



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

for the year ended 31 March 2018



लोकहितार्थ सत्यनिष्ठा
Dedicated to Truth in Public Interest

Government of Rajasthan

Report No. 1 of the year 2019

Presented to the legislature on 17.07.2019

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Comptroller and Auditor General of India
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PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2018 has been prepared for submission to the Governor of Rajasthan under Article 151 of the Constitution of India.

This Report contains significant findings of audit of Receipt and Expenditure of the major Revenue Sector Departments conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 and Regulations on Audit and Accounts, 2007 issued thereunder by the Comptroller and Auditor General of India.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2017-18 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2017-18 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 18 paragraphs involving ₹ 448.67 crore, including a Performance Audit on 'Levy and collection of stamp duty and registration fee'. Some of the significant audit findings are mentioned below:

I. General

The total revenue receipts of the Government of Rajasthan during 2017-18 were ₹ 1,27,307.18 crore as against ₹ 1,09,026 crore for the year 2016-17. The revenue raised by the Government amounted to ₹ 66,339.13 crore comprising tax revenue of ₹ 50,605.41 crore and non-tax revenue of ₹ 15,733.72 crore. The receipts from the Government of India were ₹ 60,968.05 crore (State's share of divisible Union taxes of ₹ 37,028.01 crore and grants-in-aid of ₹ 23,940.04 crore).

(Paragraph 1.1)

Inspection Reports (IRs) issued up to December 2017 disclosed that 9,075 paragraphs involving ₹ 3,319.89 crore relating to 3,062 IRs remained outstanding at the end of June 2018.

(Paragraph 1.6)

II. Taxes on Sales, Trade, Supplies, etc.

An examination of 'Preparedness for transition to Goods and Services Tax (GST)' which was implemented with effect from 1 July 2017 disclosed the following:

- Total receipts from July 2017 to March 2018 were ₹ 23,599.29 crore against ₹ 22,570.26 crore under pre-GST taxes during the same period of previous year 2016-17 *i.e.* an increase of 4.56 *per cent* only.

(Paragraph 2.4.5)

- It was found that 92 *per cent* of the dealers registered under the pre-GST regime were primary enrolled under the GST Act but 80 *per cent* of these dealers completed the migration process and were finally registered under GST.

(Paragraph 2.4.8.1)

- Monthly returns numbering 5,68,302 had not been filed by the tax payers for the period July 2017 to March 2018. There was a possibility of evasion of tax by the defaulters and claiming of Input Tax Credit (ITC) by the recipients against the tax paid to the defaulters.

(Paragraph 2.4.8.3)

- Differences between transitional credit claimed in return filed in form TRAN-1 and those of Input Tax Credit carried forward in quarterly VAT return by the taxpayers amounting to ₹ 63.35 crore were noticed in 12 cases resulting in incorrect claim of transitional credit to that extent.

(Paragraph 2.4.8.4)

- The Department did not introduce a system to collect the details of pending declaration forms at the time of assessment of the dealers nor persuaded them to deposit the same after the completion of assessment. Delay in initiating recovery process may increase the number of non-traceable dealers and difficulties in cross verification of transactions from the books of accounts of the dealers.

(Paragraph 2.4.10.1)

- Due to non-verification of ITC, demands amounting to ₹ 192.95 crore were pending for more than five years. While allowing the ITC in these cases, cross check of invoices submitted by the purchasing dealers would be difficult for the Assessing Authorities, due to legal provision to keep the accounts by the selling dealers for five years only.

(Paragraph 2.4.10.2)

An examination of the system of ‘**Disposal of Appeal cases by Departmental Authorities**’ disclosed the following:

- Out of 132 test checked cases involving a disputed sum of ₹ 128.13 crore, in 36 cases the Departmental Representatives (DRs) were not present at the time of hearing, in 14 cases the posts of DRs were vacant while in 82 cases one line stereotype sentence was repeated in the order which shows effective defence on part of the Department was lacking.

(Paragraph 2.5.3)

- Appeals numbering 266 filed during 2008-09 to 2016-17 were finalised with delays ranging from 6 to 2,510 days beyond the specified period of one year.

(Paragraph 2.5.5)

An examination of system of ‘**Levy and Collection of Electricity Duty from Captive Power Plants (CPPs)**’ disclosed the following:

- Deficiencies in Rules *i.e.* lack of provision for assessment/submission of annual return/on-line submission of returns/penal provisions for non/delayed submission of returns were noticed which resulted in non-assessment/non-levy of penalty and improper monitoring of returns.

(Paragraph 2.6.5)

- Four entities claimed deduction on account of auxiliary consumption of units from their total units generated. The concerned Authorities could not detect this omission which resulted in irregular exemption from payment of electricity duty amounting to ₹ 12.36 crore.

(Paragraph 2.6.6)

Assessing Authorities did not utilise the information regarding inter-State/intra-State purchases available in the web-based application of the Department, further the Assessing Authorities irregularly allowed ITC, applied incorrect rate of tax and did not impose penalty for misuse of declaration forms which resulted in short/non levy of tax, penalty and interest of ₹ 30.41 crore.

(Paragraph 2.7)

III. Taxes on Vehicles

Temporary Registration Certificate fee on sale/distribution of vehicles was not deposited by the manufacturers which resulted in short realisation of ₹ 19.41 crore.

(Paragraph 3.4)

Motor vehicle tax, surcharge and penalty amounting to ₹ 11.49 crore in respect of 2,081 vehicles was not paid by vehicle owners. The Department, however, did not initiate action to realise the dues.

