



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2016**



**Government of Punjab  
Report No.4 of the year 2016**



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## TABLE OF CONTENTS

Description	Reference to	
	Paragraphs	Page
Preface	--	v
Overview	--	vii-x
<b>Chapter-I General</b>		
Trend of revenue receipts	1.1	1
Analysis of arrears of revenue	1.2	4
Arrears in assessment	1.3	4
Evasion of tax detected by the Department	1.4	5
Refund Cases	1.5	6
Response of the Government/Departments towards audit	1.6	6
Departmental Audit Committee Meetings	1.6.2	7
Non production of records to audit for scrutiny	1.6.3	8
Response of the Departments to the draft audit paragraphs	1.6.4	8
Follow up on the Audit Reports – summarized position	1.6.5	9
Position of Inspection Reports	1.7	10
Recovery of accepted cases	1.7.1	10
Audit planning	1.8	11
Internal Audit	1.9	12
Results of audit	1.10	12
Position of local audit conducted during the year	1.10.1	12
Coverage of this Report	1.11	12
<b>Chapter-II Taxes/VAT on Sales, Trade etc.</b>		
Tax administration	2.1	13
Results of audit	2.2	13
Utilisation of statutory declaration forms	2.3	14
Non generation of electronic declaration forms	2.3.1	14
Branch transfer disguised as interstate sales	2.3.2	15
Allowance of concessions/exemptions on the basis of duplicate, tampered and defective forms	2.3.3	16

Description	Reference to	
	Paragraphs	Page
Concession allowed against false, defective, duplicate, tampered and short declaration forms	2.3.4	17
Refund allowed without ensuring the receipt of statutory declaration forms	2.3.5	18
Irregular issue of Form 'C'	2.3.6	19
Short levy of purchase tax	2.4	20
Inadmissible allowance of deduction to works contractors	2.5	20
Excess allowance of notional input tax credit	2.6	21
Short reversal of input tax credit	2.7	22
Excess benefit of exemption	2.8	23
Non reversal of purchase tax on interstate sale	2.9	24
Non-reversal of input tax credit in respect of Procurement Agencies	2.10	24
Short levy of tax	2.11	25
Short levy of Central Sale Tax	2.12	26
Short levy of interest	2.13	27
<b>Chapter-III State Excise</b>		
Tax administration	3.1	29
Results of audit	3.2	29
Short realisation of License fee	3.3	29
<b>Chapter-IV Stamp Duty</b>		
Tax administration	4.1	31
Results of audit	4.2	31
<b>Performance Audit on "Levy and Collection of Stamp Duty and Registration Fees"</b>	4.3	32-49
<b>Chapter-V Taxes on Vehicles, Goods and Passengers</b>		
Tax administration	5.1	51
Results of audit	5.2	51
Short realisation of Motor Vehicle Tax from private service vehicles/educational institutes	5.3	51
Non/Short realization of MVT from stage carriage big buses	5.4	52
Non-levy of interest for delayed payment of MVT	5.5	53
Non-realisation of additional fees	5.6	53
Short realisation of MVT on account of excess plying of kilometers against reciprocal agreement	5.7	54

Description	Reference to	
	Paragraphs	Page
<b>Chapter-VI Forest, Other Tax and Non-Tax Receipts</b>		
Tax Administration	6.1	55
Results of audit	6.2	55
Conduct of Lotteries in Punjab	6.3	56-59
System for collection of arrears of revenue in the State	6.4	60
Introduction	6.4.1	60
Position of Arrears of Revenue	6.4.2	61
Accrual of arrears and record keeping	6.4.3	61
Non declaration of arrears as arrears of land revenue	6.4.4	63
Abnormal delays in raising of demands	6.4.5	65
Slow pace of recovery	6.4.6	65
Abnormal delay in returning the recovery certificates	6.4.7	65
Non recovery of water charges	6.4.8	66
Non recovery of collection charges	6.4.9	66
Non realisation of entertainment duty	6.5	67
Short realisation of marriage registration fees	6.6	68
<b>Appendix-I</b>	6.4.1	71
<b>Appendix-II</b>	6.4.1	72

## PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2016 has been prepared for submission to the Governor of Punjab under Article 151 of the Constitution of India.

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

The instances mentioned in this Report are those which came to notice in the course of test audit done during the period 2015-16 as well as those which came to notice in earlier years, but could not be reported in previous Audit Reports. Instances relating to the period subsequent to 2015-16 have also been included, wherever necessary.

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

# Overview

## Overview

This Report contains one performance audit on “**Levy and Collection of Stamp Duty and Registration Fee**” and 21 paragraphs relating to non/short levy of Sales Tax/VAT, stamp duty and registration fee, motor vehicle tax and other receipts with revenue implications of ₹ 285.97 crore.

## 1. Chapter-I

### General

The total receipts of the State Government for the year 2015-16 were ₹ 41,523.38 crore. The Government raised ₹ 29,340.76 crore comprising tax revenue of ₹ 26,690.49 crore and non-tax revenue of ₹ 2,650.27 crore. The State Government received ₹ 8,008.90 crore as State’s share of divisible Union taxes and ₹ 4,173.72 crore as Grants-in-aid from the Government of India.

**(Paragraph 1.1.1)**

Test check of the records of 312 units of Value Added Tax, State Excise, Motor Vehicles, Stamp Duty and Registration Fee, Forest Receipts and other Departmental offices conducted during the year 2015-16 revealed under-assessment/short levy/loss of revenue aggregating ₹ 595.96 crore in 15,445 cases. The Departments collected ₹ 12.03 crore in 6,880 cases during 2015-16, out of which ₹ 0.08 crore in 109 cases was for the year 2015-16 and ₹ 11.95 crore in 6,771 cases was of earlier years.

**(Paragraph 1.10.1)**

## 2. Chapter-II

### Taxes/VAT on Sales, Trade etc.

Audit of utilisation of statutory declaration forms brought out that system of electronic generation of declaration forms was not made operational even though Rules in this regard were framed in July 2012. Concessions/exemptions were allowed on the basis of false, defective, duplicate, tampered and short declaration forms even when Public Accounts Committee recommended not to accept incomplete/duplicate/tampered declaration forms resulted in short levy of tax of ₹ 3.15 crore while concessions allowed without obtaining statutory declarations led to excess refund of ₹ 42.91 lakh.

**(Paragraph 2.3)**

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Incorrect computation of purchase tax in one case resulted in short levy of ₹ 1.97 crore.

**(Paragraph 2.4)**

Inadmissible deduction of soil as tax free in works contracts resulted in short levy of tax of ₹ 40.62 lakh.

**(Paragraph 2.5)**

Non-reversal of notional input tax credit on export and inter-state sale at concessional rate of tax resulted in short levy of tax of ₹ 28.33 lakh.

**(Paragraph 2.6)**

Incorrect reversal/non-reversal of input tax credit resulted in short levy of tax of ₹ 77.23 lakh in four cases.

**(Paragraph 2.7)**

The Assessing Authority did not reduce its exemption for sale of paddy on account of purchase tax resulting in excess benefit of exemption by ₹ 2.87 crore in four cases.

**(Paragraph 2.8)**

Reversal of input tax credit on disposal of by-products worth ₹ 20.58 crore other than by way of sale was not made by Assessing Authorities in 16 cases, resulting in short levy of tax of ₹ 82.31 lakh.

**(Paragraph 2.10)**

Application of incorrect provision relating to levy of interest in assessment orders resulted in short levy of interest of ₹ 9.49 crore.

**(Paragraph 2.13)**

### **3. Chapter-III**

#### **State Excise**

Contravention to Government notification relating to fixation of rates of license fee for liquor vends resulted in short realisation of license fee of ₹ 90 lakh.

**(Paragraph 3.3)**

### **4. Chapter-IV**

#### **Stamp Duty**

A performance audit of the Levy and Collection of Stamp Duty and Registration Fee for the period 2010-15 brought out both systemic and implementational

deficiencies that led to loss and leakage of revenues. Some of the significant findings are as follows.

- The Department had to forgo revenue of ₹ 11.92 crore as it did not evolve a mechanism to ensure that instruments lying in custody of Government offices and banks had been charged with applicable stamp duty and registration fee.

**(Paragraph 4.3.7)**

- There was loss of revenue of ₹ 1.83 crore on account of non levy of additional stamp duty for Social Security Fund due to non-specifying of the villages falling within five km from the outer limit of Municipal Corporation. In addition, delay in circulation of notifications resulted in non-levy of Registration Fee and Social Infrastructure Cess of ₹ 13.76 crore.

**[Paragraph 4.3.9(a, b)]**

- Non-registration of instruments relating to mutation of properties resulted in revenue loss of ₹ 19.79 crore on account of Stamp Duty and Registration Fee.

**(Paragraph 4.3.10)**

- Irregular remission of stamp duty, additional stamp duty, social infrastructure cess and registration fee on deeds involving mega projects, land acquisition and charitable institutions resulted in loss of ₹ 6.99 crore.

**(Paragraph 4.3.11)**

- Misclassification and undervaluation of properties resulted in short levy of stamp duty and registration fee of ₹ 17.16 crore.

**(Paragraphs 4.3.12)**

## **5. Chapter-V**

### **Taxes on Vehicles, Goods and Passengers**

Motor Vehicle Tax of ₹ 48.02 lakh relating to private service vehicles and vehicles used by educational institutes was short realised from eight companies/institutes operating in the jurisdiction of nine District Transport Officers.

**(Paragraph 5.3)**

Motor Vehicle Tax of ₹ 27.31 lakh was non/short realized from stage carriage buses in eight District Transport Officers.

**(Paragraph 5.4)**

Additional fee of ₹ 7.80 lakh was not realized by the State Transport Commissioner while allotting the registration marks of choice to 156 owners of tourist vehicles.

**(Paragraphs 5.6)**

Motor Vehicle Tax of ₹ 6.06 lakh was short realized from four depots of Himachal Road Transport Corporation due to application of incorrect rates applicable under the reciprocal agreement.

**(Paragraph 5.7)**

## **6. Chapter-VI**

### **Forest, Other Tax and Non Tax Receipts**

Audit of conduct of Lotteries in Punjab brought out that lottery schemes were organised without issuing advance notifications and agents for sale of these lottery schemes were appointed without inviting tenders. Department made payment of ₹ 1.48 crore on account of bonus/promoter's prize to sub-agent without observing compliance with the extant rules. There was no system in the Directorate for conducting annual financial and systems audit of various lottery schemes.

**(Paragraph 6.3)**

Audit of the system of collection of arrears of revenue in the State brought out that non-maintenance of records in prescribed form and lack of details of defaulters coupled with slow pace of recovery led to an exponential increase of the arrears of revenue by 254 *per cent* from ₹ 1,057 crore in 2012-13 to ₹ 3,747 crore in 2014-15. Outstanding dues of ₹ 28.80 crore under different revenue heads were not even declared as arrears of land revenue while ₹ 10.21 crore were outstanding on account of water charges.

**(Paragraph 6.4)**

Non-compliance of the provisions of Punjab Entertainment Duty Act by cable operators resulted in non/short realisation of entertainment duty of ₹ 31.80 lakh.

**(Paragraph 6.5)**

Non-application of correct rates resulted into short realisation of marriage registration fee of ₹ 9.66 lakh in 685 cases.

**(Paragraph 6.6)**

# **Chapter-I**

## **General**

## CHAPTER-I General

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Punjab during the year 2015-16, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table 1.1.1** below.

**Table 1.1.1: Trend of Revenue Receipts**

(₹ in crore)						
Sl. No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16 <sup>1</sup>
1.	<b>Revenue raised by the State Government</b>					
	Tax revenue	18,841.01	22,587.56	24,079.19	25,570.20	26,690.49
	Non-tax revenue	1,398.45	2,629.21	3,191.50	2,879.73	2,650.27
	<b>Total</b>	<b>20,239.46</b>	<b>25,216.77</b>	<b>27,270.69</b>	<b>28,449.93</b>	<b>29,340.76</b>
2.	<b>Receipts from the Government of India</b>					
	Share of net proceeds of divisible Union taxes and duties	3,554.31	4,058.81	4,431.47	4,702.97	8,008.90
	Grants-in-aid	2,440.64	2,775.57	3,401.38	5,869.95	4,173.72
	<b>Total</b>	<b>5,994.95</b>	<b>6,834.38</b>	<b>7,832.85</b>	<b>10,572.92</b>	<b>12,182.62</b>
3.	Total revenue receipts of the State Government (1 and 2)	<b>26,234.41</b>	<b>32,051.15</b>	<b>35,103.54</b>	<b>39,022.85</b>	<b>41,523.38</b>
4.	<b>Percentage of 1 to 3</b>	<b>77</b>	<b>79</b>	<b>78</b>	<b>73</b>	<b>71</b>

During the year 2015-16, the revenue raised by the State Government (₹ 29,340.76 crore) was 71 *per cent* of the total revenue receipts. The share of State Government's own receipts vis-à-vis its total receipts has been decreasing over the last four years from 79 *per cent* in 2012-13 to 71 *per cent* in 2015-16. The balance 29 *per cent* of receipts during 2015-16 was from the Government of India as share of net proceeds of divisible Union taxes and duties and Grants-in-aid.

**1.1.2** The details of the tax revenue raised during the period from 2011-12 to 2015-16 are mentioned in **Table 1.1.2** below.

<sup>1</sup> For details please see Statement No.14- Detailed accounts of revenue by minor heads in the Finance Accounts of Punjab for the Year 2015-16. Figure under the major head 0045-Entertainment and Luxury Tax – share of net proceeds assigned to states (₹ 5.15 crore) booked in the Finance Accounts under A-Tax Revenue has been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this table.

**Table 1.1.2: Details of Tax Revenue Raised**

Sl. No	Head of revenue	₹ in crore										Percentage increase (+) or decrease (-) of	
		2011-12		2012-13		2013-14		2014-15		2015-16			
		Budget Estimates <sup>2</sup>	Actual	Budget Estimates	Actual	Actual in 2015-16 over 2014-15	Actual over BE for 2015-16						
1	VAT/ Sales tax/Central sales tax	11,800.00	11,171.67	14,213.00	13,217.93	17,760.00	14,846.70	17,760.00	15,455.17	17,850.96	15,856.64	(+)2.60	(-) 11.17
2	State excise	3,250.00	2,754.60	3,800.00	3,331.96	4,180.00	3,764.72	4,600.00	4,246.11	5,100.00	4,796.45	(+)12.96	(-) 5.95
3	Stamp duty and registration fees	2,900.00	3,079.13	3,375.00	2,920.49	3,450.00	2,499.50	2,760.00	2,474.15	2,700.00	2,448.98	(-)1.02	(-) 9.30
4	Taxes and duties on Electricity	1,400.00	928.28	1,540.00	2,035.30	1,694.00	1,710.46	1,860.00	1,875.23	2,050.41	1,967.42	(+)4.92	(-) 4.05
5	Taxes on Vehicles	800.00	850.96	864.00	994.72	1350.00	1,145.69	1,350.00	1,393.32	1,500.00	1,474.83	(+)5.85	(-) 1.68
6	Others <sup>3</sup>	257.70	56.37	50.00	87.16	90.00	112.12	150.00	126.22	150.57	146.17	(+)15.81	(-) 2.92
<b>Total</b>		<b>20,407.70</b>	<b>18,841.01</b>	<b>23,842.00</b>	<b>22,587.56</b>	<b>28,524.00</b>	<b>24,079.19</b>	<b>28,480.00</b>	<b>25,570.20</b>	<b>29,351.94</b>	<b>26,690.49</b>	<b>(+) 4.38</b>	<b>(-) 9.07</b>

There was decrease in actual receipts over budget estimates during 2015-16 ranging between (-) 1.68 and (-) 11.17 *per cent* in respect of VAT, State Excise, Stamp Duty and Registration Fee, Taxes on Vehicles and other heads of revenue.

The respective Departments reported the following reasons for the variations:

**Stamp Duty and Registration Fee:** Department of Revenue, Punjab attributed the shortfall in receipt to overall slowdown in the property market besides remissions allowed on various instruments from time to time.

**Taxes and Duties on Electricity:** The Chief Electrical Inspector, Punjab, intimated that the decrease of 4.05 *per cent* in respect of electricity duty over BE was due to less deposit of electricity duty by Punjab State Power Corporation Limited. The other Departments did not furnish the reasons for variations in receipts from that of the previous year despite being requested (October 2016).

**1.1.3** The details of non-tax revenue raised during the period 2011-12 to 2015-16 are mentioned in **Table 1.1.3** below.

<sup>2</sup> Budget Estimates (BE) are as per Annual Financial Statements of the Government of Punjab.

<sup>3</sup> Revenue Receipts of the three Departments i.e. Land Revenue (₹ 55.21 crore, which is 16.72 *per cent* higher than previous year), Other taxes and duties on commodities and services (₹ 84.30 crore, which is 6.82 *per cent* higher than previous year) and Taxes on goods and passengers (₹ 6.66 crore received in the year 2015-16) are less than five *per cent* of Total Tax Revenue Receipts, hence Revenue Receipts of these Departments have been merged in "Others".

Table 1.1.3: Details of Non-Tax revenue raised

Sl. No.	Head of Revenue	₹ in crore)										Percentage increase (+) or decrease (-) of	
		2011-12		2012-13		2013-14		2014-15		2015-16		Actual in 2015-16 over 2014-15	Actual over BE for 2015-16
		BE	Actual										
1	Miscellaneous General Services	1,657.10	323.72	516.66	1,420.73	592.80	1,640.32	950.00	1,473.47	2,105.60	999.84	(-) 32.14	(-) 52.52
2	Other Non-tax Receipts <sup>4</sup>	644.48	627.12	731.90	680.88	1,293.42	886.00	915.80	694.77	992.61	686.01	(-) 1.26	(-) 30.89
3.	Other Administrative Services	72.00	71.49	90.00	100.70	96.24	102.58	139.61	114.12	70.09	253.05	(+) 121.74	(+) 261.04
4	Interest Receipts	176.62	170.16	182.17	170.47	183.02	174.68	180.13	193.88	179.92	225.28	(+) 16.20	(+) 25.21
5	Medical and Public Health	72.46	68.43	79.81	79.12	79.81	151.97	265.00	116.50	171.94	184.25	(+) 58.15	(+) 7.16
6	Major and Medium Irrigation	299.42	25.19	350.00	50.98	176.65	65.94	98.91	72.81	39.38	142.66	(+) 95.93	(+) 262.27
7	Others <sup>5</sup>	204.15	112.34	243.12	126.33	313.92	170.01	233.55	214.18	243.97	159.18	(-) 25.68	(-) 34.75
<b>Total</b>		<b>3,126.23</b>	<b>1,398.45</b>	<b>2,193.66</b>	<b>2,629.21</b>	<b>2,735.86</b>	<b>3,191.50</b>	<b>2,783.00</b>	<b>2,879.73</b>	<b>3,803.51</b>	<b>2,650.27</b>	<b>(-)7.97</b>	<b>(-) 30.32</b>

In Major and Medium Irrigation and Other Administrative Services, the actual receipts over BEs during 2015-16 were 262.27 per cent and 261.04 per cent higher respectively. Interest Receipts increased from ₹ 170.16 crore in 2011-12 to ₹ 225.28 crore in 2015-16. However, in Miscellaneous General Services and Other Non-Tax receipts, the actual receipts were 52.52 and 30.89 per cent below BEs.

The respective Departments reported the following reasons for variations:

**Others:** Overall decrease in actual receipt over previous year was attributed to decrease in actual receipt in respect of Police and Co-operative Department. The Police Department stated that the decrease in receipts over previous year was due to non-recovery of outstanding claims of previous years. The Directorate of Dairy Development Punjab stated that the decrease in receipts over previous year was due to lesser number of renewal of licenses.

The remaining Departments did not furnish the reasons of variations in receipts from that of the previous year (2014-15) despite being requested (October 2016).

<sup>4</sup> The receipts which do not come under the Heads of revenue mentioned at Sr. No. 1, 3, 4, 5, 6 and 7 of the table.

<sup>5</sup> Non-Tax Revenue Receipts of the six Departments [i.e. Police (₹ 48.45 crore, which is 37.27 per cent lower than previous year), Public Works (₹ 18.94 crore, which is 12.81 per cent higher than previous year), Non Ferrous Mining and Metallurgical Industries (₹ 56.64 crore which is 34.47 per cent lower than previous year), Forestry and Wildlife (₹ 31.81 crore, which is 63.55 per cent higher than previous year), Co-operation (₹ 3.24 crore, which is 77.12 per cent lower than previous year) and Dairy Development (₹ 0.10 crore, which is 9.09 per cent lower than previous year)] are less than five per cent of total Non-Tax Revenue Receipts, hence Non-Tax Revenue Receipts of these Departments have been merged in "Others".

