and Vijapura
[25] Bagalkot, Belagavi, Dharwad, Koppal, KGF and Tiptur
[26] Bagalkote, Ballari, Jamkhandi, KGF, Koppal, Mangaluru and Puttur

After these cases were brought to the notice of the Commissioner for Transport and Road Safety during March 2015 and referred to Government during June 2015, ₹ 4.40 lakh was recovered in 19 cases and demand notices were issued in 14 cases. Reply is awaited in respect of remaining cases (November 2015).

5.7 Non-demand of LTT on motor vehicles run on electricity

Section 3(1) of the KMVT Act, 1957, provides for levy of LTT on motor cycles and motor cars. Notification No.HTD 236 TME 93 issued in November 1993 exempted motor vehicles run on electricity from payment of tax for a period of five years from the date of registration. Further, KMVT (Amendment) Act, 2010 prescribed LTT at four *per cent* for motor cycles and motor cars run on electricity in Part A1 and Part A5 of the Schedule respectively with age-wise reduction in rates of tax. Cess at 10 *per cent* of the tax upto 31 March 2011 and at 11 *per cent* from 1 April 2011 is also leviable.

During test check of records in five[27] RTOs and one[28] ARTO between June and October 2014, Audit noticed that LTT was not demanded on 45 motor cars and 25 motor cycles run on electricity after the exemption period of five years. The total non-demand of LTT amounted to ₹ 5.73 lakh.

After this was brought to the notice of the Department between July and December 2014 and referred to the Government, in June 2015, ₹ 3.97 lakh was recovered in 35 cases and demand notices were issued in 30 cases. Replies are awaited in respect of remaining five cases (November 2015).

[27] Bengaluru (Central), Bengaluru (East), Bengaluru (North), Bengaluru (South) and K.R. Puram.

[28] Hunsur.

Chapter-VI
Mineral Receipts

6.1 Tax administration

The responsibility for the management of mineral resources is shared between the Central and State Governments[1]. The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 enacted by the Central Government, lays down the legal framework for regulation of mines and development of minerals [2]. The Mineral Concession (MC) Rules, 1960, the Mineral Conservation and Development (MCD) Rules, 1988 and the Granite Conservation and Development Rules, 1999 have been framed for conservation and systematic development of minerals and for regulating grant of permits, licences and leases.

Legislations for exploitation of minor minerals have been delegated to the States. Accordingly, Karnataka Minor Mineral Concession (KMMC) Rules, 1994 were framed by the State Government.

6.2 Internal audit

The Internal Audit Wing (IAW) is functional in the Department of Mines and Geology (DMG) since 1985. It is headed by an Accounts Officer on deputation from the State Accounts Department under the overall control of the Director.

As per the information furnished by the Department, out of 31 offices due for audit during 2014-15, only one (3.23 *per cent*) was audited. The shortfall in coverage of offices was attributed to the shortage of staff in the Wing. Year wise details of the number of observations raised, settled and pending along with tax effect, as furnished by the Department are as under:

Table 6.1
Year wise details of observations raised by IAW

(₹ in crore)

Year	Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2010-11	1636	334.13	1403	295.67	233	38.46
2011-12	04	1.56	-	-	04	1.56
2012-13	02	1.48	-	-	02	1.48
2013-14	0	-	-	-	-	-
2014-15	02	-	-	-	-	-
Total	**1644**	**337.17**	**1403**	**295.67**	**241**	**41.50**

As seen from above, it is clear that the activities of IAW in the Department have reduced to a greater extent after 2010-11 and virtually to nil in the previous two year period. This indicates that the Department is not according due importance to internal audit.

[1] Entry 54 of the Union list (list I) and entry 23 and 50 of the State list (list II) of the Seventh Schedule of the Constitution of India.

[2] Other than petroleum and natural gas and atomic minerals.

It is recommended that due importance may be accorded to strengthen IAW as internal audit is an important mechanism to ensure the compliance of the department with the applicable laws, regulations and approved procedures.

6.3 Results of audit

Test check of the records of 15 offices of the DMG during the year 2014-15 revealed non-levy of penalty for removing minerals without Mineral Despatch Permit (MDP), non/short recovery of royalty and other irregularities involving ₹ 206.38 crore in 61 cases, which fall under the following categories:

Table 6.2
Results of Audit

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	**Performance Audit Report on 'Computerisation of the Department of Mines and Geology'**	1	0.00
2.	Non/short levy of penalty for transportation of minerals without obtaining MDPs	13	196.92
3.	Non/short levy of Processing Fee	09	2.39
4.	Non/short levy of royalty	11	3.48
	Other irregularities	27	3.59
Total		**61**	**206.38**

During the course of the year, the Department accepted under-assessments and other deficiencies involving ₹ 10.11 crore in 11 cases. An amount of ₹ 8.86 crore was realised in 37 cases pointed out in earlier years.

A few illustrative cases involving ₹ 1.44 crore are mentioned in the following paragraphs.

6.4 Performance Audit Report on 'Computerisation of the Department of Mines and Geology'

Highlights

ILMS does not have provision to generate receipts for payments received, resulting in continuation of manual processes and duplication of work.

(Paragraph 6.4.2.1)

DMG had failed to re-establish the m-pass service which was disrupted due to technical incompatibility since February 2015 thereby depriving the generation of SMS based tripsheets for the leaseholders, particularly those of minor minerals which are located in remote places.

(Paragraph 6.4.2.2)

Absence of specific validation controls in registering motor vehicles used for transporting mineral ore and allowing multiple registrations of the same vehicle by different leaseholders prevents the system from enforcing restrictions on concurrent trip sheets being issued in respect of the same vehicle.

(Paragraph 6.4.3.1)

Modification of an existing mining plan results in creation of new mining plan without deactivation of the earlier plan and consequently monitoring the production and despatch of mineral based on the aggregate of both the plans.

(Paragraph 6.4.3.2)

Validation controls in payment module in respect of receipt date vis-à-vis instrument date, approval for data modification and controls to prevent repeated use of same instrument towards different types of payments were not incorporated rendering financial management insecure.

(Paragraph 6.4.3.4)

Transport of mineral through rail by issue of RAKE permits in ILMS in not integrated with Railway data for complete monitoring of mineral movement.

(Paragraph 6.4.3.5)

DCB module is not utilized resulting in compilation of manual DCB statements. Edit options in DCB module without systemizing the reasons for manual intervention and approval of another authority for manual modifications defeats the purpose of computerization.

(Paragraph 6.4.3.7)

Objective of real time monitoring of mineral carrying vehicles not achieved due to incomplete implementation of RFID surveillance systems at all leases and DMG not obtaining RFID data and absence of computerisation at all the checkposts.

(Paragraphs 6.4.4.1 and 6.4.4.2)

6.4.1 Introduction

The DMG is entrusted with the management of mineral wealth of the State and ensuring its optimum exploitation, having regard to various social, economic and conservation issues. The DMG is responsible for grant of leases for extraction of minerals, and monitoring of the extraction, dispatch and the levy and collection of royalty on the same. Other receipts from minerals include dead rent[3], application fee, licence fee, permit fee, penalties, interest on belated payments of dues, etc.

6.4.1.2 Comprehensive Computerisation of the DMG

In April 2011, DMG launched the project "Comprehensive Computerisation of Mineral Administration" (CCoMA). The objectives of the project are as below:

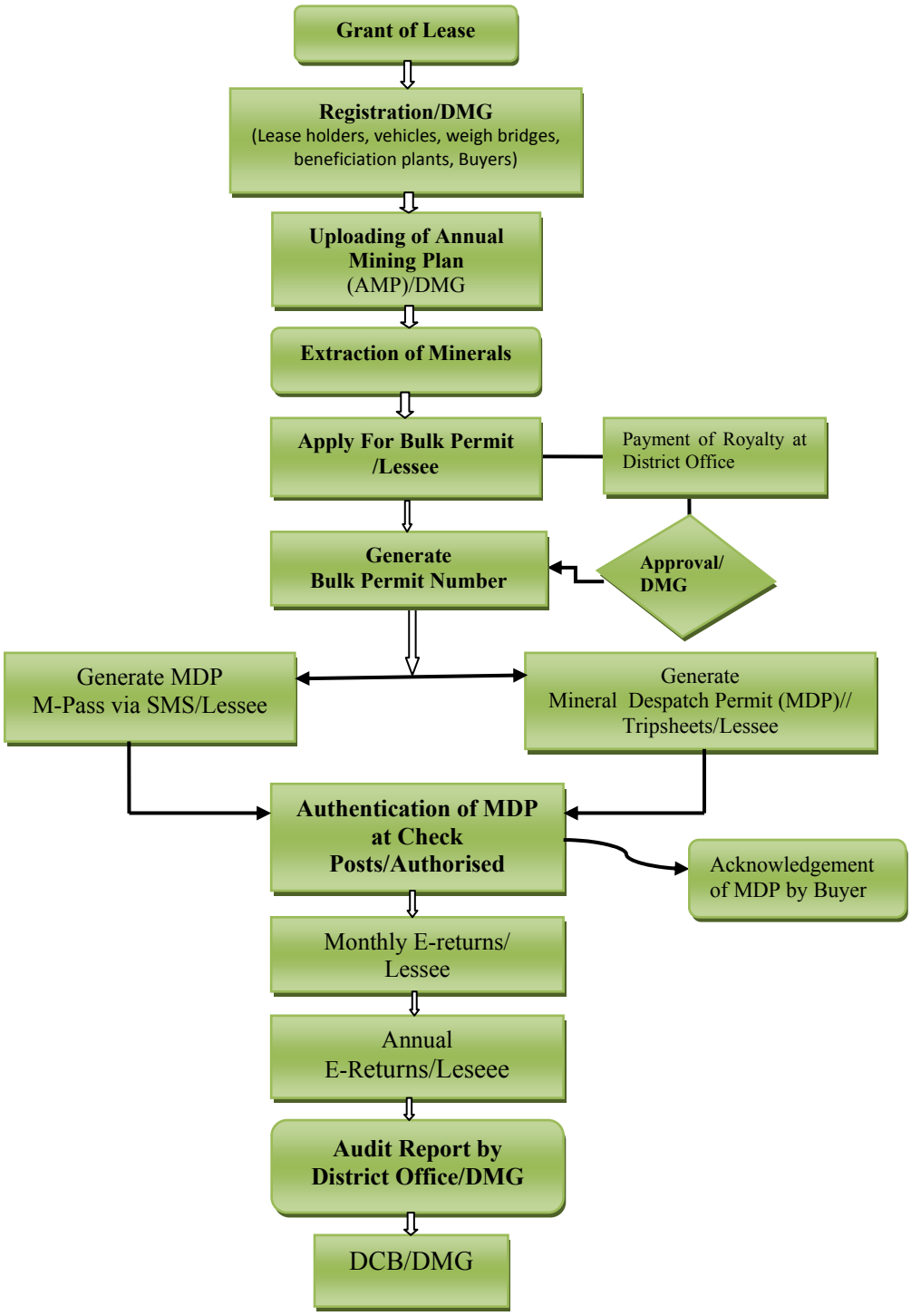
1. Effective and hassle free mineral administration;
2. Facilitation of e-services to all stake holders belonging to the DMG;
3. Real time accounting of mineral transportation;
4. Reduction in illegal mining through automated system;
5. Increase in state mineral revenue; and
6. Transparency and accountability in mineral administration.

To implement CcoMA, DMG entered into an agreement on 22 March 2011 with "(n)Code Solutions", a division of Gujarat Narmada Valley Fertilizers & Chemicals Limited (GNFC) – a Joint Sector Enterprise promoted by the Government of Gujarat – to develop an Integrated Lease Management System (ILMS).

[3] Fixed rent paid by leaseholder in case of lease being idle or royalty payable on the mineral extracted being less than prescribed dead rent

6.4.1.3. Administration of mining/quarrying leases

Figure 6.1: Flow Chart Depicting Complete Life-Cycle of Lease Management Process



6.4.1.4 Information Systems in use in DMG

ILMS incorporated modules for e-permit, m-pass, BSP[4] and reports. Further, ancillary systems such as weighbridge configuration, checkpost software and Radio Frequency Identity Detection (RFID) vigilance system were integrated with ILMS for overall monitoring of mineral movement. The information systems in use are as under:

1. **ILMS:** An application software to automate the processes of issue of permits for transport of mineral, filing of periodical returns by lease holders and Demand, Collection and Balance Register (DCB) for the DMG. It is a web based client server architecture with SQL 2008 for its RDBMS and MS Visual Studio 2013 (Framework 3.5) for front-end interface for users;
2. **Weighbridge:** This software is installed at the lease area and captures the real time weighing information and transfers weighing data to the centralized server of DMG (introduced from April 2013);
3. **m-pass:** SMS based Mineral Dispatch Permit[5] (Trip sheet) generation for minor mineral leaseholders who are not able to develop IT infrastructure at the mine head (from February2012);
4. **BSP –** Beneficiation user (enrichment plants), Stone crushers and Polishing units: Online web application for BSP to receive and acknowledge materials through system and to generate online permit and trip sheets for transportation of the mineral after enrichment/ crushing/ polishing (from February 2013);
5. **Check post:** Windows based application integrated with the centralized ILMS system as well with the weighbridges to verify real time data of the trip/vehicle with the data stored in the centralized server (from April 2013);
6. **RFID –** Radio Frequency Identity Detection technology enabled mineral movement monitoring and tracking system for the Lessee, Buyers, BSP, Check Post and DMG. All the mineral dispatch vehicles for transport of iron ore are configured with RFID tags which are automatically identified and verified by the RFID readers mounted on the various strategic locations at lease area, en route, check post and destination. System generates various alerts in case of any kind of violation during the entire mineral trip cycle. A web interface for DMG to monitor the mineral movement was envisaged (From April 2013).

6.4.1.5 Organisational Set-up

The DMG is under the administrative control of the Principal Secretary to the Government of Karnataka, Commerce and Industries Department. The DMG is headed by a Director, who is responsible for implementation of the related Acts and Rules for the systems and controls for sustainable mining in

[4] Beneficiation plants, Stone crusher units and Polishing units
[5] Mineral Dispatch Permit/Trip sheet – an authorisation for mineral carrying vehicle issued by DMG as per Act/Rules.

Karnataka. There are 31 District Level offices, each office headed by a Deputy Director (DD) or a Senior Geologist (SG).

A Computer Cell (e-Cell)[6] headed by the Director of Mines and Geology was constituted in January 2011 to oversee the computerisation of mineral administration activities. The responsibilities of the cell included software development for e-permits system, procurement of computer and accessories to the checkpost, procurement of weigh bridges, RFID tags, GPS etc. The Accounts Officer is the Nodal Officer for all computerisation activities. Besides, as per the terms of agreement, the application developer was to deploy support staff for overseeing the day to day technical issues of computerisation.

6.4.1.6 Audit Objectives

The objectives of the audit were to examine:

1. The adequacy of IT General Controls to ensure efficient and effective functioning of the IT Systems[7];
2. The adequacy of Application Controls to ensure data integrity and mapping of business rules into the system; and
3. Whether computerisation has achieved its stated objectives.

6.4.1.7 Audit Criteria

Provisions/requirements for mineral administration as set out in the following Act/Rules were used to evaluate the efficacy of the IT system:

1. Mines and Mineral (Development and Regulation) Act, 1957;
2. Mineral Concession Rules 1960;
3. Karnataka Minor Mineral Concession Rules, 1994;
4. Karnataka Prevention of Illegal Mining, Transportation and Storage of Minerals Rules, 2011; and
5. Industry best practices with regard to general controls.

6.4.1.8 Audit Scope and Methodology

Processes/administrative procedures of the CcoMA were reviewed. Functioning of the ILMS from April 2011 to February 2015 was reviewed through analysis of data, review of documentation and feeding of test data. Data for the entire period commencing April 2011 onwards as on 10 February 2015 was analysed.

The extraction and dispatch of the minor mineral, ordinary sand has been kept outside the purview of the ILMS since the administration of the same is being co-ordinated by the DMG along with the Public Works Department. This audit does not include the administration of ordinary sand.

[6] Comprises of the Additional Director (Mineral), Deputy Director (Plans), Senior Geophysicist, Technical Advisor to the Director, Geologist (R&D), Geologist (Plans), Accounts Officer and Superintendent (Plan). The cell monitors all activities relating to ILMS and is in charge of entering the details of mining plan in the ILMS. Approval of Bulk permits for iron ore is also the responsibility of the cell.

[7] IT Systems comprise of the ILMS and other ancillary systems such as weighbridge, checkpost and RFID vigilance system implemented by the DMG.

6.4.1.9 Acknowledgement

The co-operation of the Department of Mines and Geology in providing necessary information and records for audit as well as arranging for entry conference in July 2015 and exit conference in October 2015 are acknowledged. The audit objectives, audit criteria and audit methodology were communicated to the Government/Department in the entry conference. The audit findings with recommendations relating thereto were discussed with the Secretary, Mines, Commerce and Industries Department and DMG in the exit conference. Replies of Government/Department have been included in the relevant paragraphs.

Audit Findings

6.4.2 IT General Controls

IT General Controls (ITGCs) are concerned with the general environment in which the IT systems are developed, operated, managed and maintained. General controls include controls over system development, IT planning and operations, change management, business continuity and disaster recovery plans and information security. Through audit of ITGCs, it was sought to examine whether the DMG had framed its computerisation goals and successfully implemented procedures for achievement of the same.

Audit observed that controls related to oversight, change management and training of users were implemented. DMG had constituted a Steering Committee in April 2011 to oversee the computerisation activities of the Department. It also has documented procedures for effecting changes to the system. All change requests are scrutinized by the e-Cell and intimated to the application developer. Changes to systems are implemented after User Acceptance Testing by the e-cell at the Directorate.