(Paragraph 3.5)

Lump-sum tax, surcharge and penalty amounting to ₹ 6.46 crore was not deposited by 1,180 transport vehicle owners. The taxation officers, however, did not initiate action to realise the tax due.

(Paragraph 3.6)

IV. Land Revenue

An examination of 'Encroachment on Government Land' disclosed the following:

- There was no centralised system of maintaining database of Government land at State/District/*tehsil* level for ensuring proper monitoring.

(Paragraph 4.4.6.1)

- Despite identification of cases of encroachment over an area of 1.78 lakh square metre in five *tehsils*, these were not entered in the registers of encroachments *i.e.* *Dayra* registers.

(Paragraph 4.4.6.3)

- In 10 *tehsils* 3,101 trespassers had encroached upon 30.77 lakh square metre of Government land for housing, commercial, industrial and brick kiln purposes. In the absence of separate provision, the *Tehsildars* imposed penalty on the basis of rent applicable for agricultural land.

(Paragraph 4.4.7)

- The State Government framed (11 September 2017) a policy to deal with encroachments on Government land after lapse of 10 months from the directions of Rajasthan High Court, even though the directions in this regard had already been issued by Supreme Court in January 2011. No action plan for removal of encroachments from the Government land was prepared.

(Paragraph 4.4.9)

- In 10 cases of encroachments pertaining to nine trespassers of five *tehsils*, the trespassers had encroached upon 62,820.73 square metre of Government land for construction of Schools, *Dharamshalas* and *Ashrams*.

(Paragraph 4.4.11)

- No Vigilance and Encroachment Prevention cell exists at State/District/*Tehsil* level to curb the encroachments.

(Paragraph 4.4.13.2)

- Non-compliance of provision of Act/Rules resulted in short/non-recovery of cost of land, conversion/regularisation charges and short realisation of Government's share amounting to ₹ 2.80 crore and non-reversion of land to Government.

(Paragraph 4.5)

V. Stamp Duty and Registration Fee

A Performance Audit on 'Levy and collection of stamp duty and registration fee' disclosed the following:

- The holding of District Level Committee (DLC) meetings was an effective tool in the hands of the Department for determining the true market value of the properties from time to time. However, meetings of DLCs were not being conducted regularly in six test checked districts.
- No defined criteria was considered for revising the DLC rates due to which DLC rates did not reflect the actual market rates. Rates at which properties were auctioned by urban local bodies in different localities of Jaipur and Kota were higher ranging between 152 *per cent* and 806 *per cent* than the rates fixed by DLCs in same area in same year.

(Paragraph 5.3.9.1)

- Conducting of site inspections is significantly important for detecting the instances of underassessment of SD and needs to be strengthened in the interest of revenue. However, the site inspections were not being conducted diligently and hence were not effective in achieving the intended purpose.

(Paragraph 5.3.10)

- Conversion table was not mentioned in the DLC rates and was not integrated with the '*E-Panjiyan*' system which resulted in short levy of stamp duty (SD) and registration fee (RF) of ₹ 0.94 crore.

(Paragraph 5.3.11.2)

- '*E-Panjiyan*' was not made compatible to assess the SD on the share of owner and developer separately resulting in short levy of SD and RF of ₹ 1.80 crore.

(Paragraph 5.3.11.3)

- Separate module, to compute SD and RF leviable on delayed presentation of lease deeds was not integrated in '*E-Panjiyan*', as a result the correct SD leviable in these cases could not be worked out by '*E-Panjiyan*' automatically resulting in short levy of SD and RF ₹ 5.52 crore.

(Paragraph 5.3.11.5)

- Public offices failed to perform their duties as prescribed in the Registration and Stamps Act resulting in non/short levy of SD and RF of ₹ 66.64 crore. This also shows lack of co-ordination between Inspector General of Registration and Stamps (IGRS) and Public offices.

(Paragraph 5.3.12)

- Co-operative housing societies were acting contrary to the provisions of the Registration Act, Rajasthan Stamps Act and Rajasthan Land Revenue Act. Further, these societies purchased land through unregistered instruments which resulted in leakage of revenue of ₹ 2.94 crore.

(Paragraph 5.3.13.3)

- It was noticed in 127 cases that either complete information was not given in check lists or facts were mentioned in recital of documents/supporting documents were enclosed but incorrect input was given in 'E-Panjiyan'. This resulted in non/short levy of SD and RF of ₹ 10.77 crore.

(Paragraph 5.3.14)

VI. State Excise

State Government enhanced the rate of excise duty with effect from 1 April 2016. The District Excise officers, however, failed to levy difference of excise duty amounting to ₹ 2.98 crore on closing stock (as on 31 March 2016) of liquor and beer available with the retail-on licensees.

(Paragraph 6.4)

Incorrect calculation and levy of composite fee by the District Excise officers resulted in short realisation of ₹ 1.33 crore.

(Paragraph 6.5)

Delay in sanction of restaurant bar licences resulted in revenue amounting to ₹ 33.50 lakh being foregone.

(Paragraph 6.6)

VII. Non-Tax Receipts

'Audit of Collection of District Mineral Foundation Trust Fund' disclosed the following:

- Delay in promulgation of the District Mineral Foundation Trust (DMFT) Rules, 2016 resulted in non-collection of contribution towards Trust Fund worth ₹ 147.33 crore on despatches of minor minerals.