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 in respect of principal heads of revenue were ₹ 5,377.39 crore of which ₹ 739.08 crore was outstanding for more than five years as mentioned in **Table 1.2** below.

**Table 1.2: Arrears of revenue**

(₹ in crore)				
Sl. No.	Head of revenue	Amount outstanding as on 31 March 2016	Amount outstanding for more than five years as on 31 March 2016	Reply of the Department
1.	Taxes/VAT on sales, Trade	4,939.00	604.82	Arrears of ₹ 2.71 crore was pending in the High Court, ₹ 6.74 crore in VAT Tribunal, ₹ 57.25 crore with DETC (A), ₹ 1,331.21 crore in various appellat courts/ authorities, arrears of ₹ 1,511.39 crore was stayed by different appellat courts/ authorities, arrear of ₹ 19.61 crore was recoverable and for arrears of ₹ 2,010.09 crore, no reply was furnished by the department.
2.	Taxes on Vehicles	129.23	106.73	Recovery of ₹ 69.12 crore were stayed by the Government/Department and ₹ 60.11 crore was at different stages of action,
3.	Forests and Wildlife	12.61	12.61	Amount was outstanding against forest contractors.
4.	State excise	17.93	13.98	Demands of ₹ 2.06 crore were likely to be written off, balance ₹ 15.87 crore was at different stages of action.
5.	Land revenue	278.62	0.94	In some of the cases, recoveries had been waived off by the State Government and in remaining cases recoveries were under process.
	<b>Total</b>	<b>5,377.39</b>	<b>739.08</b>	

The arrears under Land Revenue increased to ₹ 278.62 crore in 2015-16 from ₹ 12.51 crore in 2014-15. The reason for the huge increase in arrears was not furnished by the Department (October 2016).

## 1.3 Arrears in assessment

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

**Table 1.3: Arrears in Assessment**

Head of revenue	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxes/VAT on Sales/Trade etc.	46,958	55,649	1,02,607	22,038	80,569	21.48

Out of total 26 Excise Districts in the State, there was an arrear in assessment in 21 Excise Districts. However, during validation of data in seven<sup>6</sup> AETCs, it was noticed that in three<sup>7</sup> AETCs 8,206 cases were pending for assessment as against 738 cases intimated by the Department and included in the above table. This is indicative of inaccuracies in the data provided by the department.

#### 1.4 Evasion of tax detected by the Department

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

**Table 1.4: Evasion of Tax**

Sl. No.	Head of revenue	Cases pending as on 31 March 2015	Cases detected during 2015-16	Total	No. of cases in which assessment / investigation completed and additional demand with penalty etc. raised		No. of cases pending for finalization as on 31 March 2016
					No. of cases	Amount of demand (₹ in crore)	
1.	Taxes/VAT on sales, Trade etc.	919	3,247	4,166	3,682	385.00	484
2.	Taxes on Vehicles	16	--	16	--	--	16
3.	State Excise	17	--	17	--	--	17
<b>Total</b>		<b>952</b>	<b>3,247</b>	<b>4,199</b>	<b>3,682</b>	<b>385.00</b>	<b>517</b>

In Sales Tax Department, the number of cases pending at the end of the year had reduced as compared to the number of cases pending at the start of the year. No case was finalized in respect of State Excise and Taxes on Vehicles. No evasion of tax was detected by these Departments during the year 2015-16.

Out of total 26 units of sales tax/ VAT, cases of tax evasion were pending in 21 units.

<sup>6</sup> Fatehgarh Sahib, Hoshiarpur, Jalandhar-I, Jalandhar-2, Patiala, Roop Nagar (Ropar) and Sangrur.

<sup>7</sup> Hoshiarpur, Jalandhar-I and Roop Nagar (Ropar).

## 1.5 Refund Cases

The number of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed/rejected during the year and the cases pending at the close of the year 2015-16 as reported by the Department are mentioned in **Table 1.5** below.

**Table 1.5: Details of Refund Cases**

Sl. No.	Particulars	Sales tax/VAT		State Excise	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
1.	Claims outstanding at the beginning of the year	3,750	396.65*	128	0.93
2.	Claims received during the year	10,384	1170.69	20	0.15
3.	Refunds made during the year	8,013	759.76	4	0.17
4.	Refunds rejected during the year	2,249	354.38	0	0
5.	Balance outstanding at the end of year	3,872	453.20	144	0.91

*\*Note: Excluding ₹ 0.81 crore which was inadvertently included in the opening balance of 2012-13 by AETC Mansa.*

Out of total 26 Excise Districts in the State, refunds in respect of Sales tax/VAT were pending in 23 Excise Districts.

Section 40 of the Punjab Value Added Tax Act, 2005, provides for payment of interest at the rate of 0.5 per cent per month if the excess amount is not refunded to the dealer within 60 days from the date of the application. Information regarding payment of interest in refund cases during 2015-16 was not furnished by the Department.

## 1.6 Response of the Government/Departments towards audit

The Principal Accountant General (PAG) Punjab conducts periodical inspection of Government departments to test check the transactions and verifies the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating audit findings which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to address the observations contained in the IRs, rectify the defects and omissions and report compliance to the PAG within four weeks from the date of receipt of the IRs. Serious financial irregularities are separately reported to the heads of the department and the Government.

IRs issued up to December 2015 disclosed that 14,380 paragraphs involving ₹ 5,825.95 crore relating to 5,908 IRs remained outstanding at the end of June 2016. This, alongwith the corresponding figures for the preceding two years are mentioned in **Table 1.6** below.

**Table 1.6: Details of pending Inspection Reports**

	June 2014	June 2015	June 2016
Number of IRs pending for settlement	5,328	5,650	5,908
Number of outstanding audit observations	12,608	13,194	14,380
Amount of revenue involved (₹ in crore)	2,918.31	3,609.73	5,825.95

**1.6.1** The department-wise details of IRs and audit observations outstanding as on 30 June 2016 and the amounts involved are mentioned in **Table 1.6.1** below.

**Table 1.6.1: Department-wise details of pending IRs**

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Excise and Taxation	Taxes/VAT on sales, Trade etc.	1,974	4,317	1,098.11
		Entertainment and Luxury Tax	328	523	38.86
		State Excise	313	312	447.78
2.	Revenue	Land Revenue	716	1,414	2,303.74
		Stamp Duty and Registration Fee	1,558	4,674	570.35
3.	Transport	Taxes on motor vehicles	696	2,651	697.68
6.	Finance	State Lotteries	21	52	153.16
7.	Forest and Wild Life Preservation	Forestry and wild life	302	437	516.27
<b>Total</b>			<b>5,908</b>	<b>14,380</b>	<b>5,825.95</b>

During 2015-16, audit did not receive even the first reply in respect of 230 out of 312 IRs from the heads of offices within the stipulated time of four weeks. This large pendency of IRs due to non-receipt of replies is indicative of the fact that the heads of offices and departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs. Lack of executive action on audit observations weakens accountability and raises the risk of avoidable loss of revenue. The continuous increase in the number of pending audit paragraphs merits the attention of the Government to ensure effective mechanisms to regularly monitor and review the compliance and settlement of audit observations.

### 1.6.2 Departmental Audit Committee Meetings

The Government sets up audit committees to monitor and expedite progress of the settlement of the audit observations contained in the IRs. The details of

Audit Committee Meetings held during the year 2015-16 and the paragraphs settled are mentioned in **Table 1.6.2** below.

**Table 1.6.2: Departmental Audit Committee Meetings**

Head of Revenue	Number of meetings held	Number of paragraphs settled	Amount (₹ in crore)
0030-Stamp Duty & Registration Fees	06	32	0.41
0029-Land Revenue	01	15	6.02
0040-Taxes/VAT on sales Trade etc.	01	03	1.06
0406-Forestry & Wild Life	5	22	10.09
<b>Total</b>	<b>13</b>	<b>72</b>	<b>17.58</b>

Thirteen Audit Committee Meetings in respect of Stamp Duty and Registration Fee, Land Revenue, VAT, Forestry & Wild life held during the year 2015-16 resulted in settlement of 72 outstanding paras involving ₹ 17.58 crore. No Audit Committee meeting was convened in respect of State Excise, Taxes on Vehicles, Luxury and Entertainment Tax and State Lotteries. It is recommended that Government should ensure holding meetings of the Audit Committees at regular intervals in all Departments.

### **1.6.3 Non production of records to audit for scrutiny**

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

During the year 2015-16, as many as 491 cases/items of auditable records pertaining to seven departments were not made available to audit as mentioned in **Table 1.6.3** below.

**Table 1.6.3: Details of non-production of records**

Name of office/Department	Number of cases/items not audited
Sales Tax/VAT	147
Taxes on Vehicles	15
Stamps and Registration Fees	290
Land Revenue	11
State Excise	7
Forests and Wild life	1
Other Taxes and Duties on Commodities and Services	20
<b>Total</b>	<b>491</b>

### **1.6.4 Response of the Departments to the draft audit paragraphs**

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the PAG to the Principal Secretaries/Secretaries of the concerned Department drawing their attention to the audit findings and requesting them to send their response

within six weeks. The fact of non-receipt of the replies from the Departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Two performance audits and twenty eight draft paragraphs were sent to the Principal Secretaries/Secretaries of the respective Departments between May and August 2016. Out of these, 26 draft paras (clubbed into 21 paragraphs) and one PA have been included in this Report. No reply was received from the Principal Secretaries/Secretaries of the concerned Departments to Performance Audit and all the draft paragraphs despite issue of reminders (between May and August 2016). However, clarifications received during exit conferences at the conclusion of the performance audit and the replies from the concerned departmental authorities, wherever received, have been appropriately included in the Report.

### **1.6.5 Follow up on the Audit Reports – summarized position**

The Public Accounts Committee (PAC) stipulate that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, all Departments shall initiate action on the audit paragraphs and action taken notes (ATNs) thereon should be submitted by the Government within three months of tabling the Report for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were inordinately delayed. A total of 172 paragraphs included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Punjab for the years ended 31 March 2010 to 2015 were placed before the State Legislature Assembly between 11 March 2011 and 14 March 2016. ATNs from the concerned Departments on these paragraphs were not received in respect of Audit Reports for the years ended 31 March 2014 and 2015. ATNs were received late with average delay of 29, 22, 15, and 15 months in respect of Audit Reports for the years ended 31 March 2010 to 2013 respectively. ATNs in respect of 61<sup>8</sup> paragraphs had not been received for the Audit Reports for the years ended 31 March 2011 to 2015 (July 2016).

The PAC discussed 139 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2012-13 and its recommendations on 46<sup>9</sup> paragraphs were incorporated in their five Reports (2008-09, 2009-10, 2010-11, 2011-12 and 2012-13). However, no ATN on the recommendations

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<sup>8</sup> Excise and Taxation (35), Revenue and Rehabilitation (8), Transport (8) and Others (10).

<sup>9</sup> Electricity (10), Excise and Taxation (16) and Transport (20).

of the PAC on 25<sup>10</sup> paragraphs for the years 2008-09 to 2012-13 has been received from three departments<sup>11</sup>.

PAC in their meeting held in October 2006 and December 2011 had transferred the audit paras/reviews of CAG's reports (Revenue Receipts) alongwith audit paras/reviews in the PAC reports up to the year 1992-93 (October 2006) and 2007-08 (December 2011) to the administrative Secretaries of the concerned departments to take appropriate action. Information regarding action taken has been received from Department of Forest and Wildlife Preservations, Punjab and Department of Finance (Directorate of Lotteries). Other Departments had not furnished information regarding action taken.

### 1.7. Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and status of the same as on 31 March 2016, in respect of State Excise Department, is mentioned in **Table-1.7.1** below.

**Table 1.7.1: Position of Inspection Reports**

Year	₹ in crore)											
	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2006-07	367	499	60.67	28	32	1.02	9	20	3.34	386	511	58.35
2007-08	386	511	58.35	27	22	1.38	34	39	15.93	379	494	43.80
2008-09	379	494	43.80	42	46	12.90	15	22	0.43	406	518	56.27
2009-10	406	518	56.27	21	25	17.65	61	83	0.25	366	460	73.67
2010-11	366	460	73.67	34	44	16.80	8	9	0.46	392	495	90.01
2011-12	392	495	90.01	41	51	295.90	21	24	1.22	412	522	384.69
2012-13	412	522	384.69	36	29	2.12	205	271	4.83	243	280	381.98
2013-14	243	280	381.98	46	16	37.13	17	26	0.07	272	270	419.04
2014-15	272	270	419.04	31	23	13.48	5	7	0.60	298	286	431.92
2015-16	298	286	431.92	46	65	24.52	14	18	2.86	330	333	453.58

There was a decrease in the number of outstanding IRs from 367 in 2006-07 to 330 at the end of 2015-16.

#### 1.7.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered under the Head 0039-State Excise is mentioned in **Table 1.7.2** below.

<sup>10</sup> Electricity (10), Excise and Taxation (8) and Transport (7).

<sup>11</sup> Excise and Taxation, Transport and Power.

Table 1.7.2: Recovery of accepted cases

							(₹ in crore)
Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered upto 31/03/2015	Amount recovered during the year 2015-16	Cumulative position of recovery of accepted cases as of 31/03/2016
2005-06	02	7.02	--	--	--	--	PAC decided not to pursue Paras up to the year 2007-08.
2006-07	09	88.53	--	--	--	--	-do-
2007-08	02	3.79	--	--	--	--	-do-
2008-09	02	10.70	--	--	--	--	---
2009-10	02	2.50	--	--	--	--	---
2010-11	26	120.69	04	21.05	6.72	--	6.72
2011-12	01	0.09	01	0.09	--	--	---
2012-13	--	--	--	--	--	--	---
2013-14	02	2.03	--	--	--	--	---
2014-15	01	3.24	--	--	--	--	---
<b>Total</b>	<b>47</b>	<b>238.59</b>	<b>05</b>	<b>21.14</b>	<b>6.72</b>	<b>-----</b>	<b>6.72</b>

The progress of recovery in accepted cases was slow. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties.

### 1.8 Audit planning

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

During the year 2015-16, there were 493 auditable units of which 314 units (63.69 *per cent*) were planned and 312 units (99.36 *per cent*) were audited. One unit<sup>12</sup> under Excise and Taxation Department was sealed by the Department and another unit<sup>13</sup> under Department of Forest was transferred to Economic Sector (PSU) and thus could not be audited.

Besides the compliance audit mentioned above, one performance audit on Levy and collection of stamp duty and registration fee and three thematic audits i.e. (i) Utilization of statutory declaration forms (ii) System of

<sup>12</sup> M/s Bacchus Enterprises, Hambran Ludhiana.

<sup>13</sup> Punjab State Forest Development Corporation.

collection of arrears of revenue (iii) Lotteries in Punjab were also taken up to examine the efficacy of the Departments concerned in realization of revenue receipts.

## **1.9 Internal Audit**

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

During the year 2015-16, out of 1,751 units planned for audit, Internal Audit Cell audited 472 units (26.96 per cent) as detailed in **Table 1.8** below.

**Table 1.8: Internal Audit**

<b>Revenue Head</b>	<b>No. of units Planned</b>	<b>No. of units audited</b>
0030 – Stamp Duty	374	222
0039 – State Excise	191	26
0040 – VAT/Sales Tax	488	135
0041 – Motor Vehicle Tax	531	52
0045 – Entertainment Tax	167	37
<b>Total</b>	<b>1,751</b>	<b>472</b>

Department replied that the targets planned for audit could not be achieved for the year 2015-16 due to acute shortage of staff and assignment of special audits.

## **1.10 Results of audit**

### **1.10.1 Position of local audit conducted during the year**

Test check of the records of 312 units of Value Added Tax, State Excise, Motor Vehicles, Stamp Duty and Registration Fee, Forest Receipts and other Departmental offices conducted during the year 2015-16 revealed under assessment/short levy/loss of revenue aggregating ₹ 595.96 crore in 15,445 cases. The Departments collected ₹ 12.03 crore in 6,880 cases during 2015-16, out of which ₹ 0.08 crore in 109 cases relates to the year 2015-16 and ₹ 11.95 crore in 6,771 cases relates to earlier years.

### **1.11 Coverage of this Report**

This Report contains one performance audit on *“Levy and Collection of Stamp Duty and Registration Fee”* and 21 paragraphs with revenue implications of ₹ 285.97 crore. The departments have accepted and recovered ₹ 0.11 crore in 10 cases.

**Chapter-II**  
**Taxes/VAT on Sales, Trade etc.**

## CHAPTER-II

### Taxes/VAT on Sales and Trade

#### 2.1 Tax administration

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

#### 2.2 Results of audit

Test check of the records of 46 units relating to Sales Tax/VAT during 2015-16 revealed under-assessment of tax and other irregularities involving ₹ 65.92 crore in 263 cases as categorized in **Table 2.1** below.

**Table 2.1: Results of Audit**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1	Excess/Inadmissible allowance of refund	27	8.16
2	Non/Short levy of output tax	66	9.66
3	Excess/Inadmissible allowance of ITC	52	14.35
4	Non/Short levy of interest/penalty	23	9.86
5	Short debit to exemption	08	1.45
6	Other irregularities	86	18.86
7	<i>Thematic Audit titled "Utilisation of statutory declaration forms"</i>	1	3.58
<b>Total</b>		<b>263</b>	<b>65.92</b>

The Department accepted and recovered ₹ 9.36 lakh in 12 cases in 2015-16 out of which ₹ 0.11 lakh involved in one case was pointed out during 2015-16 and rest in earlier years.

Significant cases involving ₹ 20.96 crore are discussed in the succeeding paragraphs.

## 2.3 Utilisation of statutory declaration forms

*System of electronic generation of declaration forms was not made operational even though Rules in this regard were framed in July 2012. Concessions/exemptions were allowed on the basis of false, defective, duplicate, tampered and short declaration forms even when Public Accounts Committee recommended not to accept incomplete/duplicate/tampered declaration forms resulted in short levy of tax of ₹ 3.15 crore while concessions allowed without obtaining statutory declarations led to excess refund of ₹ 42.91 lakh.*

The Central Sales Tax (CST) Act 1956, Punjab Value Added Tax (PVAT) Act 2005, and Rules made thereunder provide certain concessions and exemptions from tax to registered dealers on submission of prescribed declaration Form-C (for concessional rate of tax of two *per cent* on inter-state sale made to registered dealer), E-I, E-II (for transit sale), F (for branch transfer and consignment sale), H (for indirect export), and I (for sale to Special Economic Zones (SEZs)).

Audit examined records covering the period 2012-13 to 2014-15 of seven<sup>1</sup> out of 26 AETCs selected by random sampling using probability proportionate to size (PPS) method. Instances relating to the period subsequent to 2014-15 have also been included, wherever considered necessary. Our examination revealed non-generation of electronic declaration forms and instances of allowance of concessions/exemptions to selling dealers on the basis of false, defective, duplicate, tampered and short declaration forms as discussed in the following paragraphs.

### Systemic Issues

#### 2.3.1 Non-generation of electronic declaration forms

Government of Punjab amended (July 2012) Rule 7 of Central Sales Tax (Punjab) Rules, 1957 to state that forms shall be generated electronically by the department of Excise and Taxation in a designated branch and be downloaded within 60 days of the filing of monthly or quarterly returns and the copies of these statutory forms duly attested by an Excise and Taxation Officer shall be dispatched to the concerned dealer within a period of 30 days after electronically downloading these forms.

Audit scrutiny revealed that the declaration forms were not generated electronically for issue to the dealers in any of the seven selected AETCs during the period 2012-13 to 2014-15. Printed declaration forms were issued

<sup>1</sup> Amritsar-I, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-III, Mohali and Sangrur.

to the dealers which made it difficult for the department to obtain and upload the utilization details of the forms for online verification. Generation and issue of electronic declarations would facilitate the department in maintenance of records of issue and utilization of declaration forms and uploading the same to a common platform like TINXSYS<sup>2</sup> for verification online.

The department informed audit that the data till 10 February 2016 had been uploaded. However, test check of 1,234 declaration forms ('C'/'F'/'H') revealed that 473 forms were not found uploaded while details of selling dealers to whom the forms were issued were not available in 691 forms. Only 70 (5.67 *per cent*) declaration forms were found duly uploaded. Thus, reasonable assurance could not be obtained as to the uploading of utilization details of declarations.

Audit further found that dealers in Haryana used 11 false statutory forms for availing concessional rate of tax on inter-state purchases from dealers in Punjab falling under AETC, Fatehgarh Sahib and Ludhiana-II. Had the department issued electronic declarations and uploaded the utilization on TINXSYS, such misutilisation of forms could have been avoided.