With respect to training of users, one technical and one clerical staff at the district level office are identified as master trainees, trained on all modules and instructed to train their office staff and leaseholders in their jurisdiction

The following inadequacies were, however, observed in the areas of program development, implementation, and business continuity planning.

6.4.2.1 System Development and Implementation

Application system development involves the translation of business requirements of the entity to appropriate system design specifications. To ensure that the final system satisfies the needs of the users effectively and efficiently, it is essential that the business requirements are properly analysed, documented and communicated to the system developer in a formal User/System Requirement Specification documents. Further, to derive optimum benefits from the system, it is also important that all users are properly instructed in the protocols of system usage. Audit observed that these controls were not effectively adopted by the Department resulting in several system deficiencies and continued dependence on manual processes as discussed below.

Administration of mineral extraction and transport

Audit observed that ILMS incorporated only a single process flow suitable for minerals where payment of royalty is linked to generation of bulk permits for transport of extracted ore by vehicle loads. Process variations involving other scenarios were not provided in ILMS since such requirements were not planned, documented and communicated formally to the application developer.

For example, in lime stone, where the extracted ore is transported directly to the factory floor by conveyor belts in cement industry, there is no requirement for generation of bulk permits. Hence the entire transaction involving this mineral was kept outside the ambit of ILMS till September 2014 when DMG finally resolved this issue by insisting on generation of one trip sheet per conveyor belt per shift.

Due to this, the Department was unable to reap the full advantage of the efficiencies possible through computerisation. Further, limestone being the second largest contributor to mineral revenue (after iron ore) in the State, by keeping the same outside the ambit of the software the Department could not achieve comprehensiveness in mineral administration.

Assessment of Leases

The DMG conducts periodic assessment of mines to evaluate the veracity of particulars declared in the returns submitted by the lease holders. For instance, in respect of building stone leases, working pit measurements conducted by DMG forms the basis of assessment of actual production. Based on the findings of such assessment, the figures of production, despatch, royalty and other levies to be paid etc., might be revised and will have a direct bearing on the 'demand' raised on the lease holder in the Demand, Collection and Balance (DCB) document.

Audit observed that ILMS does not have any provision for entry of results of such assessments. This is also one of the reasons for non-implementation of the DCB module of the software as discussed in paragraph 6.4.3.7 of this report.

During Exit Conference, the Government accepted the relevance of this observation and suggested that the DMG should design and incorporate a 'Mine Audit Module' as part of the ILMS.

Receipt and Accounting of Payments

Functions of the DMG include the levy and collection of royalty and other payments by lease holders and accounting for the same. Audit verified whether ILMS has mapped the relevant business rules in this respect and is otherwise equipped to offer adequate support to the Department in its administration of this function.

It was observed that ILMS does not offer the basic functionalities associated with the receipt and accounting of payments as evidenced by the following issues.

- **Generation of receipts:** ILMS has no provision to generate receipts/acknowledgements for payments received. Hence all payments received are acknowledged through manual receipts. It is therefore not possible to ensure that all payments are accounted for and consequently the system is ineffective in compiling receipt statements (like the cash book). The particulars of the same have to be entered into the system later for generation of Bulk Permits. This results in duplication of work and loss of efficiency.
- **Payments received from other Departments:** ILMS does not provide the facility to account for payments received through other entities which collect levies such as royalty deducted at source. For this reason, ILMS presents an incorrect picture of the amounts received in the district offices.
- **Payments of arrears and interest:** Audit observed that only payments which are required for generation of bulk permits are being routed through the ILMS. When lease holders make payments of arrears of royalty due (with interest thereof) for a period before the implementation of ILMS, the same is not entered in the system even though provision is available. This is due to the absence of specific directions regarding the same to the staff at district offices. This has also resulted in the ILMS not reflecting the true and fair view of all payments of leaseholders to DMG.

The DMG replied that, at present, ILMS e-permit module is purely for generation of bulk permits and that a separate e-payment module has been developed and is under process to be implemented in integration with the treasury automation system which is proposed to be introduced in the State. The reply does not address the issue raised in audit since financial transactions are an integral part of mineral administration and the generation of bulk permits itself. Moreover, the rationale involved in delaying the implementation of a payment module in anticipation of a different software in another Department is not justifiable.

Recommendation No. 1: The Department may ensure that all financial transactions are routed through the system to enable generation of receipts.

6.4.2.2 Discontinuance in m-Pass services

SMS based trip sheet facility for minor mineral leaseholders who are not able to have IT infrastructure at the mine head was implemented with effect from January 2012. This was to provide ease of operations by generating trip sheet by sending SMS from the registered mobile numbers. This was more relevant for minor mineral leases, especially building stone leases, which are essentially an unorganized sector and are located remotely. After shifting application and database servers to Karnataka State Data Centre in February 2015, the m-Pass system stopped functioning due to technical incompatibility. The Department has not initiated measures to re-establish the service as of November 2015.

During the exit conference, with respect to discontinuance of m-pass to leaseholders, DMG explained that the discontinuance was due to technical

issues in the virtual port network in the Karnataka State Data Centre and attempts were being made to resolve the same. Government directed DMG to re-establish m-pass services at the earliest and to consider building a new module if the technical issues were not resolved soon.

Recommendation No.2: The Department may expedite sorting out technical issues regarding m-pass to regulate the transportation of minor minerals.

6.4.2.3 Business Continuity and Disaster Recovery Plans

Business Continuity Plan (BCP) and Disaster Recovery Plan (DRP) are proactive planning measures that ensure that business processes and IT Infrastructure of an organisation are able to support business needs at the earliest even after any disaster or disruption.

It was observed that DMG did not have a documented BCP/DRP. Data of ILMS is hosted by the Karnataka State Data Centre (KSDC – under the Department of e-Governance, Government of Karnataka). However, there is no formal understanding with SDC about the specific requirements of DMG regarding the schedule and procedure of data and program back-up availability and requirements of offsite back-up sites and acceptable recovery times. There was no clear identification of critical functional areas and roles and responsibilities to implement BCP. The procedures of business impact assessment, documentation, testing of continuity plan, training of the concerned personnel were not implemented. This poses the risk of loss of data, loss of time and other costs in case of disruption and ineffective recovery, thus compromising business continuity.

During the exit conference, DMG informed that KSDC was in charge of BCP and DRP. On enquiry, however, it was ascertained that the DMG had not furnished the details of its backup requirements to KSDC even after a 63ispatch requisitioning the same was communicated to them.

Recommendation No. 3: The Department may develop a detailed plan of Business Continuity and specify its requirements regarding back up schedules, recovery times and offsite locations to the present custodian of ILMS data, that is, the Karnataka State Data Centre.

6.4.3 IT Application Controls

Application controls are procedures to ensure that transactions are properly authorised, valid data is processed, complete records are maintained and accurate reports for management information are generated.

Application control inadequacies observed with respect to each computerised business process is discussed in the following paragraphs.

6.4.3.1 Registration of stakeholders

CcoMA intended to capture the database of all stakeholders, viz., lease holders, purchasers, stockists, vehicles used for transporting the mineral, etc., to enable complete monitoring of mineral extraction and movement till destination. Analysis of the registration of the stakeholders revealed the following:

Leaseholders

According to the relevant sections of the MMDR Act and the Rules framed, limits have been prescribed for the maximum area of lease to be held by a single lessee and the period for which a lease is held. Further, royalty is prescribed to be calculated on the basis of the rates specified for each mineral.

In this regard, we noticed that the above rules have not been mapped into ILMS as evidenced from the following:

- ILMS cannot detect and alert on the violation of the maximum area prescribed as limit. This is due to non-capturing of unique identification of each lease holder such as PAN or TIN[8].
- ILMS does not mandatorily capture the validity of the lease. Out of the 11,923 leases registered, validity periods in respect of 114 leases were not recorded in ILMS. Absence of this control may give scope for continuing mining operations and generation of bulk permits even after expiry of lease period.
- ILMS does not have controls to mandatorily require the input of mineral types. Out of 11,923 leases registered, mineral details in respect of 72 cases are not available in ILMS. The system will not be able to calculate royalties in such cases.
- Details of survey number in which mining lease was granted were not captured in 1,386 cases. This would affect the ability of the system to aid the Department in its function of mineral administration through timely alerts on area/boundary overlaps and by failing to provide meaningful statistics and analysis

During the exit conference, DMG stated that fields for PAN/TIN were incorporated in the registration module and have since been made mandatory. Government instructed Department to obtain and include AADHAR numbers of leaseholders in the database on voluntary compliance basis.

Stockists

Every leaseholder shall provide details of buyers, captured separately as a database of stockists in ILMS. It was noticed that unique identification parameters like PAN or TIN were not captured during this registration. There were 2 to 131 registrations in respect of 6,761 stockists. This has resulted in duplicate registrations of the same business entity as different stockists for every purchase made from different leaseholders, compromising the effectiveness of the system as a facilitator of hassle free and transparent mineral administration.