(Paragraph 7.4.3.1)

- Reconciliation of collection of contribution with the funds amounting to ₹ 498.17 crore lying in the Personal Deposit (PD) account was not carried out by the Mining Engineer (ME)/Assistant Mining Engineer (AME) offices. This amount was not transferred to the concerned DMFT.

(Paragraph 7.4.3.3)

- MEs/AME did not ensure correct payment of contribution towards DMFT Fund which resulted in short payment of contribution of ₹ 194.43 crore during 17 September 2015 to 31 March 2018 by lease holders, Excess Royalty Collection Contractors and brick earth permit holders.

(Paragraph 7.4.4.3)

Three Excess Royalty Collection Contractors did not deposit the instalments of the contract amount on due dates. The ME/AME, however, failed to raise the demand for interest amounting to ₹ 60.33 lakh.

(Paragraph 7.5)

A mining lease holder illegally excavated mineral from an area other than the designated mining lease area and misused 196 *rawannas* for despatch of the mineral. The Department, however, neither calculated the quantity of mineral despatched through these *rawannas* nor raised demand for recovery of the cost of the mineral as provided in the Rules.

(Paragraph 7.7)

CHAPTER-I

GENERAL

CHAPTER-I : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Rajasthan during the year 2017-18, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding four years are mentioned in the Table 1.1.1.

Table 1.1.1

(₹ in crore)

Sl. no.	Particulars	2013-14	2014-15	2015-16	2016-17	2017-18
1	Revenue raised by the State Government					
	• Tax revenue ¹	33,477.70	38,672.87	42,712.92	44,371.66	50,605.41
	• Non-tax revenue ²	13,575.25	13,229.50	10,927.87	11,615.57	15,733.72
	Total	47,052.95	51,902.37	53,640.79	55,987.23	66,339.13
2	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties ³	18,673.07	19,817.04	27,915.93	33,555.86	37,028.01
	• Grants-in-aid ⁴	8,744.35	19,607.50	18,728.40	19,482.91	23,940.04
	Total	27,417.42	39,424.54	46,644.33	53,038.77	60,968.05
3	Total revenue receipts of the State Government (1 and 2)	74,470.37	91,326.91	1,00,285.12	1,09,026.00	1,27,307.18
4	Percentage of 1 to 3	63	57	53	51	52

The above table indicates that there was continuous increase in collection of revenue during the last five years. The revenue raised by the State Government (₹ 66,339.13 crore) was 52 *per cent* of the total revenue receipts (₹ 1,27,307.18 crore) during the year 2017-18. The balance 48 *per cent* of receipts during 2017-18 was from the Government of India by way of share of net proceeds of divisible Union taxes and duties and grants-in-aid.

¹ For details, please see table No. 1.1.2 of this chapter.

² For details, please see table No. 1.1.3 of this chapter.

³ For details, please see Statement No. 14 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Rajasthan for the year 2017-18. Figures under the head 0005 - Central Goods and Service Tax, 0008 - Integrated Goods and Service Tax, 0020 - Corporation Tax, 0021 - Taxes on income other than corporation Tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service Tax and 0045 - Other Taxes and Duties on Commodities and Services - share of net proceeds assigned to State booked in the Finance Accounts.

⁴ For details, please see Statement No. 14 of Finance Accounts of the Government of Rajasthan for the year 2017-18 major Head - 1601.

1.1.2 The details of the revised budget estimates (RE), and the actual receipts in respect of the tax revenue raised during the period 2013-14 to 2017-18 are given in the table 1.1.2.

Table 1.1.2

(₹ in crore)

Sl. no.	Heads of revenue	RE Actual	2013-14	2014-15	2015-16	2016-17	2017-18	Percentage of increase (+) / decrease (-) in 2017-18 over 2016-17
1	Taxes on sales, trade, etc.	RE	20,300.00	24,120.00	27,635.00	27,767.60	18,800.00	
		Actual	19,834.72	22,644.89	24,878.67	27,151.54	18,285.44	(-) 32.65
	Central sales tax	RE	1,450.00	1,505.00	1,615.00	1,227.40	700.00	
		Actual	1,380.79	1,525.02	1,466.10	1,406.88	722.80	(-) 48.62
2	State Goods and Service Tax ⁵ .	RE	-	-	-	-	11,700.00	
		Actual	-	-	-	-	12,137.02	
3	State excise	RE	4,625.00	5,330.00	6,350.00	7,600.00	7,800.00	
		Actual	4,981.59	5,585.77	6,712.94	7,053.68	7,275.83	(+) 3.15
4	Stamp duty and registration fee							
	Stamps-judicial	RE	144.00	156.66	105.00	103.34	92.58	
		Actual	104.59	54.27	97.45	73.94	59.78	(-) 19.15
	Stamps-non-judicial	RE	2,706.00	2,823.35	2,785.00	2,701.00	3,346.15	
		Actual	2,577.76	2,705.10	2,574.88	2,502.86	3,070.79	(+) 22.69
	Registration fee	RE	500.00	520.00	560.00	445.66	611.27	
Actual		442.98	429.52	561.67	476.45	544.21	(+) 14.22	
5	Taxes on motor vehicles	RE	2,550.00	2,800.00	3,300.00	3,650.00	4,300.00	
		Actual	2,498.90	2,829.86	3,199.44	3,622.83	4,362.97	(+) 20.43
6	Taxes and duties on electricity	RE	1,406.63	1,697.18	2,000.00	2,172.00	3,500.00	
		Actual	948.93	1,534.51	1,921.29	738.24	3,376.67	(+) 357.39
7	Land revenue	RE	365.76	324.69	320.00	359.01	566.71	
		Actual	337.98	288.58	272.47	314.69	363.86	(+) 15.62
8	Taxes on goods and passengers	RE	300.00	360.00	800.00	750.00	328.00	
		Actual	287.92	956.52	847.72	803.28	340.78	(-) 57.58
9	Other taxes and duties on commodities and services	RE	55.01	99.99	171.79	200.00	62.00	
		Actual	68.46	113.68	170.96	220.08	63.93	(-) 70.95
10	Other taxes ⁶ , etc.	RE	50.00	50.17	50.20	10.00	10.00	
		Actual	13.08	5.15	9.32	7.19	1.33	(-) 81.50
	Total	RE	34,452.40	39,787.04	45,691.99	46,986.01	51,816.71	
		Actual	33,477.70	38,672.87	42,712.92	44,371.66	50,605.41	(+) 14.05
	Percentage of increase of actual over previous year	9.75	15.52	10.45	3.88	14.05		