### **2.3.2 Branch transfers disguised as inter-state sales**

Section 6A of the Central Sales Tax Act 1956 provides for exemption from CST on production of Form 'F' if goods are sent from one State to another by reason of transfer of such goods by a dealer to any other place of his business or to his agent or principal as the case may be and not by reason of sale. Section 2(g) (i) of the CST Act defines sale as transfer of property in goods by one person to another and Section 2(t) of PVAT Act states that the term 'person' includes sole proprietor, a partnership, a company and a society.

Section 8 of the CST Act provides that every dealer, who in the course of inter-state trade or commerce sells goods to registered dealer shall be liable to pay tax under this Act at the rate of two *per cent* of his turnover subject to production of Form 'C'. Further, Section 13(2) of PVAT Act 2005 provides for reversal of input tax credit (ITC) at the rate of five *per cent* (December 2012) in case goods are sent outside state other than by way of sale.

Audit scrutiny of the records of AETC, Ludhiana-I, revealed that four dealers sent goods worth ₹ 54.58 crore to dealers outside the State in the course of inter-state trade. The Permanent Account Numbers (PANs) of the consignee

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<sup>2</sup> Tax Information Exchange System (TINXSYS) is a centralized exchange of all interstate dealers spread across the various States and Union territories of India.

dealers were the same as those of the consignor dealers of Punjab. Thus, the dealers were same persons either as sole proprietor, partners or company and the movements of goods between them were not sales under Section 2(g) (i) *ibid* but were branch transfers. However, the movements of goods were disguised as inter-state sales to avoid reversal of ITC at the rate of five *per cent* and claim refund. This non-reversal of ITC, resulted in short levy of tax of ₹ 76.12 lakh.

On this being pointed out (May 2016), AETC, Ludhiana-I, stated that the onus to prove that goods had been sent on stock transfer basis was upon the dealer and for this purpose he might furnish form 'F' to the assessing authority alongwith evidence of dispatch of such goods and if the dealer failed to furnish such declaration, the movement of such goods was to be deemed to have been occasioned as a result of sale. In the instant cases, as the dealer did not furnish such declaration, he treated movement of such goods as sales and CST was charged accordingly on production of forms 'C'.

The reply is not tenable as a person cannot show sale to himself in view of provisions contained in Section 2(g) (i) of the CST Act *ibid*. The Assessing Authorities failed to examine this aspect during finalizing refund cases. The dealers not only showed sale to self but also managed to obtain 'C' form in place of 'F' and claimed refund against the provisions of the Act and Rules *ibid*. Thus, it is apparent that the application of the current provisions needs to be clarified to distinguish between genuine branch transfers and those disguised as inter-state sales to avoid reversal of ITC and to claim refund.

### **2.3.3 Allowance of concessions/exemptions on the basis of duplicate, tampered and defective forms**

Sections 6-A, 6(2), 8(4) and 8(8) of the CST Act require a dealer to produce declarations in forms C (for concessional rate of tax of two *per cent* on inter-state sale made to registered dealer), E-I, E-II (for transit sale), F (for branch transfer and consignment sale), H (for indirect export), and I (for sale to Special Economic Zones (SEZs)). Further, the form marked 'Original' is to be furnished to the prescribed authority while form marked 'Duplicate' is to be retained by the selling dealer.

The matter of incomplete/duplicate/tampered declaration form was previously raised through Para 2.12.12(a) of the Audit Report of the Comptroller and Auditor General of India for the period ended 31 march 2011. The Public Accounts Committee (PAC) had recommended (May 2015) not to accept incomplete/duplicate/tampered declaration forms in future.

Audit scrutiny revealed that six AETCs<sup>3</sup> granted (between April 2014 and March 2016) concessions/ exemptions from payment of tax on transactions of ₹ 106.56 crore on the basis of 437 duplicate, tampered and defective declarations. Out of these, 112 duplicate/tampered/incomplete 'C' forms for ₹ 22.78 crore were accepted after the directions of PAC in May 2015.

In one case under AETC Jalandhar-II, exemption from tax of ₹ 2.90 lakh on transaction of ₹ 52.67 lakh was allowed for the period July-September 2013 on the basis of Form 'H', which was valid till March 2013 only. Such grant of concessions/exemptions on basis of duplicate/tampered/incomplete declaration forms resulted in short levy of tax of ₹ 2.16 crore<sup>4</sup>.

## Compliance Issues

### 2.3.4 Concession allowed against false, defective, duplicate, tampered and short declaration forms

Section 8(4) of the CST Act 1956 read with Rule 12(1) of CST (R&T) Rules 1957 provides that the concessional rate of tax of two *per cent* shall not be admissible unless the dealer selling the goods furnishes a declaration in Form 'C' duly filled in and signed by the registered dealer to whom the goods are sold, in a prescribed form obtained from the prescribed authority. Further, Section 9(2) and Rule 2(cc) provide that the prescribed authority in this case is the sales tax authority of the appropriate State.

#### (a) Concessions allowed against false forms

Audit scrutiny of the records of AETC Ludhiana-I and Mohali revealed that in six cases, the AETCs allowed concessional rate of CST of two *per cent* on 14 'C' forms for ₹ 73.13 lakh. On cross verification, it was found that these forms were not issued by the prescribed authority of the concerned State. Further, concessions were allowed against four 'C' forms for ₹ 13.63 lakh even when the details of prescribed authority which issued the forms were not legible and the forms were not verifiable. The DO allowed the concession without ensuring that the forms were issued by valid prescribed authorities. The omissions resulted in short levy of tax of ₹ 3.07 lakh.

<sup>3</sup> Amritsar-I, Jalandhar-II, Ludhiana-I, Ludhiana-III, Mohali and Sangrur.

<sup>4</sup> Calculated @ 2 *per cent* on ₹106.56 crore and 5.50 *per cent* on ₹ 52.67 lakh.

**(b) Concessions allowed without obtaining complete statutory declarations**

Audit scrutiny of AETC Ludhiana-I revealed that in a refund case for the period July-September 2014, the DO allowed concession from tax on inter-state sale of ₹ 61.98 crore against 199 'C' forms whereas the total value of transactions covered under these 199 forms was ₹ 56.19 crore excluding tax element. Hence, concession from tax on inter-state sale of ₹ 5.79 crore was allowed without obtaining 'C' forms at the time of refund. This resulted in excess refund of ₹ 23.45 lakh (4.05 per cent of ₹ 5.79 crore).

Similarly, in an assessment case for the year 2010-11 assessed in September 2014 under AETC Sangrur, the DO allowed exemption/ concession from payment of tax on indirect export of ₹ 3.01 crore and inter-state sale of ₹ 33.43 lakh whereas 'H' forms for ₹ 2.57 crore and 'C' forms for ₹ 27.55 lakh were pending to be deposited by the dealer and a list showing such pendency was also placed in the assessment file. This resulted in short levy of output tax of ₹ 10.72 lakh.

**(c) Exemption allowed without obtaining any declaration**

In an assessment case for the year 2013-14 under AETC Ludhiana-III assessed in February 2015, the DO allowed exemption from payment of tax on ₹ 1.46 crore without obtaining any declaration forms and by merely mentioning in the assessment order that the sales were made under Section 3(a) of the CST Act whereas Section 3(a) does not provide any concession/ exemption from payment of tax. Instead, it only defines inter-state sale. This resulted in short levy of output tax of ₹ 8.82 lakh.

**2.3.5 Refund allowed without ensuring receipt of statutory declaration forms**

Rule 52A (1) provides that where a refund is being allowed provisionally under Sub-Section (1-A) of Section 39 on account of excess ITC, the provision of Sub-Rule 4 of Rule 52 (regarding production of statutory declarations) shall not apply till 31<sup>st</sup> March following the close of the financial year for which refund is issued or till the time provisional refund exceeds one crore whichever is earlier. The Rule further provides that only those taxable persons shall be eligible to apply for provisional refund who have deposited the statutory declaration forms for all the previous financial years or have deposited the tax due on account of his failure to submit the said forms for the said previous years.

Audit scrutiny of the records of AETC Jalandhar-II revealed that the DO allowed provisional refund of ₹ 19.46 lakh for the period January-March 2012. The refund was due to excess ITC of ₹ 29.64 lakh brought forward from previous periods. Out of this, ₹ 23.10 lakh was brought forward from the year 2010-11. The accrual of excess ITC was due to export of ₹ 7.27 crore and

inter-state sale of ₹ 4.66 crore shown by the dealer in his annual returns for the period from 2006-07 to 2008-09. The provisional refund for the year 2008-09 was admissible up to 31 March 2010 only. After this, refund was to be issued on actual basis after obtaining documentary evidence in respect of export and inter-state sale but no evidence was obtained at the time of allowance of refund. The omission resulted in irregular refund of ₹ 19.46 lakh.

On this being pointed out, AETC stated (February 2016) that assessment for the years 2009-10 and 2010-11 had been made. However, the output tax liabilities in these assessment orders were more than ITC on purchases during the period. The excess ITC during this period was due to ITC of ₹ 28.81 lakh brought forward to the year 2009-10 from previous years. Audit noted that the DO did not obtain documentary evidence in support of export and inter-state sales made from 2006-07 to 2008-09 and issued provisional refund in respect of excess ITC for this period in September 2013.

### **2.3.6 Irregular issue of Form 'C'**

Section 8 of the Central Sales Tax Act, 1956, provides that inter-state purchase at concessional rate of two *per cent* is admissible if the goods are of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture/processing of goods for sale or in telecommunications network or in mining or in generation/distribution of electricity or any other form of power.

Audit scrutiny of the records of AETC, Jalandhar II revealed that the dealer made inter-state purchases of machineries worth ₹ 9.89 crore during the years 2007-08, 2008-09 and 2009-10. Though machinery was not covered in the registration certificate of the dealer, the department issued 'C' forms to avail concessional rate of CST on inter-state purchases of these goods.

On being pointed out, ETC Punjab stated (February 2016) that the firm had not then started production and purchased only machinery for manufacturing and production of paper. Hence no loss of tax was involved in the case. The reply is not tenable as the dealer was not eligible to obtain 'C' form in respect of purchases of those goods which were not mentioned in his certificate of registration.

### **Conclusion**

Thus, lack of clarity in the rules and allowance of concessions/exemptions on basis of incorrect/duplicate or false declaration forms led to short levy of tax of ₹ 3.15 crore while concessions allowed without obtaining statutory declarations led to excess refund of ₹ 42.91 lakh. Much of this could have

been avoided if electronic generation of declaration forms had been implemented.

The above points were reported to the Government in June 2016; its reply was awaited (October 2016).

#### **2.4 Short levy of purchase tax**

***Incorrect computation of purchase tax in one case resulted in short levy of ₹1.97 crore.***

Section 19(1) of Punjab Value Added Tax Act, 2005, provides for levy of VAT (Purchase tax) on the taxable turnover of purchase of goods specified in Schedule-H<sup>5</sup> at a rate of VAT applicable to such goods as per the Schedules.

Audit scrutiny of records of AETC, Moga, revealed that in one case for the year 2010-11 (assessed in AETC Jalandhar-II), the DO assessed purchases of ₹ 76.10 crore liable to purchase tax. Accordingly, purchase tax of ₹ 3.04 crore at the rate of four *per cent* was required to be levied under section *ibid* whereas purchase tax of only ₹ 1.07 crore was levied in the assessment order. This resulted in short levy of purchase tax of ₹ 1.97 crore.

The matter was reported to the Government in July 2016; its replies was awaited (October 2016).

#### **2.5 Inadmissible allowance of deduction to works contractors**

***Inadmissible deduction of soil as tax free in works contracts resulted in short levy of tax of ₹40.62 lakh.***

Rule 15(4) of the Punjab Value Added Tax Rules (Rule) provides that value of goods involved in the execution of works contracts shall be determined by taking into account the value of the entire works contract by deducting therefrom the components of payment made towards labour and services including labour charges, amount paid to a sub-contractor, charges for planning, designing and architect's fees, hire charges of machinery and tools and cost of consumables such as water, electricity and fuel used in execution. Further, goods not mentioned in any other schedules of the Punjab Value Added Tax Act 2005 (Act), are taxable under Schedule-F.

Audit scrutiny of the records of AETC Amritsar-I revealed that in two assessment cases, the contractors purchased soil for ₹ 2.35 crore during 2012-13 and used it in the execution of earthwork. Soil was required to be taxed at the rate of 13.75 *per cent* as it was not mentioned in any of the schedules of the Act. The deduction of ₹ 2.35 crore was not admissible under

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<sup>5</sup> Paddy, Wheat, Cotton, Sugarcane and Milk

the Rule *ibid* as the expenses were not on account of labour and services. However, the DOs allowed the value of soil as deduction from gross turnover and did not levy tax of ₹ 32.24 lakh on it.

Similarly, AETC Kapurthala had not levied tax of ₹ 13.96 lakh on value of soil of ₹ 1.02 crore in assessment case assessed in March 2013. On being pointed out in audit, the AETC re-assessed (August 2015) the case but levied and recovered tax of ₹ 5.58 lakh at the rate of 5.5 *per cent* on the value of soil treating it to be covered under Entry 19 of Schedule-B of PVAT Act (clay). However, the Department had clarified (27 October 2012) that soil was an unclassified item and was taxable at the rate of 13.75 *per cent*. Thus, tax of ₹ 8.38 lakh was short levied.

The above omissions resulted in short levy of tax of ₹ 40.62 lakh.

The matter was reported to the Government in March 2016; its reply was awaited (October 2016).

## 2.6 Excess allowance of notional input tax credit

*Non-reversal of notional input tax credit on export and inter-state sale at concessional rate of tax resulted in short levy of tax of ₹ 28.33 lakh.*

Condition 5(6) of New Conditions for availing concessions under Punjab Value Added Tax Act 2005 provides that a taxable person purchasing goods from an exempted unit shall utilize the permissible Notional Input Tax Credit (NITC) against the output tax liability arising out of sale of such goods. However, he shall be allowed to carry forward the NITC as available to him if it remains unutilized due to non-disposal of exempted goods for any subsequent period and if all the exempted goods are disposed of, NITC shall stand utilized.

Further, Condition 5(4) provides that if goods purchased from exempted unit are exported out of India, no NITC shall be admissible. Similarly, Condition 5(5) (ii) provides that if goods are sold by way of inter-state sale, the NITC shall be available only to the extent of the CST chargeable.

Audit scrutiny of the records of two AETCs<sup>6</sup> for the period 2009-10 to 2011-12 revealed that rice purchased from exempted units was exported and sold in the course of inter-state trade at concessional rate of tax. In case of AETC Tarn Taran, the DO had carried forward whole NITC to the next year (2010-11) even when no rice purchased from exempted units was available in

<sup>6</sup> Amritsar-II and Tarn Taran.

closing stock on 31 March 2010. On this being pointed out, AETC Tarn Taran re-assessed (April 2014) the case, adjusted NITC of ₹ 23.52 lakh from output tax liability and carried forward ₹ 16.46 lakh to next year but did not reverse NITC of ₹ 19.74 lakh under the provisions of Condition 5(4) and 5(5)(ii) mentioned *ibid*. Similarly, NITC of ₹ 8.59 lakh was not reversed on proportionate basis in case of AETC Amritsar-II also. The omissions resulted in short levy of tax of ₹ 28.33 lakh.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

## **2.7 Short reversal of input tax credit**

***Incorrect reversal/non-reversal of input tax credit resulted in short levy of tax of ₹77.23 lakh in four cases.***

Section 13 of the PVAT Act provides that a taxable person shall be entitled to ITC in such manner and subject to such conditions as may be prescribed in respect of input tax on taxable goods, including capital goods, purchased by him from a taxable person within the State during the tax period. Section 13(1) of Punjab Value Added Tax (PVAT) Act provides that purchase tax paid or payable by a taxable person under Section 19 shall be admissible as input tax credit. Further, Section 13(2) provides that input tax credit shall be allowed only to the extent by which the amount of tax paid in the State exceeds four *per cent* on purchase of goods used in manufacture or in packing of taxable goods sent outside the State other than by way of sale (branch transfer/consignment sale) in the course of inter-state trade or commerce or in the course of export out of territory of India.

(a) Audit scrutiny of records revealed that in two AETCs (Fatehgarh Sahib and Sangrur), the Designated Officer reversed ITC of ₹ 2.18 lakh instead of ₹ 31.11 lakh on tax free sale/consignment transfer and allowed excess ITC of ₹ 28.93 lakh. This resulted in short levy of tax of ₹ 28.93 lakh.

(b) Audit scrutiny of the records of AETC Gurdaspur revealed that a dealer, during 2007-08 and 2008-09, used milk (Schedule-H good) worth ₹ 22.12 crore and other eligible purchases of ₹ 0.64 crore in manufacture of taxable goods of ₹ 36.80 crore (taxable sale - ₹ 13.28 crore, Stock transfer - ₹ 19.73 crore, increase in closing stock - ₹ 3.79 crore). As the dealer made branch transfer/consignment sale of ₹ 19.73 crore, input tax credit (ITC) of ₹ 48.82 lakh was required to be reversed under Section 13(2) *ibid*. However, ITC of only ₹ 21.78 lakh was reversed in the assessment orders. The short reversal of ITC resulted in short levy of tax of ₹ 27.04 lakh.

(c) Audit scrutiny of the records of AETC Moga revealed that a dealer, in his self-assessment (VAT-20) for the year 2011-12, reversed ITC of ₹ 21.26 lakh on account of branch transfer. However, the DO neither reversed

the ITC on account of branch transfer which was reversed by the assessee himself nor mentioned any reason about this in the assessment order. This non-reversal of ITC resulted in short levy of tax of ₹ 21.26 lakh on branch transfer.

The matter was reported to the Government (June, January and July 2016); its reply was awaited (October 2016).

## 2.8 Excess benefit of exemption

*The Assessing Authority did not reduce its exemption for sale of paddy on account of purchase tax resulting in excess benefit of exemption by ₹2.87 crore in four cases.*

Section 92 (3) of PVAT Act adopted the provisions of the Punjab General Sales Tax (Deferment and Exemption) Rules 1991 (D&E Rules). Rule 2(xii) of the D&E Rules defines the exemption certificate as a certificate granted for availing exemption from payment of sale tax or purchase tax or both as the case may be. Further, Section 2(xxi) provides *inter-alia* that notional sales tax liability shall mean the amount of tax payable on estimated sales of finished products and estimated purchase of raw material otherwise liable to purchase tax for the purpose of determining or exemption from tax. Thus, purchase tax is also required to be taken in to account and reduced from the available exemption.

Audit scrutiny of the records of five AETCs<sup>7</sup> revealed that nine dealers, availing benefit of exemption from payment of tax, purchased paddy worth ₹ 203.39 crore and sold the paddy of ₹ 75.41 crore. The DO allowed carry forward of exemption of ₹ 17.91 crore without reducing it by ₹ 2.87 crore on account of purchase tax. The DO was required to reduce the exemption by ₹ 2.87 crore. This short debit to exemption by ₹ 2.87 crore, resulted in excess benefit of exemption of tax of ₹ 2.87 crore.

The matter was reported to the Government in December 2015; its reply was awaited (October 2016).

<sup>7</sup> Faridkot, Fazilka, Ferozepur, Muktsar and Tarn Taran.

## 2.9 Non reversal of purchase tax on interstate sale

*Purchase tax was not reversed where product manufactured from schedule-H goods was sold in the course of interstate trade at concessional rate of tax, resulting in short levy of tax of ₹6.86 lakh.*

Section 19(5) of PVAT Act provides that ITC on goods specified in Schedule-H (paddy, wheat, cotton, sugarcane and milk) or products manufactured therefrom, when sold in the course of inter-state trade or commerce, shall be available only to the extent of central sales tax chargeable under the Central Sales Tax Act, 1956.

Audit scrutiny of the records of AETC, Mansa revealed that a dealer purchased cotton worth ₹ 28.16 crore during 2012-13 on which purchase tax of ₹ 1.39 crore was levied. The cotton was used in manufacturing of cotton and binola (cotton seed). Binola was further used in manufacturing of khal binola and oil binola. Khal binola of ₹ 3.53 crore was sold in the course of interstate trade at concessional rate of two *per cent* on which ITC of ₹ 6.86 lakh was required to be reversed. The DO mentioned in the assessment order that khal binola was manufactured from binola which was not Schedule-H goods so no reversal of ITC was required. However, the contention of the DO was not tenable as binola was neither purchased separately during the period nor was it in opening stock and it was manufactured only from cotton i.e. Schedule-H goods.