After this was pointed out, DMG reported that PAN/TIN is now being made mandatory for stockist registration.

[8] PAN – permanent account number issued by the Income Tax Department, TIN – Taxpayers Identification Number issued by Commercial Taxes Department

Vehicles

Every leaseholder has to register details of the transport vehicles used by him, with vehicle number and tare[9] weight, in ILMS. The leaseholder can generate trip sheets only for the vehicles so registered by him. Analysis of the vehicle database revealed the following:

1. Data integrity in respect of registration number of vehicles has not been enforced through specific validation controls and, as a result, vehicle numbers are not captured in a uniform format. This restricts the ability of the system to identify each vehicle uniquely and prevent multiple registrations with different parameters. It was observed that many vehicles have been registered from 2 to 100 times in the ILMS. It also prevents the system from enforcing restrictions on concurrent trip sheets being issued in respect of the same vehicle.

2. Different tare weights are registered by different leaseholders for the same vehicle. There are 13,777 instances where the same vehicle is registered more than once with different tare weights. Since trip sheets are generated automatically by the system by subtracting the tare weight from the laden weight measured at the weighbridge, this would result in inaccurate quantities being represented in the same.

During the exit conference, Government directed DMG to address the issue expeditiously.

Recommendation No.4: The Department may mandate the registration process of the vehicles as a duly authorized one-time procedure with proper standard documentation (such as certificates issued by the manufacturer) along with a provision for the periodic revision of tare weights due to wear and tear.

6.4.3.2 Annual Mining Plan (AMP)

Section 5 of the MMDR Act, and Rules made thereunder, requires all lease holders to submit, in advance, a Mining Plan depicting the quantity, type and other details of ore that is planned to be extracted. This is a regulatory measure by which the Department and other bodies responsible for mineral administration and environmental protection can exercise adequate controls in the interest of sustainable mining. Mining Plan quantities submitted by the lease holders to the DMG are to be vetted and cleared independently by the Indian Bureau of Mines (IBM), the Pollution Control Board (PCB), the Ministry of Forests and Environment, and the Government of India (if the mining lease is in forest land). The Rehabilitation & Reclamation section of the DMG is also required to vet the Mining Plan in respect of iron ore leases.

It is not necessary that all the above mentioned Departments would approve the mining plan with the same annual quantity of extraction and hence, ILMS provides the facility to enter the different quantities approved by each Department with respect to each mining plan submitted by lease holders for a given year. Where the mining plan is for more than a year, for each subsequent year, the system automatically adopts the same quantity as the previous year. If the lease holder submits a revised mining plan for any

[9] Unladen weight of the vehicle

period, vetted and cleared by the relevant Departments, the same may also be updated in the system.

The regulatory function of the mining plans is enforced in ILMS through automatic restriction of the production and despatch of ore by a lease holder in a year to the quantity approved for extraction in the mining plan for the same year (plus any undespatched quantity left over from the previous years). Audit examined the efficacy of controls in-built in the application to ensure effectiveness of this regulatory function. Audit observed as under:

1. In 18 mining plans, restrictions imposed by none of the above Departments were available in ILMS. This compromises the ability of the application to exercise adequate control to ensure sustainable mining.
2. In the event of revision of an existing mining plan, instead of facilitating revision of the existing quantity, the system requires creation of a new mining plan record. Further, instead of restricting the quantity of production and dispatch to the quantity in the revised plan, ILMS allows the aggregate quantities of all the revised and pre-revised plans to be produced and dispatched. Similar aggregation happens also when the system automatically adopts quantities from the previous mining plan for a year and lease holder submits a revised plan for the year.

   For instance, for lease number EA 2290 for the year 2013-14, there were a total of 8 AMP records with an aggregate quantity of 7,64,001 Metric Tonnes (MTs). Audit noticed that the approved mining plan quantity for the year was only 2,76,000 MTs, the balance being the quantity that the application auto-generated for the year. It was also noticed that though bulk permits were generated only for the approved quantity of 2,76,000 MTs, the application permitted production entry of an additional 4,000 MTs. Actual instances of issue of bulk permits in excess of the aggregate AMP quantities were not observed as the same is also manually scrutinized by the e-Cell.
3. Controls to correlate validity of mining plans with lease tenures were absent in the application. Hence, the system accepts validity periods of the mining plans beyond the tenure of the lease itself. In 4,193 out of 13,247 Mining Plans (31.65 *per cent*), the validity of the same were beyond the period of the leases. After this was pointed out, the DMG stated that there was no risk of mineral extraction beyond the lease validity as the transaction privileges of generating bulk permit/tripsheets etc based on AMP would be unavailable in the login of the leaseholder on expiry of the lease tenure. However, the system would be unnecessarily generating invalid mining plans year after year for leases that do not exist (in some cases upto the year 2051 as the data shows). Further, if the leases are continued or taken over by other parties, the system, as it exists now, would aggregate the actual Mining Plans and the older ones for this period.

During the exit conference, the Government accepted that an approval mechanism for AMP is required in ILMS. DMG stated that the application developer had been instructed to design the Mining Plan so that at a given

time, only one valid Mining Plan is active in the system for a leaseholder with modifications to be incorporated for the same.

Recommendation No.5: The system design for AMPs may be suitably modified to permit revision of approved quantities under proper authorisation and due deactivation of the earlier AMP.

6.4.3.3 Production of mineral ore

ILMS has a module for lease holders to enter the details of their production periodically. The production details provided by the leaseholder are approved automatically by ILMS within the limits set by the quantity in the approved AMP for the relevant year. At the end of the year, quantity produced against which bulk permits have not been generated is the opening balance available for generation of bulk permits during the next year.

Updating of production data after lapse of the relevant year

ILMS does not permit a lease holder to enter production for a year in excess of the quantity represented in his mining plan for that year. However, if he has produced less than the mining plan quantity for any year, he is not restricted by the software from entering a later production against that year. This additional quantity entered as production against a previous year is automatically approved by ILMS and is made available as opening balance that can be dispatched even after the mining plan quantity is exhausted for any subsequent year.

During the exit conference, DMG stated that corrective action had since been implemented.

Design deficiency restricting mineral dispatch

The total quantity of ore excavated is called 'run-of-mine' (RoM). This, being the quantity actually dug out of a mine, is the one that is represented in the mining plan. In the case of iron ore, the entire RoM is not fit for despatch. It is further refined into fines, lumps etc., and the same is transported. Hence, the quantity for which bulk permits are required is usually lesser than the quantity produced.

In this connection, Audit observed that ILMS does not provide for entry of RoM and refined quantities separately. By entering the quantities of fines/lumps extracted out of the excavated RoM as his production, a lease holder is thus enabled to despatch a quantity effectively greater than what he is permitted as per his approved mining plan.

On the other hand, if a leaseholder extracts RoM as per approved quantity of the AMP but does not process the entire RoM in the year in which it is extracted and processes the balance RoM in the subsequent year, he will be reporting production in the subsequent year for dispatch of mineral. This will have the impact of reducing his production quantity from the approved quantity of AMP for the current year. Therefore, if the leaseholder processes carry over RoM and entire RoM of current year, the system will not allow him to report production and generate permits.

During the exit conference the Government stated that RoM functionality is under development and will be implemented.

6.4.3.4 Control inadequacies in payment module

Payments are made by the leaseholders towards royalty, Tax Collected at Source (TCS) (towards Income tax), processing fees etc through cash, challan, DD or cheque. The payments are entered into the ILMS. Analysis of the database of payments in ILMS revealed the following:

1. In case of cash payments, ILMS captures data post cash collection through manual receipts. Hence, ILMS does not have the receipt number except in cases where data entry is made under Remarks column.
2. Out of 51,470 cases of payments by DDs/ Cheques, it was noticed that in 123 cases with monetary value of ₹ 1.27 crore, the instrument date was much before the receipt date and the difference ranged between 91 days to 1,011 days. This indicates that the system does not have preventive controls to refuse acceptance of time barred instruments (validity of DDs/cheques is 90 days). Further, 387 payments involving ₹ 5.97 crore were by way of post dated cheques.
3. ILMS has 'edit' and 'delete' options for payment data to rectify errors during the course of data entry. However, the system does not incorporate controls by which such modifications are required to be approved by a higher authority. Further, it does not maintain an audit trail of such modifications.
   It was observed that in 983 cases (including 776 cases of payments for auctions) involving monetary effect of ₹ 748.64 crore, payment data has been subsequently modified. The time difference between the original payment entry date and modified date ranges from one day to 561 days. Thus, control inadequacies in the system undermine its ability to exert the mandatory controls over finance administration. It is not equipped, in such an eventuality, to prevent deliberate modifications with malafide intentions.
4. It was observed that the application has no controls to prevent duplicate entry of the same instrument. Analysis of database revealed 741 duplicate entries of the amount vide same instrument number in the ILMS in respect of royalty payments. These duplicate entries were in respect of either the same lease or different leases. These royalty credits were either utilised in generation of bulk permits or available as credit balance which can be used in the future. The monetary value involved in these cases is ₹ 35.49 crore. Of this, ₹ 11.78 crore was reflected as credit balance in the account of the leaseholder.