There had been a continuous increase in overall revenue collection of the tax during last five years but the collection for each year has been less than revised estimates. The percentage of growth of revenue, however, increased during the year 2017-18 in comparison to the year 2016-17.

⁵ New Head: Addition due to implementation of GST from July 2017 by Government of India.

⁶ Other taxes include taxes on income and expenditure (Taxes on professions, trades, callings and employments) and taxes on immovable property other than agriculture land.

Decrease in Central Sales Tax (48.62 per cent), 'Taxes on goods and passengers' (57.58 per cent) and in 'other taxes and duties on commodities and services' (70.95 per cent) was due to merger of CST, VAT, Entry tax, Entertainment tax and Luxury tax in GST with effect from 1 July, 2017 and decrease in 'other taxes' (81.50 per cent) was due to exemption of tax on land. Increase (357.39 per cent) in taxes and duties on electricity was due to deposit of outstanding amount for the year 2016-17 by electricity distribution companies.

1.1.3 The details of the RE and the actual receipts in respect of the non-tax revenue raised during the period 2013-14 to 2017-18 are given in the table 1.1.3.

Table 1.1.3

(₹ in crore)

Heads of revenue	RE Actual	2013-14	2014-15	2015-16	2016-17	2017-18	Percentage of increase (+)/ decrease (-) in 2017-18 over 2016-17
Non-ferrous mining and metallurgical industries	RE	3,360.00	3,566.00	4,250.00	4,200.00	4,900.00	
	Actual	3,088.66	3,635.46	3,782.13	4,233.74	4,521.52	(+) 6.80
Interest receipts	RE	2,109.36	1,959.83	1,860.58	2,002.97	4,924.14	
	Actual	2,142.49	2,065.39	1,982.39	1,933.37	4,858.90	(+) 151.32
Miscellaneous general services	RE	743.37	920.88	885.72	859.39	888.31	
	Actual	846.36	963.85	700.90	660.70	762.36	(+) 15.39
Police	RE	192.36	220.10	213.00	220.15	333.73	
	Actual	167.27	240.03	162.02	190.78	296.56	(+) 55.45
Other administrative services	RE	126.66	107.19	162.44	222.35	228.41	
	Actual	147.38	133.21	161.98	210.51	207.55	(-) 1.41
Major and medium irrigation	RE	97.55	90.90	112.50	129.79	90.30	
	Actual	80.62	67.08	68.72	112.77	277.72	(+) 146.27
Forestry and wild life	RE	87.39	80.20	111.65	123.95	173.82	
	Actual	77.52	89.31	133.75	113.00	182.26	(+) 61.29
Public works	RE	67.87	74.76	79.51	95.30	107.37	
	Actual	69.16	71.74	97.89	84.31	109.26	(+) 29.59
Medical and public health	RE	72.86	105.07	108.99	115.74	152.34	
	Actual	65.61	116.43	119.21	125.39	130.67	(+) 4.21
Co-operation	RE	17.83	16.52	14.52	41.25	47.75	
	Actual	18.80	16.88	14.64	44.10	63.11	(+) 43.11
Other non-tax receipts ⁷	RE	6,631.79	6,327.04	4,072.75	4,458.43	4,813.11	
	Actual	6,871.38	5,830.12	3,704.24	3,906.90	4,323.81	(+) 10.67
Total	RE	13,507.04	13,468.49	11,871.66	12,469.32	16,659.28	
	Actual	13,575.25	13,229.50	10,927.87	11,615.57	15,733.72	(+) 35.45
Percentage of increase of actual over previous year		11.88	(-) 2.55	(-) 17.40	6.29	35.45	

⁷ Other non-tax receipts constitute income from petroleum, public service commission, jails, housing, village and small industries, fisheries, dividends and profit, contribution and recoveries towards pension and other retirement benefits, etc.

It would be seen from above that though the collection of non-tax revenue during 2017-18 was less than the REs, there was overall increase in revenue collection by 35.45 per cent as compared to the previous year. This was mainly due to increase (151.32 per cent) in 'interest receipts' on loan given to electricity distribution companies under Uday Yojana, increase (55.45 per cent) in 'police' due to more receipt from recruitments fee, increase (61.29 per cent) in 'forestry and wildlife' due to more receipts in auction of *Tendu Pata*, increase (43.11 per cent) in co-operation due to 1,027 *Gram Sava Samiti* audited by departmental auditors and the audit fee deposited directly in Government account. The reasons for variation wherever found substantial in remaining Departments though called for (May 2018 and August 2018) have not been furnished by the respective departments (February 2019).