Thus, interstate sale of khal binola was subject to the provision of the section *ibid* and ITC of ₹ 6.86 lakh was required to be reversed. This non-reversal of ITC resulted in short levy of tax of ₹ 6.86 lakh on interstate sale.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

## 2.10 Non-reversal of input tax credit in respect of Procurement Agencies

*Reversal of Input Tax Credit on disposal of by-products worth ₹20.58 crore other than by way of sale was not made by Assessing Authorities in 16 cases, resulting in short levy of tax of ₹82.31 lakh.*

Rule 21(6) of the PVAT Rules provides that where ITC has already been availed of by a taxable person against the purchase of goods, a part of which is either used in manufacturing of tax free goods or disposed of other than by way of sale, the ITC so availed for such part of goods will be deducted from ITC of the relevant period.

Audit scrutiny of the records of five<sup>8</sup> AETCs revealed that in 16 cases, four procurement agencies got 183.61 lakh quintal paddy milled from rice millers during the period 2006-07 to 2010-11 under the Custom Milling Policies (CMPs) of Punjab for the respective years. As per the CMPs, 67 per cent rice and 33 per cent by-products<sup>9</sup> produced from paddy by weight and the by-products could be retained by the millers free of cost. Consequently, the millers retained 60.59 lakh quintal by-products (33 per cent) the realizable market value of which was ₹ 20.58 crore at the rate of ₹ 33.96<sup>10</sup> per quintal. Thus, by-products amounting to ₹ 20.58 crore were disposed of other than by way of sale by the agencies on which ITC of ₹ 82.31 lakh was required to be reversed under Rule 21(6) *ibid* whereas no such reversal was made during assessments (between February 2014 and March 2015). This non-reversal of ITC resulted in short levy of tax of ₹ 82.31 lakh.

AETCs Barnala and Sangrur replied (January 2016 and February 2016) that by-products were accounted for in the books of accounts of the rice millers and tax was paid by them on its sale. AETC Ferozepur replied (February 2016) that ownership and liability to pay output tax on the by-products was with the rice miller. The replies are not tenable as it did not explain the reason for non-reversal of ITC. The liability of millers to pay tax on subsequent sale of by-products did not entitle the agencies to claim ITC on goods disposed of other than by way of sale

The matter was reported to the Government in July 2016; its reply was awaited (October 2016).

## 2.11 Short levy of tax

***Designated Officers did not reconcile sales/purchases with Information Collection Centre data and trading account which resulted in short levy of tax of ₹49.41 lakh in six cases.***

Section 2 (zc) of the PVAT Act provides that return means a true and correct account of business pertaining to the return period in the prescribed form. Further, Rule 48 (1) of PVAT Rules provides that the Designated Officers, after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person. Further, Rule 51A of the Rules *ibid* envisaged that

<sup>8</sup> Barnala, Ferozepur, Gurdaspur, Nawanshahar and Sangrur.

<sup>9</sup> Broken rice, rice kani (rice husk and rice bran etc.).

<sup>10</sup> This realisable market value of by-products was worked out (October 2005) while fixing the normative milling charges for raw and parboiled rice by Government of India.

data available in the Information Collection Center (ICC) will be tallied while determining assessment.

Audit scrutiny of the records of five AETCs revealed that in six cases the DOs levied short tax of ₹ 49.41 lakh in contravention of various provisions of the Act as per details given in **Table 2.2** below.

**Table 2.2: Short levy of output tax**

Sl. No.	Name of unit	Period/ Date of Assessment	Short levy of tax (₹ in lakh)	Nature of Irregularities
1	Jalandhar-II	2009-10 15.05.2014	5.61	Seven bill numbers containing goods worth ₹ 1.42 crore were entered twice in ICC data on different dates. These goods were shown to have been transported on different vehicles. However, these bills were neither included in gross sale nor anything contrary was mentioned at the time of assessment.
2	Amritsar-II	2012-13 19.09.2014	14.92	Differences in inter-state purchases of ₹ 5.92 crore between those shown in assessment orders and ICC data was neither verified/reconciled nor anything contrary was mentioned at the time of assessment.
3	Jalandhar-I	2010-11 08.05.2014	6.24	
4		2011-12 29.12.2014	9.66	
5	Kapurthala	2012-13 20.03.2015	3.13	
		2013-14 20.03.2015	3.03	
6	Ludhiana-III	2011-12 26.06.2014	6.82	Taxable sale was taken less in the assessment order by ₹ 73.68 lakh than that mentioned in certified trading account. Further, reversal of ₹ 2.77 lakh of entry tax was not made on account of tax free manufacturing.
<b>Total</b>			<b>49.41</b>	

The matter was reported to the Government (between April and July 2016); its reply was awaited (October 2016).

## 2.12 Short levy of Central Sales Tax

*Incorrect rate of tax was levied on inter-state sale and branch transfer without 'C' and 'F' forms which resulted in short levy of tax of ₹20.16 lakh.*

Section 8(2) of the Central Sales Tax (CST) Act, 1956 provided that in case of sale of declared goods not supported by declaration in Form 'C', tax shall be calculated (before 1 April 2007) at twice the rate applicable to such goods in the State and in case of goods other than declared goods, ten *per cent* or the rate applicable in the State whichever is higher. The declared goods were taxable at the rate of four *per cent* in the State of Punjab during that period.

Further, Section 6A read with Rule 12(5) of the CST (R&T) Rules 1957 provides that if a dealer fails to furnish Form 'F,' then movement of goods by

him to any other place of his business shall be deemed for all purposes to have been occasioned as result of sale.

Audit scrutiny of the records of AETC Mansa revealed that a dealer, during 2006-07, made inter-state sale of ₹ 53.94 lakh of declared goods (cotton seed) and branch transfer of ₹ 3.00 crore of goods other than declared goods (khal sarson) but did not produce 'C' and 'F' forms at the time of assessment made on 30 October 2014. Thus, tax of ₹ 4.32 lakh (twice the rate of four *per cent*) on inter-state sale and ₹ 30 lakh (at the rate of ten *per cent* of ₹ 3.00 crore) on branch transfer was payable by the dealer whereas the DO levied tax of ₹ 2.16 lakh and ₹ 12.00 lakh at the rate of four *per cent* on inter-state sale and branch transfer respectively. This resulted in short levy of tax of ₹ 20.16 lakh.

The matter was reported to the Government in July 2016; its reply was awaited (October 2016).

### 2.13 Short levy of interest

***Application of incorrect provision relating to levy of interest in assessment orders resulted in short levy of interest of ₹9.49 crore.***

Section 32(3) of the Punjab Value Added Tax Act, 2005 (Act) provides that if a person fails to declare the amount of tax in a return, which should have been declared, such a person shall be liable to pay simple interest at the rate of one and half *per cent* per month on such amount of tax from the due date of payment till the date he actually pays such amount of tax.

Audit scrutiny (between October 2015 and February 2016) of the records of three<sup>11</sup> AETCs revealed that seven dealers in 23 cases during the period 2006-07 to 2011-12 failed to declare the amount of due tax, which should have been declared in their annual returns. While assessing the cases, the DOs raised additional tax demands but levied interest amounting to ₹ 4.98 crore at the rate of 0.5 *per cent* per month under section 32(1) of the Act instead of interest of ₹ 14.47 crore, at the applicable rate of interest of 1.5 *per cent* per month under section 32(3) of the Act. This resulted in short levy of interest of ₹ 9.49 crore.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

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<sup>11</sup> Nawanshahar, Ropar and Tarn Taran.

**Chapter-III**  
**State Excise**

## CHAPTER-III State Excise

### 3.1 Tax administration

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

### 3.2 Results of audit

Test check of the records of 49 units relating to State Excise receipts during 2015-16 revealed irregularities involving ₹ 31.34 crore in 533 cases as detailed in **Table 3.1** below.

**Table 3.1: Results of audit**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1.	Non/Short levy of License fee	456	17.37
2.	Irregular retention of Import fee & Export fee out of Government account	13	9.39
3.	Other irregularities	64	4.58
	<b>Total</b>	<b>533</b>	<b>31.34</b>

In 2015-16, the Department accepted audit observations in 22 cases and recovered an amount of ₹ 8.05 lakh out of which two cases of ₹ 3.04 lakh were pointed out in 2015-16 and rest in earlier years.

An illustrative case involving ₹ 90 lakh is discussed in the succeeding paragraph.

### 3.3 Short realisation of license fee

*Contravention to Government notification relating to fixation of rates of license fee for liquor vends resulted in short realisation of license fee of ₹90 lakh.*

Rule 38 (1-A) of the Punjab Liquor License Rules, 1956, provides that a license in form L-1A may be granted for wholesale vend of Indian Made Foreign Liquor, Imported Foreign Liquor including BIO<sup>1</sup> brands, beer, wine and ready to drink beverages. Further, Rule 25(1) provides for annual fixed license fee for grant and renewal of licenses. Punjab Government vide

<sup>1</sup> Bottled In Origin.

notification (21 March 2014) notified different rates<sup>2</sup> of annual license fee in respect of issuing L-1A license.

Audit scrutiny of the records of the Assistant Excise and Taxation Commissioner (AETC), Jalandhar-II revealed that a licensee sold 11.17 lakh cases of beer and 148 cases of imported foreign liquor during the period of 2014-15. License fee of ₹ 12 lakh was realised for this period against ₹ 1.02 crore recoverable from the licensee resulting in short realisation of license fee of ₹ 90 lakh.

The Department stated (February 2016) that keeping in view the spirit of Excise Policy, sale of beer was not considered for calculating sale to arrive at the applicable slab of annual license fee. The reply was not tenable as sale of beer was not to be excluded while considering the sale in the light of Rule 38 (1A) *ibid*.

The matter was reported to the Government in February 2016; its reply was awaited (October 2016).

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L-1A license	Rate of license fee during 2014-15 (₹ in lakh)	Imported foreign liquor including BIO brand	Rate of license fee during 2014-15 (₹ in lakh)
If sale is upto 50,000 cases	12.00	Sale upto 1,000 cases	2.00
If sale is from 50,001 to 75,000 cases	18.00		
If sale is from 75,001 to 1,00,000 cases	25.00	1,001 to 50,000 cases	5.00
If sale is from 1,00,001 cases and above	100.00		

**Chapter-IV**  
**Stamp Duty**

## CHAPTER-IV Stamp Duty

### 4.1 Tax administration

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

### 4.2 Results of audit

Test check of the records of 135 units relating to stamp duty and registration fee during 2015-16 revealed irregularities involving ₹ 110.36 crore in 4,283 cases which have been categorized as in **Table 4.1** below.

**Table 4.1: Results of audit**

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Non/short levy of stamp duty and registration fee due to misclassification/undervaluation of instruments	671	17.42
2.	Irregular exemption/remission of stamp duty and registration fee	148	11.39
3.	Non levy of social infrastructure cess (SIC)/additional stamp duty (ASD)	2,969	5.21
4.	Other irregularities	494	4.29
5.	<i>Performance Audit (PA) titled "Levy and Collection of Stamp Duty and Registration Fee"</i>	1	72.05
	<b>Total</b>	<b>4,283</b>	<b>110.36</b>

In 2015-16, the Department accepted and recovered an amount of ₹ 9.22 crore in 6,031 cases out of which ₹ 0.50 lakh involved in 69 cases were pointed out in 2015-16 and rest in the earlier years.

### 4.3 Performance Audit on “Levy and Collection of Stamp Duty and Registration Fee”

A performance audit of the Levy and Collection of Stamp Duty and Registration Fee for the period 2010-15 brought out both systemic and implementational deficiencies that led to loss and leakage of revenues. Some of the significant findings are as follows.

- **The Department had to forgo revenue of ₹11.92 crore as it did not evolve a mechanism to ensure that instruments lying in custody of Government offices and banks had been charged with applicable stamp duty and registration fee.**

(Paragraph 4.3.7)

- **There was loss of revenue of ₹ 1.83 crore on account of non levy of additional stamp duty for Social Security Fund due to non-specifying of the villages falling within 5 km from the outer limit of Municipal Corporation. In addition, delay in circulation of notifications resulted in non-levy of Registration Fee and Social Infrastructure Cess of ₹ 13.76 crore.**

[Paragraph 4.3.9(a, b)]

- **Non-registration of instruments relating to mutation of properties resulted in revenue loss of ₹ 19.79 crore on account of Stamp Duty and Registration Fee.**

(Paragraph 4.3.10)

- **Irregular remission of stamp duty, additional stamp duty, social infrastructure cess and registration fee on deeds involving mega projects, land acquisition and charitable institutions resulted in loss of ₹ 6.99 crore.**

(Paragraph 4.3.11)

- **Misclassification and undervaluation of properties resulted in short levy of stamp duty and registration fee of ₹ 17.16 crore.**

(Paragraphs 4.3.12)

#### 4.3.1 Introduction

Stamp Duty (SD) and Registration Fee (RF) are major sources of revenue of the State. During 2010-11 to 2014-15, its contribution to State's tax receipts ranged between nine to 16 *per cent*. The levy and collection of SD on various types of instruments such as conveyance, mortgage, exchange, lease, etc. is governed by the Indian Stamp Act, 1899 (IS Act) and the rules framed thereunder. The levy and collection of RF on the instruments presented for registration is governed by the Registration Act, 1908 (IR Act).

### 4.3.2 Organizational set up

The Principal Secretary to the Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management is the administrative head at the Government level who has also been vested with the power of the Financial Commissioner. The Inspector General of Registration (IGR) is the Head of the Department who is empowered with the task of superintendence and administration of registration work and assisted by Deputy Commissioners who act as Registrars. Registrars are further assisted by Sub-Registrars at Tehsil level and Joint Sub-Registrars at Sub-Tehsil level.

### 4.3.3 Audit Objectives

A performance audit of the levy and collection of stamp duty and registration fees was conducted to assess whether:

- the provisions of the IS Act 1899, IR Act 1908, Rules made thereunder, notifications of the Government of Punjab and departmental instructions and circulars were being implemented effectively to ensure correct levy and collection of SD and RF;
- remissions were allowed as per the provisions of the Act/Rules; and
- internal controls were adequate and effective.

### 4.3.4 Scope and Methodology of Audit

The performance audit was conducted between April 2015 and May 2016 covering the period from 2010-11 to 2014-15. The process consisted of examination of records of 52<sup>1</sup> out of 169 SRs/JSRs selected on the basis of probability proportional to size (PPS) method on the basis of revenue collection. This PA also contains cases which came to notice during compliance audit of selected SRs/JSRs for the period 2010-11 to 2014-15 and cases which came to notice during compliance audit of other than selected SRs/JSRs during 2015-16. An entry conference was held on 19 October 2015 wherein the objectives, scope, methodology and criteria of audit were discussed. The exit conference was held on 27 July 2016 and the replies furnished by the Department have been appropriately incorporated in the report.

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<sup>1</sup> Adampur, Ajnala, Amritsar-I, Amritsar-II, Baba Bakala, Balachaur, Banga, Banur, Barnala, Bathinda, Bhogpur, Bholath, Derabassi, Fatehgarh Sahib, Fatehgarh Churian, Goraya, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Koomkalan, Lopoke, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Majitha, Majri, Mansa, Moga, Mohali, Mullanpur Dakha, Nabha, Nakodar, Nawanshahar, Noormahal, Pathankot, Patiala, Payal, Phagwara, Phillaur, Qadian, Raikot, Rupnagar, Sahnewal, Samrala, Sidwanbet, Sultanpur Lodhi.

#### 4.3.5 Audit Criteria

The audit criteria were derived from the following sources:

- The Indian Stamp Act, 1899, the Registration Act, 1908 and Rules made thereunder;
- The Transfer of Property Act 1882;
- The Punjab Stamp (Dealing of Undervalued Instruments) Rules, 1983;
- The Punjab Registration Manual; and
- The notifications of the Government of Punjab and departmental instructions and circulars on levy and collection of SD and RF.

#### 4.3.6 Trend of receipts

Actual receipts *vis-à-vis* budget estimates for receipt of SD and RF and its contribution to the total receipts of Punjab during the period 2010-11 to 2015-16 is as detailed in **Table 4.2** below.

**Table 4.2: Revenue realised vis-à-vis Budget Estimates**

(₹ in crore)

Year	Budget estimate	Actual Receipt	Variation excess (+)/ Shortfall (-)	Percentage of Variation	Total tax receipt of State	Percentage of actual receipt of SD and RF to total tax Receipt of the State
2010-11	2,395.00	2,318.46	(-)76.54	(-) 3.20	16,828.18	13.78
2011-12	2,900.00	3,079.13	(+)179.13	(+) 6.18	18,841.01	16.34
2012-13	3,375.00	2,920.49	(-)454.51	(-) 13.47	22,587.56	12.93
2013-14	3,450.00	2,499.50	(-)950.50	(-) 27.55	24,079.19	10.38
2014-15	2,760.00	2,474.55	(-)285.45	(-) 10.34	25,570.20	9.68
2015-16	2,700.00	2,448.98	(-)251.02	(-)9.30	26,690.49	9.18

Source: Annual Financial Statements and Finance Accounts of the Government of Punjab.

As brought out above, the actual receipts remained less than the budget estimates except in the year 2011-12. The shortfall in actual receipts ranged between three to 27 per cent of budget estimates. The percentage of actual receipt of SD and RF to total receipt of the State came down from 16 per cent in 2011-12 to nine per cent in 2015-16. The Department attributed this shortfall to overall slowdown in the property market besides remissions allowed on various instruments from time to time but did not explain as to why these factors could not be kept in view while preparing budget estimates.

**Audit Findings****System Deficiencies****4.3.7 Absence of mechanism to secure due stamp duty and registration fee on instruments lying in custody of other Government offices and banks**

Section 73 of IS Act provides that every public officer having in his custody any records, documents and proceedings, the inspection whereof may tend to secure any duty or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall permit any person authorised by the Collector to inspect for such purpose the records, documents and proceedings.

Audit scrutiny revealed that no system had been evolved by the Department for periodical collection of information/reports from various offices/banks to ensure that instruments lying in their custody were charged with due SD and RF and were duly registered, if required. In order to ascertain whether due stamp duties were secured by various Government offices/Banks while executing instruments, audit obtained information from PWD/Fishery/Mining Department and banks pertaining to instruments lying in their custody and value of stamps affixed thereon which revealed short/non-payment of SD and RF of ₹ 11.92 crore as tabulated in **Table 4.3** below.

**Table 4.3: Non-levy of SD and RF on instruments executed by other departments/banks**

Sl.No.	Provision involved	Nature of deficiency/deviation	Revenue Impact	
			SD (₹ in lakh)	RF (₹ in lakh)
1.	Section 2(16) of IS Act provides that 'lease' means a lease of immovable property and includes any instrument by which tolls of any description are let. Lease agreements attracts levy of SD as per Section 35 of the Act. Moreover, Section 29(c) of the Act provides that SD will be payable by the lessee.  Section 17 of the IR Act provides that agreement of lease of immovable property for any term exceeding one year is compulsorily registrable.	(i) During 2010-11 to 2013-14, three agreements were executed by the Government of Punjab with private parties for construction of toll ways under Design, Build, Finance, Operate and Transfer (DBFOT). In lieu of cost of construction of ₹ 356.15 crore, the parties were given sole and exclusive right to collect and appropriate toll fees from the users of the toll way for periods ranging between 15 and 16½ years.  Thus, the agreements constituted instrument of lease on which SD of ₹ 10.68 crore (three per cent) was payable by the lessee (private parties) and the agreements were also required to be registered on which RF of ₹ 4.30 lakh was payable. However, these agreements were executed without levying SD and were also not presented for registration as instruments of lease.	1,068.00	4.30
2		(ii) The Fishery Department executed 51 lease agreements during 2010-11 to 2014-15 for	32.92	0.31

Sl.No.	Provision involved	Nature of deficiency/deviation	Revenue Impact	
			SD (₹ in lakh)	RF (₹ in lakh)
		₹ 8.23 crore to lease out fishing rights to private parties. Out of these, 44 lease agreements for ₹ 7.92 crore were executed for one year period and the remaining seven for five years. However, the department did not levy SD of ₹ 32.92 lakh (four <i>per cent</i> ) on the consideration amount/average annual rent and also did not present the seven agreements for registration which were for five years periods, which deprived the Government of RF of ₹ 0.31 lakh.		
3		(iii) The General Managers-cum-Mining Officers (GM) of SAS Nagar (Mohali) and Pathankot executed 18 lease agreements for a total consideration of ₹ 20.81 crore to lease out mining rights for exploitation of minerals. Out of this, the periods of two lease deeds with consideration of ₹ 18.30 crore were less than one year and those of the remaining 16 deeds with consideration of ₹ 2.51 crore were more than one year. SD of ₹ 54.90 lakh instead of ₹ 73.20 lakh was levied on two agreements. Moreover, in the 16 lease agreements executed for more than one year period, SD was charged correctly but the same were not presented for registration even when these were compulsorily registrable which resulted in non-realisation of RF of ₹ 2.36 lakh.	18.30	2.36
4	Entry 6 (2) of Schedule I-A of IS Act provides for levy of SD at the rates (₹ 25 <i>per</i> ten thousand) mentioned therein on any instrument evidencing an agreement relating to the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt.	28,890 instruments were executed during 2013-14 to 2014-15 by various branches of two banks situated in Punjab for grant of loan of ₹ 380.37 crore against pledge of gold. However, stamp papers of ₹ 28.89 lakh instead of required ₹ 95.09 lakh were charged in those instruments which resulted in short realisation of SD of ₹ 66.20 lakh.	66.20	-
<b>Total</b>			<b>1,185.42</b>	<b>6.97</b>

**4.3.8 Non-compliance of mechanism for ascertaining the genuineness of stamp papers valued at ₹ 1.96 crore**

Rule 35 of the Punjab Stamp Rules, 1935, provides for periodical inspection by the Tehsildar/Naib Tehsildar and Stamp Auditor of the records of the stamp vendors and cross verification of the their records with the stamp issuing officer (Treasury Officer). Further, Government of Punjab instructed (August 2002) the District Collectors to satisfy themselves that the quantum of stamps purchased by the concerned stamp vendor matches the number of stamps issued by them. The State Government further instructed (September 2004) all SRs/JSRs in the State to record serial numbers of stamp papers in copies of deeds retained by them for record to verify genuineness of stamp paper and issuing vendor.