During the exit conference Government/DMG accepted the audit observations and agreed to incorporate necessary controls in ILMS.

Recommendation No.6: The Department may incorporate validation controls in respect of receipt date vis-à-vis instrument date, approval for data modification and controls to prevent repeated use of same instrument towards different types of payments for securing financial management.

6.4.3.5 Mineral Despatch Release Orders (Bulk Permits) and Mineral Despatch Permits (Trip sheets)

To obtain bulk permits for despatch of minerals from the leased areas, the leaseholder has to apply for the same through the system by furnishing the details of the buyer, destination, route, and distance between source and destination. The office of the Deputy Director/Senior Geologist, DMG of the district concerned will authorise the bulk permit through the system after verifying payment of royalty, processing fee and TCS. ILMS does not permit generation and approval of a permit without due realisation of these payments. Trip sheets can be generated for the quantity for which bulk permit is approved. DMG has successfully provided e-services by way of online application and approval for permits and requests for change in approved permits. Specific control issues in these modules are discussed in the following paragraphs.

Validity of Mineral Dispatch Permits (Trip sheets)

Trip sheets are generated based on the bulk permit. The validity of the trip sheet is system-calculated based on the distance between source and destination as per the approved bulk permit. In this connection the following observations were made.

- In ILMS a trip sheet stays valid even when the trip has ended as evidenced by another tripsheet being generated for the same vehicle with the earlier permit still in currency. There were 24,118 instances out of 9,10,468 trip sheets which were generated for the vehicle even while the validity of a previous trip sheet was still current. Further, of these, in 269 cases, trip sheets in respect of same vehicle had been generated by different leaseholders within 10 minutes of each other even though the distance mentioned in the trip sheet was more than 30 kilometers.
  Since this indicates that a different vehicle had obtained the trip sheet, the Government may conduct an investigation into the reasons and consequences of such a lapse.
- In respect of mineral dispatch by rail, the lease holder has to generate trip sheets for transportation of mineral by road to railway yard and acknowledge the trip sheet on receipt of mineral at the railway yard and thereafter apply for RAKE[10] permit. It was noticed that the validity of the trip sheet for transporting the mineral from the mine to railway yard is the same as that of the bulk permit, which is for the entire journey including rail journey time. This poses the risk of reuse of the trip sheets to transport mineral by road, for which no royalty has been paid.
- In respect of cases where the lease holder needs to move the mineral from the lease area to a stockyard before dispatch to the buyer, facility of generating trip sheets in two phases (from mine to stockyard and from stockyard to the final destination) has been provided. Here also it was observed that the trip sheets used to transfer mineral to stockyard

[10] As per the Karnataka Prevention of Illegal Mining and Transportation Rules 2011, every vehicle carrying mineral ore should be covered by a permit. Accordingly, DMG issues RAKE permit in respect of mineral transportation through rail.

have the same validity as to be assigned for the entire route, posing, as stated above, the risk of reuse of the trip sheets.

Recommendation No.7: The Department may ensure that the validity of trip sheet should terminate on generation of another trip sheet for the same vehicle or on its receipt at the railway yard or the stockyard to prevent the risk of reuse.

Rake permits

In accordance with the provisions of the Karnataka Prevention of Illegal Mining and Transportation Rules 2011, DMG issues 'rake' permits in respect of mineral transportation through rail. Based on the approved bulk permit, the lease holder initially generates trip sheets for road transfer of mineral to designated railway yard. Only when the entire bulk quantity of the mineral has reached the railway yard will ILMS enable generation of a rake permit for loading it on to the rake allotted.

In this context, the mention of Hon'ble Lokayukta Report on "Illegal Mining in Karnataka" assumes relevance as the same had pointed out that the quantity of iron ore transported through Railways was in excess of the total permit quantity issued in certain cases during the period 2006-2011 and the Report recommended reconciliation of the records of railway and the permits issued by the Mines Department.

It was, however, observed that the acknowledgment of receipt of each tripsheet at the railway yard is done by the lease holder himself, with no authentication of the same either through the RFID system or by the Railway authorities. Acknowledgement by the leaseholder himself for approval of rake permits is susceptible to misuse viz., the possibility that the entire quantity of mineral (specified in the bulk permit) is actually not received at the railway yard and is transported otherwise to other than the designated destination. There are also no mandatory instructions to furnish details of the railway receipt and upload the same to ILMS.

Recommendation No.8: The approval of the rake permit may be automated based on RFID acknowledgement of the material at the Railway Yard and integration with railway data.

Government agreed with Audit recommendations in this regard during the exit conference.

6.4.3.6 e-Returns

As per MMDR Act, every leaseholder has to submit a return monthly or quarterly and also furnish, every year, details of production, dispatch, closing balance of stock and payment of royalties.

Audit assessed the controls in ILMS to ensure correctness of figures reported in returns vis-à-vis the production, permits and payment details in the ILMS.

Mis-match of data between permit and return modules

Cross-verification of production details submitted in the monthly e-return vis-à-vis production details uploaded in permit module of the ILMS for generation of bulk permits revealed that the system permits reporting of lesser production

than already approved by the ILMS for the bulk permits. In respect of 909 monthly returns, the difference between production figures in e-returns and ILMS permit data was 2.18 crore MTs. Similarly, in 168 cases, the difference between production figures reported in the annual return and ILMS permit data was 1.78 crore MTs.

After this was pointed out, DMG stated that the e-return was designed to initially fetch information from permit module with edit option provided for the leaseholder. It was also stated that it was the leaseholder's responsibility to insert production data in ILMS in a timely manner to avoid swapping of data between months.

The reply is untenable since there is no case for the edit option once the lease holder has already declared his quantity of production through the production module of ILMS. The facility to alter these figures in the return module without reference to the figures given in the production module puts the credibility of the returns under question. Hence, Audit is unable to appreciate the rationale of lease holders being given the option to edit production figures in the returns.

Mismatch between monthly and annual returns

Cross-verification between figures of production and despatch as reported in monthly returns vis-à-vis annual return revealed cases of mismatch as given below:

Table 6.3
Production and despatch in monthly and annual return

Number of cases	Category of mis-match	Range of mis-match (in metric tonnes)
23	Production figures	(-) 36 to (-) 88,554
24	Dispatch of mineral figures	(-) 295169 to (+) 33549

Audit observations and recommendations were accepted by the Government during the exit conference.

Recommendation No.9: The referential integrity may be established between the production, permit and monthly and annual return modules and edit option be disabled.

6.4.3.7 Demand, Collection and Balance

Audit assessed the efficacy of the ILMS in generating the DCB for the DMG. As the DCB module was not made use of as of March 2015, Audit reviewed the process documentation for the DCB module and compared the same with manual DCB preparation. DMG stated that DCB is operationalised from 2013-14; however due to modifications and changes required from the field offices, rectification was under process. However, the DCB module for the data obtained on 10 February 2015 was not complete for 2013-14. The following observations are made:

1. The DCB has been designed to generate Taluk-wise quarrying leases and mining leases reports. District-wise and State DCB register have not been implemented, necessitating manual compilation for these reports. After this was pointed out, DMG stated (October 2015) that generation of these reports would be enabled.

2. DCB has been designed to fetch production, dispatch and payment details from ILMS Permit Module. However, edit options have been provided to update the figures without systemizing the reasons for manual intervention. The design does not provide for approval of another authority for manual modifications. This defeats the purpose of computerization.

During the exit conference, the audit observations were accepted and the DMG stated that the DCB module had been revamped with modifications based on field office requests and would be used in the future. Government instructed the DMG to finalise timeline for implementing the modified DCB module.

6.4.3.8 Beneficiation plants

Beneficiation units (enrichment plants) receive mineral and sell them after beneficiation (upgrading of ore grade). In order to have a control over mineral movement and curb illegal mining, DMG has computerised the process of receipt of ore by these beneficiation plants through a web-based interface to ILMS.

Mis-match in quantity of mineral received by beneficiation plants

Through the web-based interface the registered beneficiation plants are required to acknowledge receipt of ore from the lease-holders on real time basis. Acknowledgement of tripsheets generated in ILMS for receipt of mineral from leaseholders within the State (online mode) and uploading of details for receipt of mineral from outside the State (offline mode) is provided. It was, however, noticed that the system does not prevent acknowledgement of ore received from within the State in the offline mode. As per ILMS database, lease holders were uploading details of ore received from within the State in the offline mode in which case the DMG cannot track mineral movement to beneficiation plants effectively since the offline mode does not require acknowledgement of tripsheets generated in ILMS. This has restricted the ability of the system to establish a one-to-one linkage between quantities of ores dispatched from mines and those received at the beneficiation plants.