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2018 relating to some principal heads of revenue amounted to ₹ 9,305.55 crore, out of which ₹ 2,136.88 crore was outstanding for more than five years as given in the Table 1.2.

Table 1.2

(₹ in crore)					
Sl. no.	Heads of revenue	Total amount outstanding as on 1 April 2017	Total amount outstanding as on 31 March 2018 and percentage of increase in comparison to previous year		Amount outstanding for more than five years as on 31 March 2018
1	Commercial Taxes* ⁸	13,924.46	8,131.29	(-) 41.60	1,472.36
2	Transport*	74.20	61.29	(-) 17.40	33.88
3	Land Revenue*	632.88	515.69	(-) 18.52	275.47
4	Registration and Stamps	305.23	247.40	(-) 18.95	80.58
5	State Excise	200.57	193.86	(-) 3.35	191.66
6	Mines, Geology and Petroleum*	192.50	156.02	(-)18.95	82.93
Total		15,329.84	9,305.55	(-)39.30	2,136.88

Source: Furnished by the concerned Departments.

The stages at which arrears were pending for collection though called for (May 2018 and August 2018) have not been received except Registration and Stamps Department and Mines, Geology and Petroleum Department who stated that amount of ₹ 174.58 crore and ₹ 63.43 crore respectively could not be recovered as it was covered by various stay orders issued by appellate authorities and courts.

⁸ *The figures shown as outstanding balance(s) on 1 April 2017 were at variance with the balances on 31 March 2017 (Commercial Tax ₹ 4,748.56 crore, Transport ₹ 55.34 crore, Land Revenue ₹ 593.57 crore, Mines, Geology and Petroleum ₹ 143.09 crore. This was stated to be due to the reconciliation(s) of the figures done by the Commercial Taxes, Transport and Mines, Geology and Petroleum Departments. The Commercial Taxes Department stated that the difference in two set of figures was due to addition of the demands raised during 2016-17, which were not included earlier. Reasons for the variation were not received from the land revenue Department.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the 'Commercial Taxes', 'Registration and Stamps' and 'Mines, Geology and Petroleum' Departments for the year 2017-18 are given in the Table 1.3.

Table 1.3

Name of the Department	Opening balance	New cases due for assessment during 2017-18	Total assessments due	Cases disposed of during 2017-18	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Commercial Taxes	3	4,66,000	4,66,003	4,65,993	10	99.99
Registration and Stamps ⁹	4,332	7,819	12,151	8,163	3,988	67.18
Mines, Geology and Petroleum	12,211	322	12,533	7,890	4,643	62.95

Source: Furnished by the concerned Departments.

It can be seen that Commercial Taxes Department has performed exceedingly well to clear all the cases including those under deemed assessment scheme. The disposal of cases was much lower in Registration and Stamps Department and Mines, Geology and Petroleum Department in comparison to Commercial Taxes Department. These Departments may take necessary action for speedy disposal of the cases.

1.4 Evasion of tax detected by the Department

As per the information furnished by the Commercial Taxes Department 1,765 cases of tax evasion were noticed, out of which in 1,586 cases assessment/investigation was completed and additional demand with penalty *etc.* amounting to ₹ 4,951.46 crore was raised. The Department recovered ₹ 2,670.35 crore and settled 89.86 *per cent* cases of the total cases during the year 2017-18.

1.5 Pendency of refund cases

The number of refund cases pending at the beginning of the year 2017-18, claims received during the year, refunds allowed during the year and the cases pending

⁹ Adjudication Cases.

at the close of the year 2017-18 as reported by the Departments is given in the Table 1.5.

Table 1.5

(₹ in crore)

Sl. no.	Particulars	Commercial Taxes		Registration and Stamps	
		Number of cases	Amount	Number of cases	Amount
1	Claims outstanding at the beginning of the year	901	202.98	1,284	8.36
2	Claims received during the year	11,669	859.93	1,010	7.50
3	(i) Refunds made during the year	7,517	843.89	1,113	7.27
	(ii) Rejected during year	4,133	7.67		
4	Balance outstanding at the end of year	920	211.35	1,181	8.59

Source: Furnished by the concerned Departments.

The Department may consider speedy settlement of refund cases. This would not only benefit the claimants but would also save the Government from payment of interest on the delayed payment of refunds.

1.6 Response of the Government/Departments to Audit

The Accountant General (Economic and Revenue Sector Audit), Rajasthan, Jaipur conducts periodical inspection of the Government/Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed by Inspection Reports (IRs) which incorporate irregularities detected during the inspection and not settled on the spot. The IRs are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions. They have to report compliance through initial reply to the Accountant General within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Analysis of Inspection Reports issued upto December 2017 disclosed that 9,075 paragraphs involving ₹ 3,319.89 crore relating to 3,062 IRs remained outstanding at the end of June 2018. The figures as on June 2018 along with the corresponding figures for the preceding two years are given in the Table 1.6.

Table 1.6

Particulars	June 2016	June 2017	June 2018
Number of IRs pending for settlement	3,127	2,961	3,062
Number of outstanding audit paragraphs	9,129	8,691	9,075
Amount of revenue involved (₹ in crore)	3,180.58	2,877.01	3,319.89

It would be seen from the above that the number of outstanding paragraphs and the amount of revenue involved therein have increased as compared to previous year. There is a need to speed up the compliance for timely settlement of audit paragraphs.

1.6.1 The Department-wise details of the IRs and audit paragraphs outstanding as on 30 June 2018 and the amounts involved are mentioned in Table 1.6.1.