(a) Audit scrutiny of the records of JSR Shri Hargobindpur (Gurdaspur) for the period 2013-15 revealed that six instruments were registered by affixing stamp papers of ₹ 8.21 lakh purchased from Treasury Office (TO) Batala. However, denomination wise details of stamp paper were not mentioned on these deeds; only serial numbers of stamp paper sale register of the TO were mentioned. Cross verification with TO revealed that stamp papers of only ₹ 5.81 lakh were sold against those serial numbers. Thus, the remaining stamp papers that were used in these instruments were suspected to be false which resulted in loss of revenue of ₹ 2.40 lakh (₹ 8.21 lakh - ₹ 5.81 lakh) to the Government.

On being pointed out, the JSR intimated (May 2016) that full recovery of ₹ 2.40 lakh was made and matter had been referred to higher authorities for legal action against the person responsible for using false stamp papers. Non-observance of provisions/instructions facilitated the use of false stamp papers.

(b) Audit further noticed that 12 instruments were registered by affixing stamp papers of ₹ 2.50 lakh. In all these instruments, the stamp papers were shown to have been purchased from a particular stamp vendor. When record of that stamp vendor was called for cross verification, the stamp vendor intimated that he did not have any record for the period 2013-15 as he did not work during this period. Thus, the veracity of the stamp papers used in these instruments was doubtful.

The JSR replied (May and July 2016) that recovery of ₹ 0.29 lakh had been made. Further, the stamp vendor had purchased stamp papers of ₹ 1.15 lakh during the period 2013-15 and stamp papers had actually been sold by him but he had lost his stamp register and lodged Daily Diary Register with the Police. Thus, no recovery was required to be made in this regard. However, the difference of ₹ 1.06 lakh remain unexplained. Moreover, serial numbers of

stamp papers were not recorded in copies of the deeds retained in the office. Hence, genuineness of stamp papers of ₹ 1.06 lakh could not be verified.

(c) Audit scrutiny of the records of five SRs<sup>2</sup> revealed that SD of ₹ 1.93 crore was realised in respect of 862 instruments registered during 2010-11 to 2014-15 by means of stamp papers but serial numbers of stamp papers were not recorded on copies of the deeds retained for record. Even the names of stamp vendors were not mentioned on the deeds. In the absence of these details, possibility of use of false stamp papers could not be ruled out.

The matter was reported to the Government/Department (July 2016); their replies were awaited (October 2016).

#### **4.3.9 Delay in implementation of notification**

##### **(a) *Non-specifying of the villages for the purpose of levying additional stamp duty for Social Security Fund***

As per Section 3(C) of IS Act, additional stamp duty at the rate of three *per cent* was leviable for social security fund on every instrument mentioned in Entry 23 of Schedule I-A, if such an instrument was for transfer of properties situated within the jurisdiction of a Municipality/Corporation or within the area of five kilometers from the outer limit of Municipality/Corporation as may be specified by the Collector.

During the period 2010-11 to 2014-15, the Department of Local Government, Punjab, upgraded four<sup>3</sup> municipalities to Corporations and also extended their boundaries. Consequent upon this up-gradation, the concerned Collectors were required to specify villages for the purpose of levy of additional stamp duty as per instructions issued by the Punjab Government (April 2005). However, the Collectors did not do so even after the lapse of periods ranging between five and 29 months (up to 31 March 2015) due to which four<sup>4</sup>SRs could not charge additional stamp duty of ₹ 1.83 crore in 224 cases.

##### **(b) *Delay in circulation of the notifications***

The Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management (Department) enhanced the ceiling of RF from ₹ 30,000 to ₹ 2 lakh from 23 October 2012 onwards. Further, the Government of Punjab imposed Social Infrastructure Cess (SIC) on 06 February 2013 by inserting Section 3-D in the IS Act in its application to the State of Punjab.

Audit scrutiny revealed that the Department circulated the notifications *ibid* to the Divisional Commissioners, Deputy Commissioners and Inspector General of Registration on 10 November 2012 and 04 April 2013 respectively viz. after a delay ranging between 18 and 57 days respectively. As a result of this,

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<sup>2</sup> Amritsar-I, Barnala, Ludhiana (Central), Ludhiana (East) and Ludhiana (West).

<sup>3</sup> Phagwara (Jalandhar) in October 2012, Moga in November 2013, SAS Nagar (Mohali) in January 2014 and Pathankot in October 2014.

<sup>4</sup> Moga, Mohali, Pathankot and Phagwara.

46 SRs/JSRs<sup>5</sup> kept on registering the instruments by levying pre-revised rates of RF and without levying SIC which resulted in short-realization of RF and SIC of ₹ 13.76 crore<sup>6</sup> in 12,765 cases. Out of this, ₹ 0.89 crore<sup>7</sup> have since been recovered.

The Department stated that the circulation of notifications could not be made in time due to procedural delay. It added that recovery in cases pointed out by audit would be expedited.

#### **4.3.10 Non-registration of instruments of mutation of properties in rural areas**

Section 118 of the Transfer of Property (ToP) Act provides that when two persons mutually transfer the ownership of one thing for the ownership of another, the transaction is called an "exchange". Further, Section 17(1) of IR Act provides list of documents which are compulsorily registrable and includes instruments which purports or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest of the value of one hundred rupees and upwards to or in immovable property.

Audit scrutiny (between April 2015 and May 2016) of the records of 23<sup>8</sup> Tehsildars/Naib-Tehsildars pertaining to the period 2010-11 to 2014-15 revealed that mutations in 8,889 cases were made on the basis of unregistered exchange in respect of properties falling in rural areas. Since, exchange created right or title in immovable properties, these mutations of properties should have been registered in terms of Section 17(1) of the Act cited above alongwith payment of applicable stamp duty and registration fee. Non-registration of these instruments resulted in loss of revenue of ₹ 19.79 crore on account of stamp duty and registration fee.

### **Compliance Deficiencies**

#### **4.3.11 Irregular remission of stamp duty, additional stamp duty and registration fee**

As per Entry 23 of Schedule I-A of IS Act, conveyance for sale of immovable property is chargeable to duty at the rates prescribed therein. Further, Section 9 of IS Act empowers the Government to reduce or remit SD in respect of any instrument.

<sup>5</sup> Ajnala, Amritsar-I, Amritsar-II, Baba Bakala, Balachaur, Banga, Banur, Barnala, Bathinda, Bhogpur, Bholath, Derabassi, Fatehgarh Sahib, Goraya, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Koomkalan, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Majitha, Majri, Mansa, Moga, Mohali, Mullanpur Dakha, Nabha, Nakodar, Nawanshahar, Pathankot, Patiala, Phagwara, Phillaur, Qadian, Rupnagar, Sahnewal, Samrala, Sidhwanbet and Sultasput Lodhi.

<sup>6</sup> SIC: ₹12.50 crore in 12391 deeds, RF: ₹1.26 crore in 374 deeds.

<sup>7</sup> SIC: ₹0.74 crore and RF: ₹0.15 crore.

<sup>8</sup> Banga, Bhogpur, Bholath, Fatehgarh Churian, Goraya, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Ludhiana(West), Majri, Moga, Mohali, Nabha, Nakodar, Noormahal, Pathankot, Patiala, Phagwara, Raikot, Samrala, Sidhwanbet and Sultanpur Lodhi.

Audit scrutiny (between April 2011 and February 2016) revealed that irregular remission of stamp duty and registration fee of ₹ 5.29 crore was allowed on deeds involving mega projects, land acquisition and charitable institutions. Moreover, additional stamp duty (ASD) and SIC of ₹ 1.70 crore were also inadmissibly remitted as detailed in **Table 4.4** below.

**Table 4.4: Irregular remission of SD, ASD, SIC and RF**

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD,ASD and SIC (₹ in lakh)	RF (₹ in lakh)
1.	The Government of Punjab remitted (June 2010) SD on the instruments specified in Schedule I-A of IS Act, when executed by or in favour of any person, purchasing land for setting up a Mega Project. These projects were also exempt from payment of RF. The remission was subject to approval of the Mega Project by Empowered Committee (EC) constituted by the State Government. Further, the Government of Punjab had clarified (May 2005) that ASD and SIC was not exempt even in the cases where SD had been remitted.	In JSR Majri, eight instruments were registered during 2014-15 for transfer of land in six villages <sup>9</sup> without charging SD of ₹ 57.74 lakh and RF of ₹ 9.33 lakh whereas these villages were not part of the said Mega Project as per minutes of meeting of EC held in June 2009 and information provided by Punjab Urban Development Authority.	57.74	9.33
2.		In six SRs/JSRs <sup>10</sup> , SD and RF were not levied on 32 conveyance deeds on grounds of them being part of a Mega Project without necessary documents like the approval of EC to support that these conveyance deeds were indeed part of the Mega Project. This resulted in irregular remission of SD of ₹ 3.10 crore and RF of ₹ 28.39 lakh. Moreover, ASD and SIC of ₹ 1.43 crore were also remitted whereas no such remission was admissible.	453.89	28.39
3.		In JSR Majri, SD and RF was irregularly exempted on 22 instruments for exchange of land between developers and various land owners although such remission was applicable only in case of purchase of land.	14.97	21.20
4.	The Government of Punjab (June 2008) remitted SD and RF on the instruments of conveyance executed for the purchase of land in the State of Punjab by an owner whose land had been acquired for public purpose. The remission was limited to the amount which the owner of the land had received as compensation for the acquisition of his land. Further, the Government of Punjab had clarified (May 2005) that ASD and SIC was not	In JSR Majri, it was noticed from Land Acquisition Certificate that a person who had received compensation of ₹ 20.91 lakh on account of acquisition of land by Government, purchased land for ₹ 33.06 lakh during 2014-15 through two sale deeds. The JSR allowed remission of SD and RF on the entire amount of ₹ 33.06 lakh. This resulted in non-levy of SD and RF of ₹ 0.73 lakh (six per cent of ₹ 12.15 lakh). Further, in nine SRs/JSRs <sup>11</sup> , SD and RF were not levied on 35 instruments, executed in favour of the owners whose land had been acquired for public purposes, without obtaining the Land Acquisition Certificates which will give the details of amount of compensation received. Thus, there was nothing	59.41	7.58

<sup>9</sup> Basenpur, Chahar Majra, Ghandauli, Paintpur, Saini Majra and Salamatpur.

<sup>10</sup> Banur, Bathinda, Ludhiana (East), Ludhiana (West), Majri and Mohali.

<sup>11</sup> Ajnala, Amritsar-I, Banga, Ludhiana (Central), Machhiwara, Majri, Mansa, Mohali and Nabha.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD, ASD and SIC (₹ in lakh)	RF (₹ in lakh)
	exempt even in the cases where SD had been remitted.	on record to show as to how the SRs/JSRs assured themselves about fulfillment of the conditions regarding limitation of remission to the amount of compensation. This resulted in irregular remission of SD and RF of ₹ 50.16 lakh. Moreover, ASD and SIC of ₹ 16.10 lakh were also remitted in eight out of 35 instruments pertaining to five <sup>12</sup> SRs which resulted in inadmissible remission of ASD and SIC of ₹ 16.10 lakh.		
5.	The Government of Punjab remitted (February 1981) SD and RF chargeable on instruments of conveyance by sale or gift in favour of charitable institutions for charitable purposes. In order to rule out the mis-utilisation of this remission by the charitable institutions, the Government issued instructions (May 2010) that such remission was to be confirmed by the Deputy Commissioner (DC) as to whether the institution to whom the immovable property was being transferred was a Charitable Institution within the meaning of the Charitable Endowment Act, 1890.	In seven SRs/JSRs <sup>13</sup> , eight instruments of transfer of immovable property were registered during 2010-11 to 2014-15 with consideration of ₹ 6.80 crore without levying SD and RF of ₹ 36.31 lakh, treating the transfer for charitable purposes. However, certification by DC that the institution was a Charitable Institution within the meaning of the Charitable Endowment Act, 1890 was not obtained. Moreover, in six <sup>14</sup> SRs/JSRs, ASD and SIC of ₹ 10.19 lakh were also allowed as remission in seven out of eight cases.	41.91	4.59
<b>Total</b>			<b>627.92</b>	<b>71.09</b>

#### 4.3.12 Short levy of SD and RF due to misclassification /under-valuation of property.

Levy of SD and RF depends on type of instrument and value of the consideration set forth in the instrument or the value of the immovable property calculated at the rates fixed by the Collectors whichever is higher. Audit scrutiny (between May 2011 and March 2016) revealed cases of short levy of SD and RF of ₹ 17.16 crore as detailed in **Table 4.5** below.

<sup>12</sup> Amritsar-I, Banga, Ludhiana (Central), Mansa and Nabha.

<sup>13</sup> Ghanaur, Jalandhar-II, Kapurthala, Khandoor Sahib, Ludhiana (West), Moonak and Phillaur.

<sup>14</sup> Ghanaur, Kapurthala, Khandoor Sahib, Ludhiana (West), Moonak and Phillaur.

**Table 4.5: Short levy of Stamp Duty and Registration Fee**

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
1.	Punjab Government empowered <sup>15</sup> (August 2002) the Collector of a district in consultation with Committee of Experts as defined there under to fix the minimum market rates of land and properties situated in the Urban and Rural areas locality wise and category wise in the District for the purpose of levy of SD and RF on the instruments of transfer of properties.	In 44 SRs/JSRs <sup>16</sup> , 156 instruments of transfer of properties were registered at the value of ₹ 46.41 crore set forth in these instruments by applying the rates of agricultural properties whereas the properties were residential/ commercial as per revenue records i.e. Jamabandi/ khasra girdawari. Accordingly, properties were required to be evaluated to ₹ 144.12 crore by applying the collector's rates for residential/commercial properties. The misclassification of properties resulted in short levy of SD and RF of ₹ 8.36 crore.	764.36	71.78
2.		In 35 SRs/JSRs <sup>17</sup> , 143 instruments of transfer of immovable properties were registered at the value of ₹ 108.22 crore set forth in these instruments whereas the properties were required to be evaluated for ₹ 164.82 crore as per Collector's rates that were applicable at the time of registration of these instruments as the properties were situated in particular locality/ khasra numbers for which separate/higher rates were fixed by the respective Collectors. The undervaluation of properties resulted in short levy of SD and RF of ₹ 4.16 crore.	385.34	30.75
3		Audit scrutiny of three SRs/JSRs <sup>18</sup> revealed that nine sale deeds were registered (June 2014 to March 2015) by applying lower rates of agricultural properties on the basis of type of land described as agricultural in khasra girdawari/jamabandi reports attached with the deeds. However, cross verification of these reports by audit with the original khasra girdawaris/jamabandis maintained by the concerned Patwaris revealed that these properties were residential at the time of registration. The value of these properties as per applicable Collector's rates for residential properties was	97.88	6.28

<sup>15</sup> GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.

<sup>16</sup> Ajnala, Amritsar-I, Amritsar-II, Balachaur, Banga, Barnala, Bathinda, Derabassi, Dhariwal, Fatehgarh Sahib, Gurdaspur, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Longowal, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Machhiwara, Majitha, Majri, Malout, Mansa, Moga, Mohali, MullanpurDakha, Nabha, Nakodar, Noormahal, Pathankot, Patiala, Phagwara, Phillaur, Qadian, Sahnewal, Samrala, Sidhwanbet, Sri Mukatsar Sahib and TalwandiBhai

<sup>17</sup> Ajnala, Amritsar-I, Amritsar-II, Baba Bakala, Banur, Barnala, Bathinda, Derabassi, Hoshiarpur, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Kartarpur, Khanna, Kharar, Ludhiana (Central), Ludhiana (East), Ludhiana (West), Majri, Mansa, Moga, MullanpurDakha, Nabha, Nakodar, Nawanshahar, Pathankot, Patiala, Phagwara, Phillaur, Raikot, Sahnewal, Samrala, Sidhwanbet and SultanpurLodhi

<sup>18</sup> Ludhiana (West), Moga and Nabha.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
		₹ 14.49 crore whereas the same were registered at the value of ₹ 1.30 crore and SD and RF of ₹ 0.36 crore was levied instead of ₹ 1.40 crore. This resulted in short realisation of SD and RF of ₹ 1.04 crore.		
4.	The various District Collectors, while fixing the minimum market rates of land/properties located in their districts, mentioned in rate list that land, measuring up to two kanals and in case purchasers are more than two and share of each purchaser is less than two kanals, will be valued at rates fixed for residential property.	In 10 SRs <sup>19</sup> , 53 instruments of transfer of immovable properties were registered by applying rates fixed for valuation of agricultural land whereas these were required to be registered at the value calculated by applying the rates fixed for residential property as the area/share of land in each case was less than two kanals.	75.76	9.30
5.	Rule 3-A(c) of the Punjab Stamp (Dealing of undervalued instruments) Rules, 1983, as amended in March 2011, provides that in case of valuation of buildings, for the purpose of levying of SD, 10 per cent of the cost of land for ground floor and five per cent for every consecutive floors will be added to the cost of land.	In five SRs/JSRs <sup>20</sup> , 27 instruments of transfer of built-up properties were registered without considering the value of the building which was to be added to the value of land resulting in short levy of SD and RF of ₹ 58.05 lakh.	55.27	2.78
6.	Entry 45 of Schedule I-A of IS Act prescribes rates of SD to be charged on instrument of partition. Similarly, Entry 58 prescribes rates of SD on instrument of settlement. The rate of SD on instrument of partition as well as settlement was revised from two per cent to four per cent (03 August 2009).	In three SRs <sup>21</sup> , two settlement and three partition deeds comprising properties worth ₹ 7.42 crore were registered during 2014-15. SD of ₹ 29.68 lakh was leviable on these instruments whereas SD of ₹ 7.74 lakh was levied. This resulted in short realisation of SD and RF amounting to ₹ 21.94 lakh.	21.94	--
7.	Entry 35 of Schedule I-A of IS Act prescribes the rates of SD on lease deeds. The rate depends upon the average annual rent	In six SRs/JSRs <sup>22</sup> , 120 lease deeds were registered during 2011-12 to 2014-15 for periods ranging between 1 and 20 years on which SD of ₹ 1.12 crore was leviable	49.19	0.09

<sup>19</sup> Barnala, Derabassi, Jagraon, Kapurthala, Khanna, Ludhiana (Central), Ludhiana (West), Moga, Nawanshahar and Raikot.

<sup>20</sup> Jalandhar-I, Ludhiana (East), Ludhiana (West), Nawanshahar and Sahnewal.

<sup>21</sup> Amritsar-I, Amritsar-II and Barnala.