Further, it was also observed that the total quantity of ores acknowledged by beneficiation plants is considerably higher than the amount shown as dispatched from the mines (aggregate of all the trip sheet quantities shown as delivered to beneficiation plants). On further analysis, it was found that the difference occur in the offline acknowledgement and not online. This is demonstrated in the following table for various minerals.

Table 6.4
Acknowledgement of ore by beneficiation plants
(Quantity in Metric Tonnes)

Year	Trip sheets in ILMS	Received Quantity (Offline)	Received Quantity (Online)	Received Quantity (Total)	Difference in Quantity
1	2	3	4	5 (3+4)	6 (2-5)
IRON ORE					
2013-14	3,24,113.02	8,02,518.30	2,22,194.20	10,24,712.50	-7,00,599.48
2014-15	10,10,061.20	1,770.00	6,21,333.26	6,23,103.26	3,86,957.94
DOLOMITE					
2013-14	2,491.49	983.20	2,481.11	3,464.31	-972.82
2014-15	6,565.18	5,164.59	4,864.59	10,029.18	-3,464.00
LIME STONE					
2013-14	1,000.00	3,157.00	1,000.00	4,157.00	-3,157.00
2014-15	14,314.03	6,537.47	14,055.44	20,592.91	-6,278.88
CHROMITE					
2013-14	15,148.00	2,600.00	14,956.00	17,556.00	-2,408.00
2014-15	14,606.00	0	14,254.00	14,254.00	352.00

Source: ILMS database

The above difference points to the possibility of movement of ore without trip sheets to beneficiation plants and thus needs to be investigated.

During the exit conference, the Government directed DMG to analyse the difference in figures and initiate necessary action.

Recommendation No.10: The Department may ensure acknowledgement of mineral received from within the State by acknowledgement of trip sheets at beneficiation plants and use the offline mode of acknowledgement only for mineral received from outside the State.

Availing of royalty credit in respect of mineral received from other States

The Beneficiation Plant is allowed to take credit of the royalty amount paid on the mineral received. After adjusting the royalty amount of the received material, the beneficiation plant has to pay the difference of royalty, if any, due to increase in grade of ore before bulk permit is approved. In this connection, it was noticed that ILMS allows availing credit of royalty on mineral received from outside the State also. This is incorrect as no royalty is realised by the State of Karnataka in these cases.

6.4.4 Achievement of Objectives of Computerisation

One of the objectives of computerisation of DMG was to reduce illegal mining. To this end, the Department sought to implement the Radio Frequency Identity Detection (RFID) system. According to the proposed plan, RFID readers at entry/exit points of lease allow only authorized vehicles into lease area and ensure that vehicles leave the lease area after generation of trip sheets. Tracking of vehicle movement was planned to be enforced through installation of RFID readers at checkposts and use of hand held terminals by

DMG personnel. RFID readers at buyers' premises, where mineral movement comes to an end, completes the cycle of monitoring. A web interface to DMG was to help monitor violations, if any.

Further, DMG also planned for a system of computerised checkposts interacting with the ILMS to ensure that mineral movement is closely monitored.

Audit observed that these objectives of computerisation were not achieved effectively on account of several implementation issues as brought out in the subsequent paragraphs

6.4.4.1 Inadequacies in RFID implementation.

The RFID vigilance system has been implemented only for iron ore at present. The system requires all registered vehicles to carry RFID tags which can be automatically detected and read by the RFID readers fitted at the entry and exit points of lease areas

It was observed that the DMG has not insisted on the entry/exit points of lease areas to be fitted with boom barrier/CCTV surveillance. This defeats the objective of the surveillance system as any vehicle not carrying an RFID tag can enter and exit the lease area without detection. Further, the application developer had insisted that all RFID tags may be obtained from them and from no other provider. The data captured by the RFID readers are currently communicated to the server in the custody of the application developer. The Department failed to specify at the outset that the ownership and custody of the data should be with itself. Even after implementation, DMG has not obtained the data from the agency. Web interface has also not been provided to DMG. Thus, DMG has been unsuccessful in its declared intention of achieving real-time monitoring of mineral movement.

The RFID vigilance system is also not functional in its entirety at present, i.e., the system has not been established for minerals other than iron. The DMG is thus not in a position to monitor all mineral carrying vehicles through RFID interface in a holistic and complete manner.

Recommendation No.11: The Department may strengthen RFID vigilance through establishment of boom barriers/CCTV surveillance and obtaining RFID data and integrating the same with ILMS.

During the exit conference, Government instructed that procurement of RFID infrastructure from the application developer should not be enforced and that necessary action to integrate the infrastructure obtained by the leaseholders may be initiated.

6.4.4.2 Inadequacies in computerised vigilance through checkposts

Under checkpost computerisation as a scheme to monitor mineral movement, every checkpost was to be installed with a Windows based application integrated with the centralized ILMS system, as well as with the weighbridges to verify real time data of the trip/vehicle with the data stored in the centralized server (from May 2013). Audit, however, has observed as under:

- The system will be effective only if all checkposts are computerized. Audit observed, however, that at present, only four out of the 17 checkposts operated by DMG are computerised and that the Department has no definite plan documenting time lines and details of implementation for computerisation of the rest.
- The vigilance system was designed with a view to ensure that the checkpost will verify the trip sheet details by integration with ILMS and log the time stamp of check post clearance in ILMS. It was, however, noticed that the same in respect of only about three lakh trip sheets were captured in ILMS from May 2013 as against 31.51 lakh trip sheets generated in ILMS.

  The route configurations are so planned as to ensure that mineral carrying vehicles pass through a checkpost. In the absence of checkpost data, however, the validation of the vehicle adhering to the configured route cannot be ensured in monitoring movement of mineral carrying vehicles.
- It was noticed that continuous internet connectivity at the checkposts could not be ensured. During downtime of internet, the checkposts resort to manual registers to note down the details of vehicles passing the checkposts. Thus, the database is incomplete and cannot be used for intelligence analysis.

After the above audit observations were pointed out, DMG stated that seamless internet connectivity through KSWAN was being planned in collaboration with Centre for e-Governance, Government of Karnataka.

During the exit conference, DMG informed that necessary action plan for computerisation of all checkposts would be finalised.

Recommendation No.12: The Department may expedite the computerisation of all the checkposts in the state, improve network connectivity through establishment of alternate channels and enforce vigilance through system based cross verification of trip sheets and mineral quantities issued, recorded at checkposts and recorded at beneficiation plants. As an interim measure, at currently non-computerised checkposts, scanning the Quality Code[11] of the trip sheet may be considered to enable porting the same to ILMS subsequently.

6.4.5 Conclusion

The DMG computerised its functions to realise its mandated objectives. While the Department has been successful in bringing about a measure of efficiency in mineral administration and facilitation of e-services to stake holders through linking the issue of permits with the Mining Plan and enabling online filing of production data and issue of online permits, several issues related to lack of planned development and implementation has limited its ability to take advantage of the possibilities offered by computerization. For want of adherence to the formal requirements of planned system development, the system lacked the ability to manage different process flows specific to the State, failed to furnish the full functionalities of financial accounting, and did

[11] This is a hologram on the Special Security Paper on which trip sheets are printed.

not provide all the necessary application controls. Even when the system provided functionalities like DCB, due to inadequacies in application controls, the same could not be used fully. Similarly, failure to ensure the installation of boom barriers at mine head entry/exit points, obtain RFID data and effect complete computerisation and integration of all the check posts has limited the Department's ability to act in an effective way towards reducing illegal mining.

6.5 Failure to invoke penal provisions in the case of illegal quarrying of building stone

Rule 3 of the KMMC Rules, 1994, stipulates that no person shall undertake any quarrying operation in respect of any minor mineral in any land except in accordance with the terms and conditions of a quarrying lease, licence or quarrying permit granted under the Rules. Besides, Section 21(5) of the MMDR Act, 1957, states that whenever any person raises any mineral without lawful authority from any land and disposes of such mineral, then the State Government may recover price of the mineral from such person along with royalty and rent for the period during which the land was occupied by such person. In addition, Rule 44(3) of KMMC Rules, 1994, stipulates that any person who undertakes any quarrying operation in respect of the minor mineral without a licence or lease is liable to pay a penalty of Rs.5,000/- or value of the mineral, whichever is higher.

Further, according to Rule 42(1) of KMMC Rules, 1994 read with Part-V Clause-4 of the quarry lease deed, the quarry lease holder shall not transport any minor mineral without MDP and in case of non-compliance, will be liable for penalty at five times of royalty.

During test check of records in the office of the DD, Hosapete in Ballari District during February 2015, audit noticed from the field inspection reports prepared by Geologists that during the year 2013-14, four quarry lease holders of building stone had carried out quarrying activities outside their leased boundaries and transported 25,533.32 MTs out of such irregular extraction. Audit also noticed that such transportation was carried out without obtaining MDP.

As per the provisions applicable in such cases, value of the mineral and royalty were to be recovered for irregular extraction along with penalty at five times of the royalty for transporting the mineral without MDP. Also, as penalty, value of the mineral being higher than ₹ 5000, the same has to be made liable for payment.