Table 1.6.1

Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit paragraphs	Amount involved (₹ in crore)
1	Commercial Taxes	Taxes on sales, trade, etc.	553	2,106	459.21
2	Transport	Taxes on motor vehicles	489	1,536	78.93
3	Land Revenue	Land revenue	77	312	284.11
4	Registration and Stamps	Stamp duty and registration fee	1,429	3,420	393.92
5	State Excise	State excise	120	262	71.30
6	Mines, Geology and Petroleum	Non-ferrous mining, metallurgical industries and petroleum	394	1,439	2,032.42
Total			3,062	9,075	3,319.89

The pendency is indicative of the fact that the heads of offices and the Departments did not take adequate action to rectify the defects and irregularities pointed out by Audit through the IRs.

1.6.2 Departmental Audit Committee Meetings

The Government constituted Audit Committees¹⁰ to monitor and expedite the progress of the settlement of the paragraphs in the IRs. The details of the Audit Committee/Audit sub-committee meetings held during the year 2017-18 and the paragraphs settled are mentioned in the Table 1.6.2.

Table 1.6.2

Sl. no.	Name of the Department	Number of Audit Committee meetings held	Number of Audit sub-committee meetings held	Number of paragraphs settled	Amount (₹ in crore)
1	Commercial Taxes	4	-	-	-
2	Transport	1	2	-	-
3	Land Revenue	3	12	25	0.73
4	Registration and Stamps	4	13	815	36.22
5	State Excise	2	-	-	-
6	Mines, Geology and Petroleum	2	2	86	6.99
Total		16	29	926	43.94

It would be seen from the above that 926 paragraphs involving ₹ 43.94 crore were settled in Audit sub-committee meetings held in respect of Land Revenue, Registration and Stamps and Mines, Geology and Petroleum Departments. Two Audit sub-committee meetings were held in Transport Department but no paragraph was settled. Commercial Taxes Department and State Excise Department had not held any meeting of Audit sub-committee.

Commercial Taxes and Transport Departments need to make concerted efforts to settle outstanding paragraphs.

¹⁰ Audit Committees, *inter alia*, comprising of Secretary of concerned Departments and Accountant General/his representative, were formed as per Circular No. 1/2005 dated 18 January 2005 of Government of Rajasthan and decided that one Audit Committee meeting shall be held in each quarter. In addition to this, Audit sub-committees comprising of officers of the Departments and representative of Accountant General, are also formed.

1.6.3 Response of the Departments to the draft audit paragraphs

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

54 draft paragraphs clubbed into 18 paragraphs including one Performance Audit were sent to the Principal Secretaries/Secretaries of the respective Department by name between April and October 2018. The Principal Secretaries/Secretaries of the Departments¹¹ did not send replies (February 2019) to three draft paragraphs and the same have been included in this Report without the response of the Government.

1.6.4 Follow-up on the Audit Reports - summarised position

The Rules and Procedures of the Public Accounts Committee (PAC) of the Rajasthan State Assembly framed in 1997 prescribe that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs. The action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the PAC. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed. One hundred and eighty paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on Revenue Sector of the Government of Rajasthan for the years ended 31 March 2013, 2014, 2015, 2016 and 2017 were placed before the State Legislative Assembly between 18 July 2014 and 6 March 2018. The action taken explanatory notes from the concerned Departments on these paragraphs were received late with an average delay of 40 days in respect of each of these Audit Reports. The PAC discussed 152 selected paragraphs pertaining to the Audit Reports for the years from 2012-13 to 2015-16 and its recommendations on 29 paragraphs were incorporated in their eight Reports¹² (2017-18).

1.7 Analysis of the mechanism for dealing with the issues raised by Audit in Excise Department

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs included in the Inspection Reports/Audit Reports of the last five years for one Department was evaluated.

The succeeding paragraphs 1.7.1 to 1.7.2 discuss the performance of the Excise Department on the cases detected in the course of local audit and also the cases included in the Audit Reports.

¹¹ Department: Transport (1) and Land Revenue (2).

¹² Eight Reports pertaining to: Motor Vehicle Tax (3), Land Revenue (3) and State Excise (2).

1.7.1 Position of inspection reports

The summarised position of the inspection reports pertaining to Excise Department issued during 2013-14 to 2017-18, paragraphs included in these reports and their status shown in the Table 1.7.1.

Table 1.7.1

(₹ in crore)

Position upto year	Opening balance			Addition during the year			Clearance during the year			Closing balance at the end of the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2013-14	156	349	325.58	17	92	20.12	64	227	265.33	109	214	80.37
2014-15	109	214	80.37	26	133	16.98	24	123	47.08	111	224	50.27
2015-16	111	224	50.27	17	50	15.38	23	97	10.58	105	177	55.07
2016-17	105	177	55.07	27	164	23.90	19	92	20.56	113	249	58.41
2017-18 upto June 2018	113	249	58.41	19	121	18.94	12	108	6.05	120	262	71.30

The Government arranges Audit sub-committee meetings between the Department and the Audit Office at regular interval to settle the old paragraphs. However, during 2017-18 no Audit sub-committee meeting was held. Effective and concrete steps are, therefore, required to be taken to achieve substantial results.

1.7.2 Position of paragraphs and recovery of accepted cases included in the Audit Reports

The details of paragraphs relating to Excise Department included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned in the Table 1.7.2.