<sup>22</sup> Banur, Fatehgarh Sahib, Ludhiana (Central), Ludhiana (West), Majri, and Mohali.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
	reserved, money advanced and period of lease.	whereas SD of ₹ 0.63 crore was levied.		
8.	Entry 40 (b) of Schedule I-A of IS Act provides that instrument of mortgage in respect of a specified property for securing loan, when possession is neither given nor agreed to be given, was chargeable to SD at the rate of two <i>per cent</i> up to 2 August 2009 and thereafter at the rate of four <i>per cent</i> of the amount secured.	In 20 SRs/JSRs <sup>23</sup> , 200 instruments of mortgage were executed during 2010-11 to 2014-15 for securing loan of ₹ 16.92 crore from the commercial/banking institutions. SD of ₹ 33.95 lakh (at the rate of two <i>per cent</i> ) was levied as against SD of ₹ 67.83 lakh (at the rate of four <i>per cent</i> ) which was leviable on these instruments. This resulted in short levy of SD of ₹ 33.88 lakh.	33.88	--
9.	The Government of Punjab amended (July 2013) Entry 48 (f) of Schedule I-A of IS Act to levy SD on a Power of Attorney (POA) executed to give right to a person, other than family members, to sell immovable properties. The amendment provided levy of SD at the rate of two <i>per cent</i> of the amount of the consideration, or of Collector rate whichever was higher.	In 15 SRs/JSRs <sup>24</sup> , 27 POAs, giving rights to persons other than family members to sell immovable property were registered during 2013-14 to 2014-15. Out of these, 18 POAs were registered without levying SD at the rate of two <i>per cent</i> . In the remaining nine POAs, SD was levied at the rate of two <i>per cent</i> but was levied by applying lower rates of agricultural property whereas the properties were residential or deemed as residential as per conditions stipulated in rate list issued by the Collector of that district.	18.70	--
10.	As per Entry 5 (CC) of the Schedule I-A of IS Act, SD is chargeable in case of agreement to sell followed by or evidencing delivery of possession of the immovable property agreed to be sold, at the same rate as is applicable for conveyance which amounts to sale of immovable property	In six SRs <sup>25</sup> , 10 agreements for sale of land which evidenced receipt of advance payment of ₹ 1.56 crore by owners and delivery of possession of the immovable property were registered during 2010-11 to 2014-15. However, these agreements were registered by levying SD of ₹ 20,000 (at the rate of ₹ 2,000 per agreement) instead of leviable SD of ₹ 7.52 lakh.	7.32	--
11.	Punjab Government amended (February 2013) IS Act by inserting Section 3-D which provided <i>inter alia</i> , that every instrument mentioned in Entry 23 of Schedule I-A chargeable with duty under Section 3 and additional duty under Sections 3	In eight SRs/JSRs <sup>26</sup> , 16 instruments were registered during 2013-14 to 2014-15 without levying SIC of ₹ 26.25 lakh on consideration of ₹ 26.25 crore.	26.25	--

<sup>23</sup> Ajnala, Amritsar-I, Banur, Barnala, Bholath, Derabassi, Goraya, Hoshiarpur, Jalandhar-I, Kapurthala, Kharar, Lopoke, Majitha, Majri, Mansa, Nakodar, Phillaur, Sahnewal, Samrala and SultanpurLodhi.

<sup>24</sup> Bholath, Derabassi, Fatehgarh Sahib, Goraya, Hoshiarpur, Jalandhar-I, Kapurthala, Kharar, Mullanpur Dakha, Nakodar, Nawanshahar, Pathankot, Patiala, Raikot and Sahnewal.

<sup>25</sup> Amritsar-I, Banga, Bathinda, Jagraon, Ludhiana (East) and Moga.

<sup>26</sup> Banur, Bassi Pathana, Derabassi, Jalandhar-I, Ludhiana (East), Ludhiana (West), Mullanpur Dakha and Samrala.

Sl. No.	Provision	Nature of deficiency/deviation	Short levy	
			SD (₹ in lakh)	RF (₹ in lakh)
	(B, C), shall, in addition to such duty, be also chargeable with such Cess (SIC) at the rate of one <i>per cent</i> , as is specified in Schedule IC.			
12	The Government of Punjab levied (February 2005), Social Security Fund (SSF) at the rate of three <i>per cent</i> on every instrument mentioned in entry 23 of Schedule 1-A, if such an instrument was for transfer of properties situated within the jurisdiction of a Municipality/ Corporation or within the area of five kilometers from the outer limit of Municipality/ Corporation, as may be specified by the Collector.	In 10 SRs/JSRs <sup>27</sup> , 62 instruments of transfer of immovable property with consideration of ₹ 19.73 crore were registered during 2010-11 to 2014-15 without levying ASD of ₹ 58.99 lakh even when the properties were either situated within Municipality/Corporation or within five kilometers of the outer limit of Municipality/Corporation.	58.99	--
<b>Total</b>			<b>1,594.88</b>	<b>120.98</b>

#### 4.3.13 Registration of Power of Attorney without description of property

The Government of Punjab amended (July 2013) Entry 48 (f) of Schedule I-A of IS Act to levy SD on a Power of Attorney (POA) executed to give right to a person, other than family members, to sell immovable properties. The amendment provided levy of SD at the rate of two *per cent* of the amount of the consideration, or of Collector rate whichever was higher. Further, Section 21 of IR Act provides that no non-testamentary documents relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

In seven SRs/JSRs<sup>28</sup>, 14 POAs, giving rights to persons other than family members to sell the immovable property were registered during 2013-14 to 2014-15. However, the POAs did not contain such description of property sufficient to identify the same. By registering such POAs, SRs/JSRs violated the above provision and facilitated evasion of SD which could have been realised if description of the properties had been mentioned in the instruments.

<sup>27</sup> Bhawanigarh, Bholath, Derabassi, Fatehgarh Sahib, Goraya, Nabha, Nawanshahar, Phillaur, Rupnagar and Sahnewal.

<sup>28</sup> Adampur, Bholath, Nakodar, Pathankot, Phagwara, Phillaur and Raikot.

#### **4.3.14 Non-recording of khasra numbers of prime locations in rate list**

Punjab Government empowered<sup>29</sup> (August 2002) District Collectors to fix, in consultation with a committee of experts as defined therein, the minimum market rates of land and properties situated in the urban and rural areas locality wise and category wise for the purpose of levy of SD and RF on the instruments of transfer of properties. Separate rates were fixed for land depending upon location and type i.e. residential, commercial, land situated on National Highways, State Highways and developed colonies. However, the rate lists did not include khasra numbers of such properties which were situated in prime locations and thus falling in higher rate segments of the rate lists.

Audit scrutiny (July 2016) of records in two<sup>30</sup> SRs revealed that the khasra numbers of land situated in prime locations were not recorded in the rate list for the year 2015-16 whereas the same were recorded in the rate list for the year 2014-15. Absence of khasra numbers in the rate list of the year 2015-16 facilitated undervaluation of property in six cases and resulted in short levy of SD and RF of ₹ 54.23 lakh.

#### **4.3.15 Internal control mechanism**

Internal control mechanism in a Department is meant to ensure that its activities are carried out according to the prescribed rules and regulations in an economical, efficient and effective manner. Further, inspection is an important internal control in the hands of the administration for ascertaining that the rules and procedures prescribed by the Department are followed to safeguard the proper collection of revenue. Audit noticed that the internal control mechanisms needed strengthening as there was non-reconciliation of deposits with treasury records, shortfall in the number of department inspections and non-monitoring the working of SRs/JSRs as evidenced below:

(a) Rule 2.2 (v) of Punjab Financial Rules Volume-I (PFR) provides that by the 15<sup>th</sup> of every month, Drawing and Disbursing Officer (DDO) should obtain from the Treasury a consolidated receipt for all remittances made during the previous month which should be compared with the postings in the cash book. Audit scrutiny (between September 2011 and February 2016) in 37 SRs/JSRs<sup>31</sup> revealed that reconciliation of deposits with treasury office was not made during 2010-11 to 2014-15. Non-reconciliation with treasury might lead to misappropriation/ embezzlement of Government money.

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<sup>29</sup> GSR-30/CA-2/1899/SS-47 and 75/Amd (2)/2002 dated 23 August 2002.

<sup>30</sup> [Ludhiana \(Central\) and Ludhiana \(West\)](#).

<sup>31</sup> Amritsar (HRC), Amritsar-I, Amritsar-II, Baba Bakala, Balachaur, Banur, Barnala, Bathinda (HRC), Bhogpur, Bholath, Derabassi, Hoshiarpur, Jagraon, Jalandhar (HRC), Jalandhar-I, Kapurthala, Kartarpur, Koomkalan, Ludhiana (HRC), Ludhiana (Central), Ludhiana (West), Machhiwara, Majitha, Mansa, Moga (HRC), Moga, Nakodar, Nawanshahar (HRC), Nawanshahar, Pathankot (HRC), Patiala, Payal, Rupnagar (HRC), Sahnewal, Samrala, Sidhwanbet, SultanpurLodhi

(b) Rule 2.2 (ii) of the PFR Volume-I provides that all monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the office in token of check. Audit scrutiny (February 2016) of the records of SR Mansa for the period 2014-15 revealed that receipts amounting to ₹ 2.27 lakh were shown received in the receipt book whereas this amount had not been recorded in the cash book resulting in mis-match by taking less amounts in cash book than had been actually received as per receipt book.

(c) Rule 2.4 of PFR Volume-I provides that receipts collected during the day shall be deposited into the Government account on the same day or the very next day. Audit scrutiny of the records of SR Mansa and three<sup>32</sup> Head Registration Clerks revealed that receipts of ₹ 21.34 lakh pertaining to the period from April 2008 to March 2015 were deposited in the treasuries with delays ranging between three days to over seven months.

(d) Under Para 208 of the Punjab Registration Manual, the Registrar or the Officer deputed by him is required to inspect each SR office at least once a year. The minimum number of inspections required to be conducted and inspections actually conducted there-against during 2010-11 to 2014-15 are shown in **Table 4.6** below.

**Table 4.6: Inspections conducted by IGR and Registrars**

Year	Inspection by IGR				Inspection by Registrar			
	Due	Conducted	Shortfall	Percentage of shortfall	Due	Conducted	Shortfall	Percentage of shortfall
2010-11	155	12	143	92.26	88	16	72	81.82
2011-12	191	8	183	95.81	88	21	67	76.14
2012-13	191	-	191	100.00	88	21	67	76.14
2013-14	191	18	173	90.58	88	32	56	63.64
2014-15	191	18	173	90.58	88	24	64	72.73
<b>Total</b>	<b>919</b>	<b>56</b>	<b>863</b>		<b>440</b>	<b>114</b>	<b>326</b>	

(Source: Information provided by IGR and Registrars)

The minimum number of inspections required to be conducted by IGR and Registrars in five years were 1,359 during the period 2010-11 to 2014-15 against which only 170 inspections were conducted resulting in shortfall of 1,189 units.

(e) In order to prevent frauds of SD, the Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management instructed

<sup>32</sup> Bathinda, Ludhiana and Rupnagar.

(September 2012) all the DCs of the State to randomly test check the instruments registered by the SRs/JSRs under their jurisdiction. Audit scrutiny of the records/information provided by the 37 SRs/JSRs<sup>33</sup> revealed that 4,03,404 sale deeds were registered during 2012-13 to 2014-15 out of which not even a single instrument was randomly test checked by the Registrar in 31 SRs/JSRs<sup>34</sup> as required.

#### **4.3.16 Internal Audit**

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

Audit scrutiny of the information collected from the Deputy Director, Internal Audit (Revenue) revealed that there was shortfall in conducting audit of units planned for audit during the year as detailed in **Table 4.7** below.

**Table 4.7: Position of conducting internal audits**

Year	Number of units due for audit			Units audited during the year	Units remained unaudited	Percentage of unaudited units
	Arrears of previous years	Current year	Total			
2010-11	147	153	300	200	100	33.33
2011-12	100	166	266	136	130	48.87
2012-13	130	172	302	149	153	50.66
2013-14	153	178	331	94	237	71.60
2014-15	237	178	415	196	219	52.77
<b>Total</b>	<b>767</b>	<b>847</b>	<b>1614</b>	<b>775</b>	<b>839</b>	

*(Source: Information provided by Internal Audit Organisation)*

Audit observed that the shortfall in conducting internal audit by the Finance Department ranged between 33.33 and 71.60 *per cent* during the years 2010-11 to 2014-15.

On being pointed out, the Deputy Director stated that shortfall in conducting internal audit was due to shortage of staff.

(a) Audit noticed that 4,875 paragraphs of internal audit involving ₹ 230.92 crore were outstanding as on 31 March 2015 as detailed in **Table 4.8** below.

<sup>33</sup> Adampur, Jargaon, Ajnala, Amritsar-II, Banga, Barnala, Bhogpur, Derabassi, Fatehgarh Churian, Goraya, Hoshiapur, Jalandhar-I, Jalandhar-II, Kapurthala, Khanna, Kharar, Lopoke, Ludhiana (West), Machhiwara, Majitha, Majri, Mansa, Nabha, Nakodar, Nawanshahr, Noormahal, Pathankot, Payal, Phagwara, Phillaur, Qadian, Raikot, Rupnagar, SAS Nagar, Samrala, Sidhwanbet and SultanpurLodhi.

<sup>34</sup> Adampur, Ajnala, Banga, Barnala, Bhogpur, Fatehgarh Churian, Goraya, Jagraon, Jalandhar-I, Jalandhar-II, Kapurthala, Khanna, Kharar, Lopoke, Machhiwara, Majitha, Mansa, Nabha, Nakodar, Nawanshahr, Noormahal, Pathankot, Phagwara, Phillaur, Qadian, Raikot, Rupnagar, SAS Nagar, Samrala, Sidhwanbet and SultanpurLodhi.

**Table 4.8: Outstanding audit paragraphs of internal audit**

Year	Outstanding audit paragraphs			Amount involved (in crore)
	Procedural	Financial	Total	
2010-11	597	2367	2964	44.43
2011-12	621	2403	3024	57.07
2012-13	719	2721	3440	80.92
2013-14	819	3063	3882	138.64
2014-15	1034	3841	4875	230.92

(Source: Information furnished by the Finance department)

The Department stated that matter would be taken up with Internal Audit Wing of Finance Department to clear the arrear.

#### 4.3.17 Conclusion

Thus, the existing mechanism and procedure for levy and collection of stamp duty and registration fee suffered from both systemic as well as implementational deficiencies that resulted in non-levy or loss of revenue aggregating to ₹ 72.05 crore. Lack of a system to ensure due collection of stamp duty/registration fee on instrument lying in custody of even government departments led to short/non-levy payment of stamp duty of ₹ 11.92 crore. Further, there was no mechanism for ascertaining the genuineness of stamp papers. The registering authorities also failed to adhere to the provisions of the Act and Rules relating to grant of remission and exemption that led to non/short levy of ₹ 6.99 crore. Lastly, the internal control and internal audit mechanism were weak and required strengthening to improve monitoring and effective control to minimize such losses of revenue.

#### 4.3.18 Recommendations

Based on our audit's findings, it is recommended that the Government:

- i. Evolve a mechanism to detect evasion of stamp duty on instruments lying in custody of other Government offices and banks;
- ii. Ensure immediate implementation of notifications relating to levy of stamp duty and registration fee; and
- iii. Strengthen internal control and internal audit mechanisms for greater coverage and effectiveness to plug the leakage of revenue.

The matter was reported to the Government/Department (August 2016); their replies were awaited (October 2016).

**Chapter-V**  
**Taxes on Vehicles, Goods and Passengers**

## CHAPTER-V Taxes on Vehicles, Goods and Passengers

### 5.1 Tax administration

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

### 5.2 Results of audit

Test check of the records of 28 units relating to taxes on vehicles during 2015-16 revealed irregularities involving ₹ 41.39 crore in 2,750 cases which broadly fall under the following categories as in **Table 5.1** below.

**Table 5.1: Results of audit**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1.	Non/Short realisation of MVT	2,338	36.97
2.	Irregular retention of Government money	16	1.96
3.	Other irregularities	396	2.46
	<b>Total</b>	<b>2,750</b>	<b>41.39</b>

In 2015-16, the Department informed audit that they have accepted and recovered ₹ 2.47 crore involved in 527 cases out of which ₹ 3.92 lakh involved in four cases were pointed out in 2015-16 and rest in the earlier years.

Significant cases involving ₹ 96.40 lakh are discussed in the succeeding paragraphs.

### 5.3 Short realisation of motor vehicle tax from private service vehicles/educational institutes

*Motor Vehicle Tax of ₹ 48.02 lakh relating to private service vehicles and vehicles used by educational institutes was short realised from eight companies/institutes operating in the jurisdiction of nine District Transport Officers.*

Section 3 of the Punjab Motor Vehicle Taxation (PMVT) Act, 1924 (Act), as amended by the Punjab Motor Vehicle Taxation (Amendment Act), 2007 provides for imposition of tax on every motor vehicle on year to year basis and empowers the Government of Punjab to determine the rate and manner of

payment of the tax. The State Government revised (08 August 2013) the rates<sup>1</sup> of Motor Vehicle Tax (MVT) on the basis of seating capacity in respect of private service vehicles and vehicles used for educational institutes.

Audit scrutiny of the records of seven District Transport Offices (DTOs)<sup>2</sup> revealed that MVT of ₹ 12.41 lakh for the period of 2014-15 was realised against ₹ 60.43 lakh recoverable from the owners of five private service vehicles/three educational institute buses resulting in short realisation of MVT of ₹ 48.02 lakh.

DTO Hoshiarpur intimated in September 2016 that notice for recovery had been sent. DTO Nawanshahar made part recovery of ₹ 0.52 lakh in one case. The matter was reported to the Government April 2016; its reply was awaited (October 2016).

#### 5.4 Non/short realisation of MVT from stage carriage big buses

**Motor Vehicle Tax of ₹ 27.31 lakh was non/short realized from stage carriage buses in eight DTOs.**

Section 3(6) of PMVT Act 1924, as amended from time to time (Amended Act, 2007), provides that MVT shall be levied and paid to Government on stage carriages at rate<sup>3</sup> per kilometer/per day as may be specified by Government from time to time by the end of every month on the entire distance permitted to be covered. Further, Section 11-A (I) stipulates that failure to pay tax within the prescribed period attracts simple interest at the rate of one and half *per cent* per month following the due date till the default continues as well as penalty under Section 8(4) not exceeding ₹ 5,000 but not less than ₹ 1,000.

Audit scrutiny of the records relating to MVT registers and list of permitted kilometres of three DTOs<sup>4</sup> revealed that MVT of ₹ 65.47 lakh was collected against ₹ 92.78 lakh worked out on the basis of permitted kms operated by two private transport companies and Punjab Roadways Batala during 2014-15. This resulted in non/short realisation of MVT of ₹ 27.31 lakh. Besides,

1

Seating capacity	Rate of MVT per annum (in ₹)		
	Private Service Vehicles	College/other educational institutes	Schools
Up to 12 seats	1,00,000	40,000	15,000
13 to 30 seats	2,00,000	50,000	20,000
31 and above seats	3,00,000	60,000	30,000

2 Hoshiarpur, Jalandhar, Ludhiana, Nawanshahar, Kapurthala, Mansa and Pathankot.

3

Period	Rates in ₹	
	Ordinary Buses	HVAC Buses
Upto 7 August 2013	2.75	1.50
8 August 2013 to 2 July 2014	3.00	1.75
3 July 2014 to 31 December 2014	3.13	1.88
1 January 2015 onwards	3.03	1.77

4 Gurudaspur, Jalandhar and Patiala.

penalty and interest is also leviable after giving a reasonable opportunity to the defaulter of being heard.

The matter was reported to the Government in March 2016; its reply was awaited (October 2016).

### 5.5 Non-levy of interest for delayed payment of MVT

***Interest of ₹ 7.21 lakh on delayed payment of Motor Vehicle Tax was not realized from the stage carriage buses of Punjab Roadways.***

Section 3 of PMVT Act, as amended from time to time, provides that motor vehicle tax shall be levied and paid to Government on stage carriages at the rate per kilometer/per day as may be specified by Government from time to time by the end of every month on the entire distance permitted to be covered. Further, under Section 11A (I), failure to pay tax within the prescribed period attracts simple interest at the rate of one and half *per cent* per month following the due date till the default continues.

Audit scrutiny (August 2015) of the records relating to MVT registers of DTO Jalandhar revealed that two depots<sup>5</sup> of Punjab Roadways, Jalandhar deposited regular MVT as well as the arrear of MVT of ₹ 1.83 crore during 2014-15 with delay ranging between one and fourteen months. DTO Jalandhar did not charge any interest on the delayed payments as prescribed under the section mentioned *ibid.* This resulted into non-realisation of interest of ₹ 7.21 lakh.

The matter was reported to the Government in February 2016; its reply was awaited (October 2016).

### 5.6 Non-realisation of additional fee

***Additional fee of ₹ 7.80 lakh was not realized by the State Transport Commissioner while allotting the registration marks of choice to 156 owners of tourist vehicles.***

Rule 42-A of the Punjab Motor Vehicles Rules, 1989 (Rules) provides that the Registering Authority shall assign a registration mark to the owner of a motor vehicle of his choice from amongst the registration marks, as specified in the Sixth Schedule to these Rules on payment of such additional fee, as may be fixed by the Government. The Government, in exercise of these powers, notified (09 January 2014) additional fee for registration marks of choice in each series<sup>6</sup>.

Audit scrutiny of the records of State Transport Commissioner, Chandigarh revealed that Secretary, State Transport Authority registered 2,312 tourist

<sup>5</sup> Jalandhar-I and Jalandhar-II.