On verification of the Annual Audit Reports, Audit noticed that these penal provisions have not been invoked for breach of the lease boundary and for transportation of minerals without MDP. Resultant non-levy of royalty, value of mineral and penalty at five times of royalty works out to ₹ 61.20 lakh as detailed below:

Table 6.5
Penalty on irregular quarrying of building stone

(₹ in lakh)

Sl. No.	Quarry Lease Number	Quantity extracted outside the lease area (MT)	Recovery of Value of mineral @ ₹ 30[12] per MT U/s 21(5) MMDR Act	Royalty @ ₹ 30[13] per MT	Penalty @ ₹ 30[1] per MT Under Rule 44(3) KMMC Rules	Penalty at five times royalty	Total levy
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1.	QL.No.339	11,046.00	3.31	3.31	3.31	16.55	26.48
2.	QL.No.385	3,010.00	0.90	0.90	0.90	4.50	7.20
3.	QL.No.368	9,205.00	2.76	2.76	2.76	13.8	22.08
4.	QL.No.341	2,272.32	0.68	0.68	0.68	3.4	5.44
TOTAL		**25,533.32**	**7.65**	**7.65**	**7.65**	**38.25**	**61.20**

After these cases were brought to the notice of the Department in April 2015 and referred to Government in July 2015, an amount of ₹ 7.17 lakh was collected from the four lessees. Further, it was reported that the penalty of five times royalty is not applicable in these cases as the mineral was illegally quarried and issue of MDP does not arise for illegally quarried material. Consequently levy of penalty is not applicable for not obtaining MDP. Department added that the provision applicable for such quarrying is Rule 44 which stipulates the payment of value of the mineral.

Reply with respect to non-applicability of penalty of five times of royalty is not acceptable as the same is applicable to a quarry lease holder who transports minor mineral without MDP. The cases reported pertain to lease holders and transportation of mineral without MDP. Hence the violation is liable for the levy of penalty.

In addition, the payment of the value of the mineral as specified in the rule 44 (3) of the KMMC Rules may not serve as a deterrent for such violations due to the non revision of the cost of the mineral prescribed in Schedule-III of the Rules. The rates have not been revised since 1994 and are very low compared to the current market value.

6.6 Non-levy of penalty for transportation of minor minerals without MDPs

According to Rule 42(1) of the KMMC Rules, 1994, no person shall transport, or cause to be transported, any minor mineral, except under or in accordance with an MDP. Additionally, as per Part-V, Clause-4 of the quarrying lease deed, the lease holder will be liable for penalty at five times of royalty for transporting minor mineral without obtaining MDP.

[12] As per Schedule-III under KMMC Rules, 1992 the minimum rate specified for building stone is Rs.30/- per MT and the same is adopted for computation of the value of the mineral.
[13] As per Schedule-II of the KMMC Rules, 1994, the royalty leviable for building stone is Rs.30/- per MT

Test check of records in the four[14] DD offices and eight[15] SG offices of the Department of Mines and Geology between October 2014 and February 2015 revealed that 78,70,614.88 metric tones (MTs) of building stone, 30,045 MTs of murram and 2,41,871 square meters of shahabad stone were transported without obtaining MDPs. The Department, however, levied royalty on the quantity of mineral thus found to have been transported against the provisions of the law, and failed to invoke any penal provision. As enabled by the provisions of the lease agreement between the Government and the lease holder, the Department should have levied a penalty, as stated earlier, of five times the royalty, amounting to ₹ 118.75 crore.

After these cases were brought to the notice of the Director, Mines and Geology during April 2015 and referred to Government in July 2015, it was stated that Rule 42 of KMMC Rules, 1994, is not applicable in respect of non-specified minor mineral by virtue of Rule 31 of said Rules, which states that "the provisions of Rules 6, 7, 8, 19 (19A, 20) and Rules 35 to 41 shall *mutatis mutandis* apply to quarry leases granted or renewed under Chapter-IV[16]". The reply also states that rules 43 to 46, which come under Chapter VII of the KMMC Rules, alone are applicable for violations of conditions of transportation in respect of non-specified minor minerals. Further, the reply also points out that the scientific method of pit measurement of quarry leases is the control exercised by DMG over quarrying operations and the payment of royalty.

The reply is, however, not acceptable as Rule 42(1) of KMMC Rules, 1994, states that for transportation of *any* minor mineral, MDP is to be obtained. In addition, Rule 42(2) requires any person, desiring to transport minor minerals, to apply in Form-AP for MDP/Trip sheet "for specified or non-specified minor mineral" to the competent authority concerned. The specific mention of non-specified minerals under Rule 42(2) clearly establishes the applicability of Rule 42 to non-specified minerals. Further, the stand of the Department regarding non applicability of MDP contradicts with the claim of applicability of Rule 43. Rule 43(2) states that every driver or person in charge of a vehicle carrying minor mineral shall be in possession of a valid permit, which clearly establishes the need for a permit for the purposes of enforcement.

With regard to scientific pit measurement, audit agrees that it is an effective control over the production of minor mineral. However, the issue of MDP still becomes a necessity for ensuring control over transportation of mineral which is vital for enforcement activities of the Department.

[14] Chamarajanagara, Hospet, Kalaburgi and Tumkur.
[15] Davanagere, Dharwad, Hassan, Kolar, Koppal, Mandya, Mysuru and Raichur.
[16] Chapter IV of KMMC Rules, 1994 deals with the grant of quarry leases for non-specified minor minerals.

6.7 Short levy of royalty due to non/incorrect adoption of sales price of minerals

According to Section 9(2) of the MMDR Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate specified in the Second Schedule in respect of that mineral.

Rule 64-D(1)(i) of the MC Rules, 1960 provides for the computation of royalty in respect of all non-atomic and non-fuel minerals where the same is chargeable *ad valorem* on the basis of the State-wise sale prices published by Indian Bureau of Mines (IBM). In case this information for a particular month is not published by the IBM, the latest information available for that mineral in the State has to be referred, failing which the latest information of sale price published for all India for that mineral shall be referred.

(a) Non-adoption of sale price of minerals published by IBM

During test check of records in the office of the DD, Mines and Geology, Kalaburgi during December 2014 and March 2015, Audit noticed that Associated Cement Companies Limited (ACC), Wadi, a mining lease holder[17] for shale, had produced and transported 25.99 lakh MT of shale between the years 2010-2011 and 2013-2014. Though the rate of royalty applicable for shale was 10 *per cent* of the sale price on *ad valorem* basis as per Second Schedule of the Act, it was collected at the rate of five rupees per MT. Hence non-adoption of sale prices published by IBM[18] resulted in short levy of royalty of ₹ 91.71 lakh.

After this case was brought to the notice of the Department in April 2015 and referred to Government in July 2015, notice was served by the officer concerned to the lessee demanding the difference of royalty pointed out by Audit (November 2015).

(b) Incorrect adoption of sale value of mineral

During test check of Annual Audit Reports in the office of the SG, Mysuru and Davangere during November 2014 and February 2015, Audit noticed transportation of 50,464 MT of manganese ore by one lessee[19] and 25,902.26 MT of magnesite ore by three lessees[20] between the years 2011-12 and 2013-14. In all these cases, audit noticed that the mineral was despatched in the months subsequent to the months of issue of MDPs and sale prices of those months were to be applied for the computation of royalty. Though royalty was charged at *ad valorem* rates prescribed in the Second Schedule, the sale prices published by IBM for the month of issue of MDPs were considered for the computation of royalty instead of the prices published for the month of despatch/removal of the mineral. Such incorrect adoption of sale price by the SGs concerned resulted in short levy of royalty of ₹ 22.59 lakh.

[17] Mining Lease No.1949
[18] The sale price published by IBM for all India was considered for calculating royalty.
[19] M/s Bharath Parikh and Company (Mining Lease No.2571)
[20] M/s. Mysore Minerals Limited (Mining Lease No.2495), Sri. N.Rajashekar (Mining Lease No.2484) and M/s. Mysore Minerals Limited (Mining Lease No.2174)

After these cases were brought to the notice of the Department in April 2015 and referred to Government in July 2015, an amount of ₹ 2.92 lakh was collected in respect of the three lessees of magnesite ore and notice was served by the officer concerned to the lessee of manganese ore demanding the difference of royalty pointed out by Audit (November 2015).

6.8 Non-levy of royalty and penalty on shortfall of stock

Rule 36 of the KMMC Rules, 1994, stipulates that the holder of a quarrying lease or licence shall pay royalty on minor mineral removed or consumed at the rates specified in Schedule-II of the Rules. Rule 42 of the KMMC Rules, 1994 read with Part-V Clause-4 of the quarry lease deed states that no person shall transport any minor mineral without an MDP and the quarry lease holder will be liable for penalty at five times of royalty in cases of non-compliance in this respect.