Table 1.7.2

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year 2017-18	Cumulative position of recovery of accepted cases as of 30 June 2018
2012-13	5	8.58	5	8.58	1.25	1.25
2013-14	7	5.90	5	5.14	0.44	0.44
2014-15	5	48.27	5	39.33	5.53	5.92
2015-16	3	8.25	2	6.69	1.66	1.66
2016-17	6	2.86	6	1.44	1.02	1.02
Total	26	73.86	23	61.18	9.90	10.29

The Department recovered an amount of ₹ 10.29 crore only during the period of five years, out of ₹ 61.18 crore accepted by it. The recovery was just 16.82 per cent of the accepted amount of paragraphs.

It is recommended that the Excise Department may closely monitor the recovery.

1.8 Audit Planning

The unit offices working under various departments were categorised into high, moderate and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan was prepared on the basis of risk analysis which, *inter-alia*, included critical issues in Government revenues and tax administration *i.e.* performance indicators in annual administrative reports of the departments, budgetary provisions, trend of revenue, average revenue of the units for the last three years, internal audit findings, media reports, recommendations of State Audit Advisory Board, past audit coverage, past audit findings, changes in legislation, *etc.* During the year 2017-18, there were 2,098 total auditable units, out of which audit of 541 units were planned and audited. Besides, compliance audit, a performance audit on 'Levy and collection of stamp duty and registration fee' was also conducted.

1.9 Results of audit

Position of local audit conducted during the year

Test check of the records of 541 units¹³ of 'Commercial Taxes', 'Transport', 'Land Revenue', 'Registration and Stamps', 'State Excise', 'Mines, Geology and Petroleum' Departments and other offices conducted during the year 2017-18 disclosed under assessments, short levy/loss of revenue, *etc.* aggregating ₹ 1,026.66 crore in 25,288 cases. During the year, the concerned Departments accepted under assessments and other deficiencies in 19,182 cases involving Government revenue of ₹ 205.83 crore, of which 7,820 cases involving ₹ 58.71 crore were pointed out in audit during 2017-18 and the rest in the earlier years. The Departments recovered ₹ 30.33 crore in 6,222 cases during 2017-18 up to 31 March 2018.

1.10 Coverage of this Report

This Report contains 18 paragraphs including a Performance Audit on 'Levy and collection of stamp duty and registration fee'. The total financial impact of the paragraphs is ₹ 448.67 crore, out of which the financial impact of the performance audit is ₹ 88.40 crore. These are discussed in Chapters II to VII.

The Departments/Government have accepted (February 2019) audit observations involving ₹ 225.44 crore, the replies in the remaining cases have not been received. Of the accepted audit observations, the Departments had recovered ₹ 60.58 crore up to February 2019 which was in addition to the recoveries (₹ 30.33 crore) made through local audit inspection report during the year 2017-18. Thus, the total recoveries made at the instance of audit during the year aggregated to ₹ 90.91 crore.

¹³ Total 317 IRs were issued which includes audit findings for 224 implementing units also.

CHAPTER-II

**TAXES ON SALES, TRADE,
SUPPLIES, *etc.***

CHAPTER-II : TAXES ON SALES, TRADE, SUPPLIES, etc.

2.1 Tax administration

The receipts from the Goods and Services Tax/Value Added Tax/Central Sales Tax/Entry Tax/Electricity Duty payable under the respective laws relating to state taxpayers are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (Department) and is assisted by 23 Additional Commissioners, 46 Deputy Commissioners (DC), 91 Assistant Commissioners (AC), 136 Commercial Taxes Officers (CTO), 405 Assistant Commercial Taxes Officers (ACTO) and a Financial Advisor (FA). They are assisted by Junior Commercial Taxes Officers (JCTO) and other allied staff for administering the relevant tax laws and rules.

2.2 Internal audit

Financial Advisor is the head of the Internal Audit Wing. There were 17 internal audit parties each headed by Assistant Accounts Officer. Planning for internal audit of units is done on the basis of importance and revenue realisation.

The position of units audited by the Internal Audit Wing during the last five years is as under:

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2013-14	183	414	597	287	310	52
2014-15	310	413	723	471	252	35
2015-16	252	413	665	181	484	73
2016-17	484	468	952	426	526	55
2017-18	526	468	994	526	468	47

Source: Information furnished by Commercial Taxes Department.

There was shortfall in conducting internal audit ranging between 35 and 73 per cent during the years 2013-14 to 2017-18.

It was further noticed that 16,453 paragraphs of internal audit were outstanding at the end of the year 2017-18. The year-wise break up of outstanding paragraphs is as under:

Year	Upto 2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
Paragraphs	10,995	758	705	839	894	2,262	16,453

Source: Information furnished by Commercial Taxes Department.

Non-settlement of large number of outstanding paragraphs indicates lack of monitoring and effective follow up action by the Department on the observations raised by its own Internal Audit Wing.