<sup>6</sup> ₹ 5,000/- for any registration mark of choice other than the specified numbers or out of turn number [S.No.4(s) of Sixth Schedule].

vehicles during the period 2014-15. Out of them, 579 registrations were analysed by audit and it was found that 156 registration marks of choice were allotted to vehicle owners out of turn without charging additional fee. This resulted into non-realisation of additional fee of ₹ 7.80 lakh.

The matter was reported to the Government/Department (February 2016). The department replied (August 2016) that ₹ 2.05 lakh in 41 cases had since been recovered and recovery in the remaining cases would be made. The reply of Government was awaited. (October 2016)

### 5.7 Short realisation of MVT on account of excess plying of kilometers against reciprocal agreement

*Motor Vehicle Tax of ₹ 6.06 lakh was short realized from four depots of Himachal Road Transport Corporation due to application of incorrect rates applicable under the reciprocal agreement.*

Section 3 of the Punjab Motor Vehicle Taxation Act, 1924, provides for imposition of tax on every motor vehicle on year to year basis and empowers the Government of Punjab (Government) to determine the rate and manner of payment of the tax. The Government, in exercise of these powers, notified the rates<sup>7</sup> of MVT for stage carriage buses of other States plying in State of Punjab having permits which were countersigned under reciprocal agreement, and having permits which were not countersigned under the reciprocal agreement.

Audit scrutiny (August 2015) of the MVT registers of Regional Transport Authority, Jalandhar revealed that four depots<sup>8</sup> of Himachal Road Transport Corporation (HRTC) operated 1,470 kilometers in the State of Punjab during 2014-15 which were not covered/countersigned under the reciprocal agreement but paid MVT at the rates which were applicable to the kilometers countersigned under the reciprocal agreement. This resulted into short payment of MVT of ₹ 6.06 lakh.

The matter was reported to the Government in February 2016; its reply was awaited (October 2016).

7

Period	Rate of MVT per kilometre (₹)			
	If kilometres countersigned under reciprocal agreement		If kilometres not countersigned under reciprocal agreement	
1.4.2014 to 2.7.2014	4.50		6.00	
3.7.2014 to 31.12.2014	4.63		6.13	
1.1.2015 to 31.3.2015	4.53		6.03	

<sup>8</sup> Bilaspur, Nahan, Solan and Una.

**Chapter-VI**  
**Forest, Other Tax and Non-Tax Receipts**

**CHAPTER-VI**  
**Forest, Other Tax and Non Tax Receipts**

**6.1 Tax Administration**

This chapter relates to receipts from Land Revenue and Marriage Registration (Revenue and Rehabilitation Department), Entertainment and Luxury Tax (Excise and Taxation Department), State Lotteries Department and Department of Forest and Wildlife. These departments are governed by Director (Land Records), Excise and Taxation Commissioner, Director (State Lotteries) and Principal Chief Conservator of Forest respectively.

**6.2 Results of Audit**

Test check of records of 54 units relating to Land Revenue, Entertainment and Luxury Tax, State Lotteries and Forest during 2015-16 revealed irregularities involving ₹ 346.95 crore in 7,616 cases which fall under the following categories as brought out in **Table 6.1** below.

**Table 6.1: Results of audit**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
<b>A : Other Tax Receipts</b>			
<b>(i) Land Revenue</b>			
1.	Non/short recovery of chowkidara tax	187	1.06
2.	Outstanding recoveries under other heads of account	65	23.36
3.	Short realisation of marriage registration fee	848	0.16
4.	Other irregularities	826	8.92
<b>TOTAL (i)</b>		<b>1,926</b>	<b>33.50</b>
<b>(ii) Other taxes and duties on commodities and services</b>			
1.	Non/short realisation of entertainment tax/duty	568	3.41
2.	Other irregularities	247	0.25
<b>TOTAL (ii)</b>		<b>815</b>	<b>3.66</b>

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
<b>B: Non-tax Receipts (State Lotteries)</b>			
1.	Irregular expenditure in respect of advertisements	77	0.35
2.	Other irregularities	10	0.19
3.	<i>Thematic Audit titled "Conduct of Lotteries in Punjab"</i>	01	1.48
<b>TOTAL (B)</b>		<b>88</b>	<b>2.02</b>
<b>C: Forest Receipts</b>			
1.	Non/short realisation of royalty	13	92.16
2.	Unauthorised provision and expenditure	02	1.36
3.	Non-adherence of codal provision	01	5.83
4.	Other irregularities	4,770	19.21
<b>TOTAL (C)</b>		<b>4,786</b>	<b>118.56</b>
1.	<i>Thematic Audit titled "System in the State for collection of arrears of revenue"</i>	1	189.21
<b>GRAND TOTAL</b>		<b>7,616</b>	<b>346.95</b>

In 2015-16, the Department accepted and recovered amount of ₹ 16.69 lakh in 288 cases pertaining to Forest and Wildlife/Entertainment and Luxury Tax. Out of this, ₹ 0.17 lakh involved in 33 cases of Forest and Wildlife were pointed out in 2015-16 and rest in the earlier years.

Significant cases involving ₹ 191.10 crore are discussed in the succeeding paragraphs:

### 6.3 Conduct of Lotteries in Punjab

*Lottery schemes were organised without issuing advance notifications and agents for sale of these lottery schemes were appointed without inviting tenders. Department made payment of ₹ 1.48 crore on account of bonus/promoter's prize to sub-agent without observing compliance with the extant rules. There was no system in the Directorate for conducting annual financial and systems audit of various lottery schemes.*

Organisation of lotteries in Punjab is regulated by the Lotteries (Regulation) Act, 1998, the Lotteries (Regulation) Rules, 2010 (both framed by the Government of India) and the Punjab State Lotteries Rules, 2015. Prior to August 2015, the Punjab State Lottery, Rules, 1998 were applicable. The Government of Punjab has also enacted the Punjab Tax on Lotteries Act, 2005 which provides for levy and collection of tax on draw of lotteries.

The Director of Lotteries, Punjab is responsible for conducting various lottery schemes (Bumper, Monthly and Weekly paper lotteries) as per the provisions of the Act and Rules under the administrative control of Principal Secretary to the Government of Punjab, Department of Finance. The Director is assisted by a Deputy Director and a Deputy Controller (Finance and Accounts).

The Directorate of lotteries organized 21 Bumper Lotteries<sup>1</sup>, three monthly lottery schemes<sup>2</sup>, one fortnightly lottery scheme and two weekly lottery schemes<sup>3</sup> during the period 2010-11 to 2014-15. Targets fixed for revenue generation from lotteries, revenue realised from various lottery schemes and expenditure incurred thereon during the period 2010-11 to 2014-15 are given in **Table 6.2** below.

**Table 6.2: Trend of receipts and expenditure**

Sr. No.	Year	Revenue		Expenditure	Net Revenue	Shortfall with target (Per cent)
		Target	Realisation			
1.	2010-11	3,851.13	3,800.00	3,803.30	(-)3.30	51.13 (01.33)
2.	2011-12	81.00	63.12	49.33	13.79	17.88 (22.07)
3.	2012-13	68.00	60.99	47.28	13.71	07.01 (10.30)
4.	2013-14	81.00	77.44	50.14	27.30	03.56 (04.39)
5.	2014-15	84.00	69.83	54.92	14.91	14.17 (16.87)
<b>Total</b>		<b>4,165.13</b>	<b>4,071.38</b>	<b>4,004.97</b>	<b>66.41</b>	<b>93.75</b>

(Source: Departmental figures)

There was loss of ₹ 3.30 crore from various lottery schemes organised during 2010-11. The decrease in revenue realisation in the year 2011-12 as compared to 2010-11 was due to discontinuation of 48 weekly lottery schemes by the department. The shortfall of ₹ 14.17 crore in revenue realisation during 2014-15 was due to fewer sales of lottery tickets than desired. Shortfall in achievement of targets during the period 2010-11 to 2014-15 ranged between 1.33 and 22.07 per cent.

An audit was conducted between March and June 2016 covering the records of the office of Directorate of Lotteries, Punjab for the period 2010-11 to 2014-15 to assess whether revenues from lotteries had been properly realized and taxes deducted at source in accordance with the extant Act and rules made thereunder. The audit findings are brought out in following paragraphs.

<sup>1</sup> Diwali Bumper-4 (2011, 2012, 2013 and 2014), Baisakhi and Rakhi Bumper-10 (2010, 2011, 2012, 2013 and 2014), New Year Lohri Bumper-4 (2012, 2013, 2014 and 2015), Summer Cool Bumper-2011, Mother's Day Special Bumper-2013, Basant Panchmi Bumper-2011.

<sup>2</sup> Monthly Schemes (₹ 10, 30 and 50)

<sup>3</sup> Weekly Schemes (₹ 20 and 30)

### 6.3.1 Non-adherence to rules mandating advance notification of lotteries

Rule 3(2) of the Lottery (Regulation) Rules, 2010 (LRR) provides that a State Government may organise a lottery by issuing a notification in its official Gazette, outlining the purpose, scope, limitation and method thereof. Rule 3(3) of LRR provides that the organising State shall announce in advance by way of a notification in the official Gazette various information about every lottery scheme which *inter-alia* includes names of the distributors/selling agents with addresses and contact information.

Audit noted the following:

- (i) Five gazette notifications that were made available to audit out of 21 notifications of bumper lotteries were not issued in the official Gazette in advance but were issued after one to 67 days of conduct of draw.
- (ii) In all the 27 notifications issued from 2010-11 to 2014-15, names of distributors or selling agents with addresses and contact information were not mentioned.
- (iii) The notifications issued by the State Government in respect of lotteries did not mention the rule under which those were issued. In the absence of this, it was difficult to ascertain whether the notifications were issued under the power conferred by some Act or Rules made there under.

### 6.3.2 Appointment of distributors/selling agents without inviting tenders

Distributors/selling agents play a major role in sale of lottery tickets and generation of revenue. Hence, due care should be taken in appointing them to safeguard the interest of the State exchequer. Rule 4 (i) of Punjab State Lotteries Rules, 1998 provides, *inter alia*, that agents for sale of State lottery tickets, except bumper lottery<sup>4</sup>, will be appointed by inviting open tenders.

Audit scrutiny revealed that the distributors/selling agents were appointed in all the six<sup>5</sup> schemes (excluding bumper scheme) by inviting applications through public notices in newspapers. However, competitive bid for lifting highest number of tickets and/or lowest rates of commission for sale of lottery tickets was not explored by the department.

The Director stated (July 2016) that Punjab State Lotteries Rules, 1998 have been repealed by the Punjab State Lotteries Rule, 2015 (August 2015) and the new rules provided that selection of agents would be decided by the Government from time to time with respect to terms and conditions regulated

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<sup>4</sup> Bumper lottery means a special draw of lottery being conducted on or during any festival or other special occasion.

<sup>5</sup> Monthly lottery schemes-03(₹10,₹30,₹50), Fortnightly lottery schemes-01(₹30), Weekly lottery scheme -02. (₹10, ₹20)

by the agreements executed with them. However, the Director did not give any reason for not calling open tenders during the period 2010-11 to 2014-15.

### 6.3.3 Payment of promoter's prizes to Sub-Agents/Retailer(s) despite non-compliance with rules

A condition was included in Clause 2.3 of the Agreements entered into between Department of Lotteries, Punjab and Agents/Distributors in the year 2012-13 onwards which provided that Agent may, with the prior approval of the Government, appoint Sub-Agent/Retailer(s) to sell the lotteries on such terms and conditions as approved by the Government and as may be agreed between the Agent and such Sub-Agent/Retailer(s).

Audit scrutiny revealed that in all 17 cases<sup>6</sup> of bumper, monthly and weekly lottery schemes organised during 2012-13 to 2014-15, agents/distributors did not take prior approval of Government before appointing sub-agents/retailer(s). However, the department made payment of ₹ 1.48 crore on account of bonus/incentive/promoter's prize<sup>7</sup> to sub-agents/retailers without observing compliance of the above condition.

The Department replied that all schemes contain the clause of promoter prize/incentive to be paid to the sub-agents/sellers and the procedure for entitlement of payment of promoter prizes to the sub-agents and sellers. A list of sub-agents had been duly provided by the agents to the Government. All payments were made as per the provision and rates prescribed in the schemes.

The reply is not tenable as agents had appointed sub-agents for selling the lotteries without obtaining prior approval of the Government and therefore the payments made to such sub-agents were in contravention of the Clause 2.3 mentioned *ibid*.

### 6.3.4 Non-conducting of Annual Financial and System Audit

Rule 3(19) of the LRR, provides that every organizing State shall conduct an annual financial and system audit of the various lottery schemes organized by it. Audit scrutiny revealed that no annual financial and systems audit in all 27 lottery schemes were got conducted by the Director.

### Conclusion

Lottery schemes were organised without issuing advance notifications and agents for sale of these lottery schemes were appointed without inviting tenders. Department make payment of ₹ 1.48 crore on account of bonus/promoter's prize to sub-agent without observing compliance with the extant rules. There was no system in the Directorate for conducting annual financial and systems audit of various lottery schemes.

<sup>6</sup> Diwali Bumper-3 ( 2012, 2013 and 2014), Baisakhi and Rakhi Bumper-6 (2012, 2013 and 2014), New Year Lohri Bumper-3 (2013, 2014 and 2015), Mother's Day Special Bumper-2013, Fortnightly (₹ 30), Monthly (₹ 50), Weekly-2 (₹ 10 and 20).

<sup>7</sup> Amount payable to an Agent/Sub-Agent/Retailer(s) where tickets sold by them win prescribed prizes.

## 6.4 System for collection of arrears of revenue in the State

*Non-maintenance of records in prescribed form and lack of details of defaulters coupled with slow pace of recovery led to an exponential increase of the arrears of revenue by 254 per cent from ₹ 1057 crore in 2012-13 to ₹ 3,747 crore in 2014-15. Outstanding dues of ₹ 28.80 crore under different revenue heads were not even declared as arrears of land revenue while ₹ 10.21 crore were outstanding on account of water charges.*

### 6.4.1 Introduction

The Government levies various taxes/fees/cess to generate revenue for providing general, social and economic services to its citizens. These taxes have been prescribed under various Acts<sup>8</sup> and need to be paid into the government accounts within such time as prescribed in the respective Acts/Rules (*Appendix-I*). If the dues are not paid in the Government account within prescribed time, these become outstanding and are pursued by the Departments concerned for recovery under provisions prescribed in the respective Acts/Rules. These arrears of revenue may also be recovered as arrears of land revenue (*Appendix-II*).

The Punjab Land Revenue Act, 1887, provides that any sums recoverable as arrears of land revenue can be recovered by effecting service of writ of demand, arrest and detention of the defaulter, sale of movable property and crops, attachment of the estate or holding and by proceeding against other immovable property of the defaulter.

In order to assess the adequacy and effectiveness of process of recovery of arrears under various Acts, an audit of the system for collection of arrears of revenue in respect of six<sup>9</sup> receipt heads was conducted. Audit scrutiny (between November 2015 and July 2016) of records covered the period 2012-13 to 2014-15 of all Sub Registrars (SRs), Tehsildars, Assistant Excise and Taxation Commissioners (AETCs), District Transport Officers (DTOs) and Divisional Forest Officers (DFOs) in six<sup>10</sup> out of 22 districts selected through statistical sampling by applying the 'Probability proportional to size without replacement method'.

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<sup>8</sup> Punjab Value Added Tax Act, Motor Vehicle Taxation Act, Indian Stamp Act, State Excise Act, Land Revenue Act etc.

<sup>9</sup> 0029-Land Revenue, 0030-Stamps and Registration Fee, 0039-State Excise, 0040-Taxes on sales, trade etc., 0041-Taxes on vehicles and 0406-Forestry and Wild Life.

<sup>10</sup> Amritsar, Jalandhar, Mohali, Patiala, Sangrur and Sri Muktsar Sahib.

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### 6.4.2 Position of Arrears of revenue

The position of arrears of revenue and recoveries thereof during the period 2012-13 to 2014-15 is given in the Table 6.3 below.

**Table 6.3: Position of arrears of revenue**

(₹ in crore)

Major Head of Revenue	Arrears of Revenue													
	2012-13				2013-14				2014-15				Total	
	Opening Balance	Addition	Recovery	Closing Balance	Opening Balance	Addition	Recovery	Closing Balance	Opening Balance	Addition	Recovery	Closing Balance	Addition	Recovery
Land Revenue (0029) <sup>11</sup>	30.13	12.99	5.16	37.96	37.96	10.60	11.39	37.17	37.17	24.68	14.45	47.40	48.27	31.00
State Excise (0039)	14.15	0	0.02	14.13	14.13	0	0.13	14.00	14.00	0	0.02	13.98	0	0.17
Taxes on sales, trade etc. (0040)	905.47	1,047.99	171.89	1781.57	1,800.04 <sup>12</sup>	1,431.98	988.91	2,243.11	2,279.61 <sup>13</sup>	1,441.40	189.89	3,531.12	3,921.37	1,350.69
Taxes on Vehicles (0041) <sup>14</sup>	104.62	0	0	102.21	103.24	0	0	102.11	102.11	0	0	130.83	0	0
Forestry and Wild Life (0406)	3.32	0.22	0.24	3.30	3.30	0.82	0.72	3.40	3.40	21.84	1.13	24.11	22.88	2.09
<b>Total</b>	<b>1,057.69</b>	<b>1,061.20</b>	<b>177.31</b>	<b>1,939.17</b>	<b>1,958.67</b>	<b>1,443.40</b>	<b>1,001.15</b>	<b>2,399.79</b>	<b>2,436.29</b>	<b>1,487.92</b>	<b>205.49</b>	<b>3,747.44</b>	<b>3,992.52</b>	<b>1,383.95</b>

(Source: Departmental figures)

The opening balances of arrears differed from closing balances of the previous years in 2013-14 and 2014-15 under Taxes on Sales/Trade and in 2013-14 under Taxes on Motor Vehicles. Further, there were differences with the figures of arrears as supplied to audit in previous years and printed in Chapter-I of the Audit Reports.

The arrears of revenue increased from ₹ 1,057.69 crore to ₹ 3,747.44 crore (254 per cent) during 2012-15. The recovery of arrears grew from ₹ 177.31 crore in 2012-13 to ₹ 1,001.15 crore in 2013-14 due to increase in recovery of arrears under taxes on sales, trade, etc. but again dropped to ₹ 205.49 crore in 2014-15.

### 6.4.3 Accrual of arrears and record keeping

Maintenance of proper records of arrear details and reporting the same to higher authorities at regular intervals are the pre-requisites for proper follow up. Audit scrutiny revealed the following deficiencies in maintenance of records:

**Taxes on vehicles:** Tax ledgers are maintained in the office of DTOs to keep watch of demand vis-à-vis realisation of taxes on motor vehicles. Though the

<sup>11</sup> The figures of Arrear do not include the amount of Revenue Recovery Certificates (RRCs) received in the department from other offices/banks/autonomous bodies/corporations.

<sup>12</sup> The difference with closing balance of 2012-13 is mainly due to the reason that ₹ 18.65 crore was inadvertently taken as ₹ 18.65 lakh during 2012-13 in respect of Nawanshahar.

<sup>13</sup> The difference with closing balance of 2013-14 is mainly due to the reason that ₹ 49.86 crore was inadvertently taken as ₹ 13.34 crore during 2013-14 in respect of Kapurthala.

<sup>14</sup> Figures of addition and recovery during the years 2012-13 to 2014-15 were not provided

payment system has been made online, the State Transport Commissioner (STC) stated that there was no system in online module to generate total outstanding tax against any operator of the State. Consequently, only year-end balances of arrears were provided to audit by STC. The information as to arrears accumulated and recovery made during the years was not provided. Providing exception statement in online system or maintaining subsidiary registers would help in better recovery management.

**Stamps and Registration:** None of the SRs/JSRs of the selected districts maintained register of 47-A in Proforma-4 as prescribed in Rule 6 of the Punjab Stamp (Dealing of Under-valued Instruments) Rules 1983. Moreover, information pertaining to arrears of revenue in respect of stamp duty was not being compiled by Inspector General of Registration (IGR) at State level.

**Taxes on Sales, Trade etc.:** Arrears of ₹ 2,127.07 crore, which is 88 *per cent* of the total arrears of ₹ 2,408.16 crore of selected districts, were pending in appeals in different Courts/Tribunals as on 31 March 2015. The high percentage of cases under litigation indicated that there was scope of exercising greater rigour in making assessments and raising demands.