(a) Short fall in stock at the time of inspection

During test check of records in the office of the DD, Hosapete in Ballari District between January 2015 and February 2015, audit found from the pit measurements recorded in the inspection reports prepared by the Geologists that the production of mineral in respect of five building stone quarry leases for the period from 2008-09 to 2014-15 (till the date of inspection during the year 2014-15) amounted to 2,10,336 MTs. After deducting the transportation of 1,78,891 MTs made during the period, the stock available at the quarry should have been 31,445 MTs. The stock, however, available at the time of inspection and recorded in the inspection report was 6,956 MTs. The resultant shortfall in stock indicates potential transportation of 24,889 MTs of building stone without obtaining MDPs from the Department. Department failed to notice the shortfall in stock and consequently did not take any action in this respect. Royalty leviable on such difference in stock and penalty leviable on such transportation works out to ₹ 44.08 lakhs.

After these cases were brought to the notice of the Department during May 2015 and referred to Government in July 2015, it was stated that production-despatch assessment for the year 2013-14 pertaining to the cases mentioned in the paragraph was conducted in the month of June 2014 and the stock recorded is for that month and not the end of March 2014 for which the assessment is concluded. The difference in stock mentioned in the observation may be due to transportation of building stone from April to June 2014 and this would be accounted for at the time of annual assessment for the year 2014-15. The reply also states that Rule 42 of KMMC Rules, 1994, is not applicable in respect of non-specified minor mineral by virtue of Rule 31 of said Rules, which states that "the provisions of Rules 6, 7, 8, 19 (19A, 20) and Rules 35 to 41 shall *mutatis mutandis* apply to quarry leases granted or renewed under Chapter-IV[21]". Hence, the reply concludes, MDP is not mandatory for non-specified minor minerals and is issued only on voluntary application by the lessee. Consequent to this, penalty at five times is not applicable for transportation of non-specified minor minerals.

[21] Chapter IV of KMMC Rules, 1994 deals with the grant of quarry leases for non-specified minor minerals.

The reply is however, not acceptable due to the following reasons:

(1) The transportation till June 2014 (i.e. from April 2014 to the date of inspection) has already been considered in the despatches and hence the closing stock had to match.

(2) Rule 42(1) of KMMC Rules, 1994, states that for transportation of *any* minor mineral, MDP is to be obtained. In addition, Rule 42(2) requires any person desiring to transport minor minerals to apply in Form-AP for MDP/Trip sheet "for specified or non-specified minor mineral" to the competent authority concerned. The specific mention of non-specified minerals under Rule 42(2) clearly establishes the applicability of Rule 42 to non-specified minerals and hence the levy of penalty.

Thus, the Department, though provided with adequate penal provisions to check illegal mining and transportation of minerals, failed to invoke these in the instances pointed out in this observation.

(b) Non/short accounting of closing stock

During test check of records in the office of the DD, Tumkuru and two[22] SG offices during October 2014 and December 2014, Audit noticed from the Annual Audit Reports and production–despatch statements that during the years 2011-12 and 2012-13, the closing stock of mineral brought forward to the subsequent year was either not accounted or short accounted to the extent of 301.716 cubic meter (cum) in respect of three ornamental stone quarries and 8669.44 MT in respect of one building stone quarry. The Department did not detect the discrepancies in the closing balance and opening balance. This indicated possible transportation of ornamental stone of 301.716 cum and 8669.44 MT of building stone without valid permit, which resulted in non-levy of royalty of ₹ 7.13 lakh. Besides, penalty of ₹ 35.63 lakh was also leviable on such irregular transportation of mineral. The total non-levy of royalty and penalty works out to ₹ 42.76 lakh.

After these cases were brought to the notice of the Department during May 2015 and referred to Government in July 2015, an amount of ₹ 1.33 lakh was collected in two cases and a notice demanding ₹ 20.20 lakh was issued in another case.

In the case of the building stone lessee, it was replied that the stock was not included in the opening stock of the year 2013-14 by mistake. The left over stock of 8669.44 MT, however, has been added to the production of 9025.56 MT for the year and royalty has already been paid for 17,695 MT (8669.44 MT + 9025.56 MT).

The reply cannot be accepted since the production-despatch statement endorsed by the lessee and the SG shows a production of 17,695 MT of building stone for the year 2013-14. Hence, the claim of 17,695 MT being inclusive of opening stock is not acceptable.

[22] Dharwad and Koppal

Chapter–VII
Land Revenue

7.1 Tax administration

The receipts from Land Revenue Department are regulated under Karnataka Land Revenue Act (KLR Act), 1964 and the rules made thereunder and administered at the Government level by the Principal Secretary, Revenue Department. The Principal Secretary is assisted by four Regional Commissioners, 30 Deputy Commissioners (DCs), 44 Assistant Commissioners and 179 Tahsildars.

7.2 Results of audit

In 2014-15, test check of the records of 60 units of Land Revenue Department showed non/short realisation of cost of land, conversion fine, compounding fine and other irregularities involving ₹ 23.79 crore in 132 cases, which fall under the following categories.

Table 7.1
Results of audit

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of cost of land	19	1.48
2.	Non/short levy of conversion fine/compounding fine	47	1.59
3.	Non/short levy of lease rent and interest.	11	3.02
4.	Short levy of pre-mutation sketch fee, Phodi charges, mutation fee, etc.	30	0.32
5.	Other irregularities	25	17.38
	TOTAL	**132**	**23.79**

During the course of the year, the Department had accepted under assessments and other deficiencies involving ₹ 21.64 crore in 90 cases. An amount of ₹ 48.28 lakh was also recovered in 41 cases pointed out in earlier years. A couple of illustrative cases involving ₹ 2.33 crore are discussed in the following paragraphs.

7.3 Short collection of cost of lands granted at concessional rates

The Karnataka Land Grant Rules, 1969, provides for grant of lands for various purposes under Rules 20, 21 and 22. The Rules also provide for concessions in rates on the market value of the land. Besides, Rule 27 ibid vests the State Government with the powers to relax any of the provisions of these Rules by recording the reasons for the same.

The market value guidelines prepared by the Central Valuation Committee (CVC) under Section 45A of the Karnataka Stamp Act, 1957, indicate the prevalent market value of the land.

During test check of records relating to grant of land in three[1] Tahsildars offices between June 2014 and February 2015, Audit noticed that lands were

[1] Athani, Chikkodi and Puttur

granted to different institutions at concessional rates. The DCs concerned referred to the market value guidelines issued by the CVC, but adopted incorrect rates, resulting in short collection of value of land amounting to ₹ 1.57 crore as detailed below:

Table:7.2
Short collection of cost of land

(₹ in lakh)

Sl.No.	Office/ grantee	Extent of land	Cost of land short levied
1.	Tahsildar, Chikkodi Karnataka Small Scale Industries Development Corporation	75 acres	17.26
Cost of land levied ₹ 13.87 lakh instead of ₹ 31.13 since revised guideline value was not considered.			
2.	Tahsildar, Athani M/s.Renuka Sugars Ltd.,	58 acres 06 guntas	61.62
Cost of land levied ₹ 9.62 lakh instead of ₹71.24 lakh since rate pertaining to agricultural land was applied instead of industrial land			
3.	Tahsildar, Puttur Vivekananda Vidyavardhaka Sangha	53 acres 28 cents	77.82
Cost of land levied ₹15.42 lakh instead of ₹ 93.24 lakh since special instructions to the guideline values were not taken into consideration for computing value of land			

After these cases were brought to the notice of the Government between January and May 2015, ₹ 77.82 lakh pertaining to Tahsildar, Puttur was recovered. Replies are awaited in the remaining two cases (November 2015).

7.4 Non/short levy of compounding amount

Section 95 of the KLR Act, 1964, provides for diversion of agricultural land for non-agricultural purposes with the permission of the DC. Further, as per Section 96(4), in cases of diversions without permission, the DC may compound such diversion on payment of a compounding amount. The rates of compounding amounts are prescribed under Rule 107-A of the KLR Rules, 1966.

During test check of records of four[2] Tahsildar offices and the office of the DC, Haveri between September 2014 and January 2015, Audit noticed that in 27 cases as per the land inspection reports of the Tahsildars' concerned, agricultural lands were diverted for non-agricultural purposes even before the applications for such diversions were made. Exact extent of such diversions, however, was not forthcoming in the reports. Permissions for diversion were granted subsequently in all these cases. Since the diversions were compounded, compounding amounts at prescribed rates were leviable in all these cases. Out of the above, in 26 cases, compounding amount of ₹ 73.02 lakh was not levied and in one case, it was levied short by ₹ 2.76 lakh as calculated on the entire extent for which conversion was applied for.

The total non/short levy of compounding amount worked out to ₹ 75.78 lakh.

[2] Belagavi, Chikkodi, Kushtagi and Yelaburga

After these cases were brought to the notice of the Government during January 2015, ₹ 2.74 lakh pertaining to DC, Haveri was recovered. Replies in the remaining cases are awaited (November 2015).

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