**Land Revenue:** As per instructions contained in the Standing Order No. 31<sup>15</sup>, Running Register (RR-II) containing 11 columns is required to be maintained in District Revenue Officer (DRO) and Tehsil offices for entering and monitoring the RRCs received from other offices. Moreover, at the end of the year, a statement of arrears showing all outstanding balances should be made and a certificate to the effect that all outstanding balances of previous year have been transferred to RR of the ensuing year should be recorded by the DRO/Tehsildar in RR-II. DRO Sangrur and Tehsildar Patiala, Sri Muktsar Sahib, Gidderbaha, Samana, Lehra and Nakodar had not maintained RR-II whereas the remaining DROs/Tehsildars in the selected districts had done so but not in the format prescribed in the standing order. Moreover, duplicate entries of RRCs were also noticed. These discrepancies resulted in difference between details of RRCs forwarded by the Collectors and those accounted by the Tehsildars. No periodic reconciliation was made to keep the records accurate and updated. The comparison of RR-II maintained in the office of the Collectors with those maintained in the Tehsils revealed that there were variations of 661<sup>16</sup> cases involving ₹ 95.45 crore between the RRCs forwarded by the five<sup>17</sup> Collectors and accounted for by the 20 Tehsildars falling under these five districts as detailed in **Table 6.4** below.

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<sup>15</sup> Originally issued on 14 July 1909 and last revised on 26 October 1982.

<sup>16</sup> Since DRO Sangrur did not maintain RR-II, comparison with records of Tehsildars could not be made.

<sup>17</sup> Amritsar, Jalandhar, Mohali, Patiala and Sri Muktsar Sahib.

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Table 6.4: Details of RRCs forwarded and accounted

Year	Requisitions forwarded by the Collectors		Requisitions accounted for by Tehsildars		Variation	
	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
2012-13	942	134.59	719	102.00	223	32.59
2013-14	1,024	150.92	689	65.92	335	85.00
2014-15	789	263.05	686	285.19	103	(-)22.14
<b>Total</b>	<b>2,755</b>	<b>548.56</b>	<b>2,094</b>	<b>453.11</b>	<b>661</b>	<b>95.45</b>

Statement of arrear showing all outstanding balances was not made at the end of the years and no certificate was found recorded by the DRO/Tehsildar in RR-II which would have ensured that all outstanding balances of previous year had been transferred to RR of the ensuing year. As reconciliation was not carried out, the differences between the cases referred by the Collectors to Tehsils and cases accounted for by the Tehsils did not come to the notice of the authorities and recovery in potential cases could not be pursued.

#### 6.4.4 Non-declaration of arrears as arrears of land revenue

**Stamps and Registration:** Audit scrutiny of records in 8 SRs<sup>18</sup> revealed that the Collectors had decided 450 cases of under-valued instruments involving ₹ 21.01 crore during 2012-15 in favour of the department against which recoveries of ₹ 14.51 crore in 271 cases were outstanding as given in Table 6.5 below.

Table 6.5: Details of recoveries outstanding in cases decided by Collectors

(₹ in crore)

Year	Cases decided by the collectors in favour of department		Cases out of (2) which remained outstanding		Cases out of (3) declared as arrear of land revenue		Cases out of (4) in which recovery was made	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount
1	2		3		4		5	
2012-13	149	4.01	60	1.54	0	0.00	0	0.00
2013-14	179	13.85	115	9.99	1	0.01	1	0.01
2014-15	122	3.15	96	2.98	1	0.28	1	0.28
<b>Total</b>	<b>450</b>	<b>21.01</b>	<b>271</b>	<b>14.51</b>	<b>2</b>	<b>0.29</b>	<b>2</b>	<b>0.29</b>

Only two cases involving ₹ 0.29 crore were declared recoverable as arrears of land revenue against which full recovery was made. Action to declare the

<sup>18</sup> Dera Bassi, Kharar, Malout, Mohali, Sri Muktsar Sahib, Nakodar, Nabha and Sunam.

remaining outstanding cases recoverable as arrear of land revenue was not initiated.

**State Excise:** Out of total arrears of ₹ 14.15 crore as on 1 April 2012, AETCs made recovery of only ₹ 17 lakh. Yet, AETCs did not initiate any action in the remaining cases for getting those arrears declared recoverable as arrears of land revenue under Section 60 of the Punjab Excise Act, 1914.

On this being pointed out, AETC Amritsar-I stated that out of total outstanding arrears of ₹ 15.73 lakh, details of properties in the name of defaulters were being collected from tehsildars in a case of arrears of ₹ 3.42 lakh and in the remaining cases addresses of the defaulters were not traceable. AETCs of Amritsar-II, Jalandhar-I, Mohali and Sangrur stated that notices could not be issued due to the defaulters not being traceable and non-availability of any property in the names of the defaulters. Sri Muktsar Sahib stated that pending cases (16 cases amounting to ₹ 7.76 lakh) would be sent for recovery under PLR Act. AETC Patiala stated that the cases had been sent for writing off the arrears. AETCs Jalandhar-II did not furnish any reply.

The replies of AETCs were not acceptable as out of total arrears of ₹ 14.15 crore, arrears of ₹ 10.13 crore pertained to the period from 1958-59 to 2009-10. Non-recovery was due to lack of timely action by the department in recovering outstanding dues and non-maintenance of requisite details of defaulters. Moreover, in cases where the amount was not recoverable, action should have been initiated for getting such amount written off with the sanction of the competent authority.

**Forestry and Wildlife:** Audit scrutiny of records in two DFOs<sup>19</sup> revealed that arrears of ₹ 62.82 lakh in 56 cases were recoverable from employees at the end of March 2015 for the periods since 1993. However, only ₹ 0.82 lakh in one case could be recovered during 2012-15 and recovery of ₹ 1.37 lakh was stayed in three cases by Chief Conservator of Forests. DFO Patiala intimated in September 2016 that recovery of ₹ 3.56 lakh had been made in four cases from April 2015 to August 2016.

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<sup>19</sup> Mohali and Patiala.

**Recovery of arrears of land revenue by District Revenue Officers (DROs)****6.4.5 Abnormal delays in raising of demands**

Section 68 of the PLR Act provides for issuance of a writ of demand by the Revenue Officer on or after the day following that on which the arrear of land revenue accrues.

Audit scrutiny of records in four<sup>20</sup> Tehsildars revealed that 124 notices were issued with delay ranging from one month to three years. Moreover, no follow up of initial demand notices was made.

**6.4.6 Slow pace of recovery**

Position of the recovery certificates received for recovery of arrears as arrears of land revenue and recoveries made in these cases during the period 2012-15 in selected districts is detailed in **Table 6.6** below.

**Table 6.6: Recoveries made against recovery certificates**

(₹in crore)

Year	Recovery Certificates received		Recovery made		Rate of Recovery (per cent)
	No. of cases	Amount	No. of Cases	Amount	
2012-13	1522 <sup>21</sup>	152.50	174	2.02	1.32
2013-14	711	66.08	107	4.02	6.08
2014-15	747	297.75	156	5.32	1.79
<b>Total</b>	<b>2980</b>	<b>516.33</b>	<b>437</b>	<b>11.36</b>	<b>2.20</b>

During 2012-15, only 2.20 *per cent* of the total arrears against RRCs could be recovered. On this being pointed out, the Tehsildars stated that efforts would be made to recover the arrears at the earliest.

**6.4.7 Abnormal delay in returning the recovery certificates**

Under the provisions of the Revenue Recovery Act, 1890, recovery certificates for effecting recovery of dues as arrears of land revenue should be supported by complete and relevant documents and particulars of the defaulters to enable the Collector to make speedy recoveries.

Audit scrutiny of the records of five<sup>22</sup> DROs revealed that during the period 2012-15, 832 cases involving ₹ 150.17 crore were returned to the various issuing authorities without assigning any specific reasons or due to the reasons that addresses were incorrect/ incomplete, whereabouts of the defaulters were not known, there was no property in the names of defaulters, defaulter had passed away, after holding the recovery certificates for a period ranging from one month to five years. This was reflective of the poor internal mechanism to

<sup>20</sup> Ajnala, Amritsar-I, Amritsar-II and Baba Bakala

<sup>21</sup> It includes opening balance of 788 cases involving ₹ 47.81 crore.

<sup>22</sup> Amritsar, Jalandhar, Mohali, Patiala and Sri Muktsar Sahib

watch progress of recovery of the dues and the failure to maintain and update proper records.

DRO Jalandhar stated that efforts would be made to recover the outstanding amount at the earliest. DRO Mohali stated that recovery cases would be disposed of on priority. DROs of Sri Muktsar Sahib and Patiala replied that necessary instructions will be issued to the Tehsildars to realize the outstanding arrears well in time. DRO Amritsar did not reply.

#### **6.4.8 Non recovery of water charges**

Canal water charges for all canal systems in Punjab levied by Department of Irrigation, Punjab are collected by District Collectors. For this purpose, water charges are assessed by the Executive Engineers (Irrigation) and details of persons from whom the water charges are to be recovered are sent to the District Collector for collection.

Audit scrutiny of records in 14<sup>23</sup> Tehsildars revealed that an amount of ₹ 10.21 crore was outstanding on account of water charges as on 31 March 2015. However, no action was taken by the Tehsildars to recover this amount.

On this being pointed out, Tehsildar Dhuri stated that the matter was in the notice of higher authorities and the remaining Tehsildars stated that efforts would be made to recover the outstanding amount.

#### **6.4.9 Non recovery of collection charges**

Department of Finance levied<sup>24</sup> (January 2009 and April 2012) collection charges at the rate of five *per cent* of the amount recovered for the cases filed by the banks with DRO, SDO (Civil) and Tehsildar *in lieu of* service rendered by the State Government in recovering their dues.

In five<sup>25</sup> Tehsildars, audit scrutiny of records revealed that against 112 RRCs for ₹ 3.20 crore received from various banks and approved by the Collectors during 2012-15, recoveries of ₹ 42.15 lakh in 14 cases were made on which collection charges of ₹ 2.21 lakh were recoverable from the banks. However, collection charges of ₹ 0.86 lakh only were recovered and remaining amount of ₹ 1.35 lakh was still outstanding.

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<sup>23</sup> Ajnala, Amritsar-I, Amritsar-II, Dhuri, Gidderbaha, Lehra, Malerkotla, Nabha, Patran, Rajpura, Patiala, Samana, Sangrur and Sri Muktsar Sahib.

<sup>24</sup> No.III/13A/84/IF/1/226 dated 27 January 2009 and No.27/24/96-LR-3/3656-3677 dated 23 April 2012.

<sup>25</sup> Ajnala, Amritsar-I, Amritsar-II, Jalandhar-I and Sri Muktsar Sahib.

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## Conclusion

Non-maintenance of records in proper and prescribed form resulted in ineffective monitoring and follow-up of arrear led to an exponential increase of the arrears of revenue by 254 *per cent* from ₹ 1,057.69 crore in 2012-13 to ₹ 3,747.44 crore at the end of 2014-15. Outstanding dues of ₹ 28.77 crore in respect of Stamp duty, State Excise and Forestry and Wildlife that remained unrecovered under departmental procedures, were not declared as arrears of land revenue. While arrears of ₹ 150.17 crore could not be recovered due to lack of details of the defaulters.

The above points were reported to Government/Department (July 2016); their replies were awaited (October 2016).

## 6.5 Non-realisation of entertainment duty

***Non-compliance of the provisions of Punjab Entertainment Duty Act by cable operators resulted in non/short realisation of entertainment duty of ₹31.80 lakh.***

Section 3 of the Cable Television Networks (Regulation) Act, 1995 read with Rule 3 (4) of the Cable Television Networks Rules, 1994 makes it incumbent upon all cable operators<sup>26</sup> to get themselves registered with the Head Post Master of the area in which the office of the cable operator is situated. As per Section 3-B of the Punjab Entertainment Duty Act 1955 (PED Act), entertainment duty at the rate of ₹ 15,000 per annum is payable by the proprietor for providing entertainment with the aid of antenna or cable television to a connection holder.

Audit scrutiny (between May 2015 and December 2015) of the list of registered cable operators obtained from General Post Offices and records relating to entertainment duty of three<sup>27</sup> AETCs revealed that 79 cable operators were registered with the head post offices of Amritsar and Jalandhar. As per PED Act mentioned *ibid*, these cable operators were required to pay entertainment duty at the rate of ₹ 15,000 per annum. Entertainment duty of only ₹ 0.45 lakh was collected against ₹ 11.85 lakh due from these cable operators resulting in short realisation of entertainment duty of ₹ 11.40 lakh.

<sup>26</sup> 'Cable operator' means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

<sup>27</sup> Amritsar-I and Amritsar-II (43), Jalandhar-II (36)

Similarly, audit scrutiny of records of AETC Amritsar-I revealed that there were 136 local cable operators who were affiliated with a Multi System Operator<sup>28</sup>(MSO) and were engaged in the business of transmission of television channels to connection holders during 2014-15. These cable operators neither got themselves registered with the Head Post Master of the area concerned nor paid entertainment duty. Only the MSO was paying entertainment duty of ₹ 15,000 per annum under Section 3-B of the Punjab Entertainment Duty Act, 1955.

On being pointed out, AETC Jalandhar-II replied that the MSO was paying its dues and thus, the individual cable operators were not liable for payment of entertainment duty. The reply was not tenable as the onus for paying entertainment duty under the Act *ibid* is on the operator who delivers entertainment to consumers on payment whether or not the operator uses his own equipment or uses equipment of others. The liability to pay entertainment duty, at the rate of ₹ 15,000 is thus of the individual cable operators who deliver the entertainment on payment. Non-realisation of entertainment duty in accordance with the provisions of the Act resulted in loss of revenue of ₹ 20.40 lakh.

The matter was reported to the Government in May 2016; its reply was awaited.

#### **6.6 Short realisation of marriage registration fee**

***Non-application of correct rates resulted into short realisation of marriage registration fee of ₹9.66 lakh in 685 cases.***

Punjab Government notified (27 June 2013) the Punjab Compulsory Registration of Marriages Rules, 2013, for compulsory registration of marriages in the State of Punjab. These Rules provide that the parties to a marriage or any of their parents or relations, as the case may be, shall present the memorandum in Form-I, before the Registrar of Marriages concerned for registration of marriage within a period of three months from the date of such marriage accompanied with a fee of ₹ 1,500 in the form of court fee stamps. If the memorandum is not submitted within the prescribed time limit, late fee<sup>29</sup> shall be levied in addition to the normal fee.

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<sup>28</sup> "Multi-System Operator" means a cable operator who has been granted registration under Rule 11C of the Cable Television Networks Rules, 1994, as amended by Cable Television Networks (Amendment) Rules, 2012 and who receives a programming service from a broadcaster or its authorized agencies and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators and includes his authorized distribution agencies, by whatever name called.

<sup>29</sup> ₹1,000, if memorandum is submitted after three months from marriage date but not after six months.

₹1,500, if memorandum is submitted after six months from marriage date but not after one year.

₹ 2,000, if memorandum is submitted after one year from marriage date subject to prior permission of Chief Registrar of Marriage.

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Audit scrutiny of the records of Tehsildar Ludhiana (East) for the period 2012-15 revealed that 685 marriages were registered between 28 June 2013 and 12 March 2014. Registration fee of ₹120 per case was levied instead of ₹ 1,500 per case as notified by the Government. Further, the Tehsildar did not charge any late fee in cases in which applications for registration of marriages were submitted after the expiry of three months from the date of marriage. Non-application of correct rates resulted into short realisation of marriage registration fee of ₹ 9.66 lakh including late fee of ₹ 0.21 lakh.

The matter was reported to the Government/Department (April 2016); their replies were awaited.



(JAGBANS SINGH)

Chandigarh

The 27 FEB 2017

Pr. Accountant General (Audit), Punjab

Countersigned



(SHASHI KANT SHARMA)

New Delhi

The 1 MAR 2017

Comptroller and Auditor General of India

# **Appendices**

## *Appendix-I*

*(Refer paragraph No. 6.4.1 Page 60)*

### **Provisions under different Acts/Rules regarding Arrears**

<b>Punjab Value Added Tax Act, 2005</b>	<p>Section 29 (11 ) of PVAT Act , 2005 provides that when any tax, interest, penalty or any other sum is payable under this Act, the designated officer shall serve upon the person a notice of demand in the prescribed form specifying the sum so payable.</p> <p>Further, Section 36 of the PVAT Act, 2005 provides that any amount of tax, interest, penalty or any other sum due and payable under the Act, which remains unpaid after the due date, shall be recoverable as arrears of land revenue.</p>
<b>Punjab Motor Vehicles Taxation Act, 1924</b>	<p>Section 11 of the PMVT Act, 1924 provides that when a person neglects or refuses to pay an installment of tax within one month from the expiration of period fixed for such payment, the licensing officer may forward to the commissioner a certificate under his signature specifying the amount of the arrears due from the person and the commissioner shall recover the specified amount from such person as if it were an arrear of land revenue</p>
<b>Punjab Excise Act, 1914</b>	<p>Section 60(1) (c) of the PE Act, 1914 provides that all amounts due to the Government by any person on account of any contract relating to the excise revenue may be recovered from the person primarily liable to pay the same, or from his surety if any, by distress and sale of his moveable property or by any other process for the recovery of arrears of land revenue.</p>
<b>Indian Forest Act</b>	<p>Section 82 of the Indian Forest Act, 1927 provides that all money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce or of expensed incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue</p>
<b>Indian Stamp Act, 1899</b>	<p>Section 48 of Indian Stamp Act, 1899 provides that all duties, penalties, interest, penal interest and other sums required to be paid may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.</p>
<b>Land Revenue Act, 1887</b>	<p>Section 62(1) of the PLR Act, 1887 provides that the land revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents or produce thereof.</p>
<b>Revenue Recovery Act, 1890</b>	<p>Section 3 of Revenue Recovery Act, 1890 provides that in case of a sum recoverable as an arrear of land revenue, being payable to a Collector by a defaulter being or having property in a district other than that in which arrear accrued, the Collector may send to the Collector of that other district a revenue recovery certificate.</p>

## *Appendix-II*

*(Refer paragraph No. 6.4.1 Page 60)*

### **Departmental mechanisms for recovery of arrears of revenue**

<b>Punjab Value Added Tax Act, 2005</b>	<ul style="list-style-type: none"><li>• Rule 51 of the Punjab Value Added Tax Act, 2005 provides if any sum is payable by a person under the Act or these rules, the designated officer shall serve a notice in Form VAT-56 upon him specifying the date, not less than fifteen days and not more than thirty days from the date of the service of the notice, on or before which, payment shall be made and he shall also fix a date on or before which, the person shall furnish the treasury challan in proof of such payment.</li><li>• Rule 51-A. Locking of Tax Identification Number (TIN).- If any person fails to pay any tax, penalty or interest payable under the Act, the Commissioner of the designated officer may lock his Tax Identification Number provided that a notice in Form VAT-58 shall be issued immediately after locking of the Tax Identification Number by the designated officer informing him about the action taken, along with the reasons thereof. The locked Tax Identification Number shall be reopened immediately after the compliance by the concerned person by furnishing evidence of the payment of the tax, interest and penalty.</li></ul>
<b>Punjab Motor Vehicles Taxation Act, 1924</b>	<ul style="list-style-type: none"><li>• Section 6 of the PMVT Act, 1924 provides that the licensing officer may serve special notice upon any person to pay the tax mentioned therein or to submit declaration that he is not liable to pay the tax.</li><li>• Section 11-B of the PMVT Act, 1924 provides the licensing officer may proceed to recover tax, interest or penalty due under this Act, in the prescribed manner, by attachment and sale of the moveable property of the person liable for the payment thereof.</li></ul>
<b>Punjab Stamp (Dealing of undervalued instruments) Rules, 1983</b>	<ul style="list-style-type: none"><li>• Section 47-A of the IS Act, 1899 envisages that where the registering authority has reasons to believe that the market value of the property has not been set forth in the instrument, he may refer the same to the Collector for determining its market value and the Collector shall after holding an enquiry determine the market value of the property.</li><li>• Rule 5 of the Punjab Stamp Rules, 1983 provides that the Collector shall issue a notice in Form 2 to the person liable to pay duty directing him to pay into Government treasury the deficient amount of duty and furnish a copy of receipted challan showing the payment of such amount of duty by such date as may be specified in the said notice.</li></ul>
<b>Land Revenue Act, 1887</b>	<ul style="list-style-type: none"><li>• Section 62(1) of the PLR Act, 1887 provides that the land revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents or produce thereof.</li><li>• Section 67 of the PLR Act, 1887 provides that an arrear of land revenue may be recovered by any one or more of the following processes, namely (a) by service of writ of demand on the defaulter; (b) by arrest and detention of his person; (c) by distress and sale of his moveable property and uncut or un-gathered crops; (d) by transfer of the holding in respect of which the arrear is due; (e) by attachment of the estate or holding in respect of which the arrear is due; (f) by annulment of the assessment of that estate or holding; (g) by sale of that estate or holding; (h) by proceeding against other immovable property of the defaulter.</li></ul>

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