2.3 Results of audit

There are 492 auditable units in the Commercial Taxes Department, out of these, audit selected 150 units for test check wherein 1.89 lakhs assessments were finalised. Out of these, audit test checked 27,000 assessments (approximate 14 *per cent*) during the year 2017-18 and noticed 629 cases (approximate 2.3 *per cent* of audited sample) of non/short levy of tax/interest, irregular allowance of Input Tax Credit, non-imposition of penalty for misuse of declaration forms, irregular allowance of investment subsidy, application of incorrect rate of tax and non-observance of provisions of Acts/Rules *etc.* involving an amount of ₹ 152.13 crore. These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years also, not only these irregularities persist; but also remain undetected till next audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Paragraph on 'Preparedness for transition to Goods and Services Tax (GST)'	1	63.35
2	Paragraph on 'Disposal of Appeal cases by Departmental Authorities'	1	-
3	Paragraph on 'System of Levy and Collection of Electricity Duty from Captive Power Plants (CPPs)'	1	12.98
4	Under assessment of tax	109	18.68
5	Acceptance of defective statutory forms	11	3.05
6	Evasion of tax due to suppression of sales/purchase	36	11.37
7	Irregular/incorrect/excess allowance of Input Tax Credit	115	7.76
8	Other irregularities relating to		
	(i) Revenue	346	34.65
	(ii) Expenditure	9	0.29
Total		629	152.13

During the year 2017-18, the Department accepted underassessment and other deficiencies of ₹ 28.36 crore in 427 cases, of which 73 cases involving ₹ 3.24 crore were pointed out in audit during the year 2017-18 and the rest in the earlier years. During the year 2017-18, the Department recovered/ adjusted ₹ 0.61 crore in 41 cases, of which 9 cases involving ₹ 0.12 crore pertained to the year 2017-18 and the rest to earlier years.

Audit in one case had pointed out that an entity had neither submitted the returns nor paid electricity duty amounting to ₹ 10.04 crore for the period January 2016 to March 2017. After the issue of draft paragraph the Department recovered (November 2018) the entire amount. This has not been discussed in the audit report.

This chapter consists of three paragraphs and a few illustrative cases having revenue impact of ₹ 106.74 crore.

2.4 Preparedness for transition to Goods and Services Tax (GST)

2.4.1 Introduction

Goods and Services Tax (GST) was implemented with effect from 1 July 2017. GST¹ is being levied on intra-State supply of goods or services (*except alcohol for human consumption and five specified petroleum products*²) separately but concurrently by the Union (CGST) and the States (SGST)/Union territories (UTGST). Further, Integrated GST (IGST) is being levied on inter-State supply of goods or services (including imports) and the Parliament has exclusive power to levy IGST. Prior to implementation of GST, VAT was leviable on intra-State sale of goods in the series of sales by successive dealers as per Rajasthan Value Added Tax (RVAT) Act, 2003 and Central Sale Tax (CST) on sale of goods in the course of inter-State trade or commerce as per CST Act, 1956.

The State Government was empowered to regulate the provisions of RVAT Act whereas provisions relating to GST were being regulated by Centre and State on the recommendation of Goods and Services Tax Council (GSTC) which was constituted with representation from Centre and all the States to recommend on the matters related to GST. The State Government notified (June 2017) the Rajasthan Goods and Services Tax (RGST) Act, 2017 and the Rajasthan Goods and Services Tax Rules, 2017 wherever various taxes³ were subsumed.

Goods and Services Tax Network (GSTN) was set up by the Government of India as a private company to provide IT services. It provides *Front-end IT services* to taxpayers namely registration, payment of tax and filing of returns. *Back-end IT services i.e.* registration approval, taxpayer detail viewer, refund processing, MIS reports *etc.* are also being provided by GSTN to Model-II⁴ States. Rajasthan has opted for Model-II.

2.4.2 Audit objectives

The audit was conducted with a view:

- to evaluate the preparedness of the State Government for implementing the IT solution;
- to assess the capacity building measures undertaken by State Government for its employees for framing/implementing the Rules/Regulations/IT system and
- to analyse the strategy of the State Government in handling the issues of legacy tax regime.

¹ Central GST: CGST and State/Union Territory GST: SGST /UTGST.

² Petroleum products: crude, high speed diesel, petrol, aviation turbine fuel and natural gas.

³ Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax and Entertainment Tax.

⁴ Model-I States: only front-end services provided by GSTN,

Model -II States: both Front-end and Back-end services provided by GSTN.

2.4.3 Audit criteria

The audit criteria was derived from the provisions of the following acts, rules and notifications/circulars issued thereunder:

- Rajasthan GST Act, 2017;
- Rajasthan GST Rules, 2017;
- GST (Compensation to States) Act, 2017;
- Acts relating to subsumed taxes and Rules made thereunder;
 - Rajasthan VAT Act, 2003, Rajasthan Tax on Entry of Goods into Local Areas Act, 1999, Central Sales Tax Act, 1956 and other guidelines issued by Central/State Government and GST Council.

2.4.4 Scope of Audit

The activities of the State Government/Commercial Taxes Department relating to implementation of GST since 101st amendment to the Constitution of India *i.e.* 8 September 2016 to March 2018 were reviewed. Besides, records of the office of the Commissioner, Commercial Taxes (CCT) and data available on the departmental web based application *RajVISTA* regarding legacy issues *i.e.* assessment, recovery/refund, rectifications, submission of declaration forms *etc.* were examined.

Draft Paragraph was sent to the Government in September 2018. A meeting was held on 5 October 2018 with Secretary, Finance (Revenue), Government of Rajasthan and other officers to discuss the findings. Their views have been appropriately considered in the relevant sections of this paragraph.

2.4.5 Trend of Revenue from 2013-14 to 2017-18

GST was implemented from July 2017 and total receipts under GST including non-subsumed/subsumed taxes from July 2017 to March 2018 were ₹ 23,599.29 crore (including IGST advance ₹ 751 crore) against ₹ 22,570.26 crore under pre-GST taxes during the same period of previous year 2016-17 *i.e.* an increase of 4.56 *per cent.* Actual receipts under pre-GST taxes⁵ and GST are given below:

(₹ in crore)

Year	Budget Estimate (RE)	Receipts under pre-GST taxes ⁶	Receipts under GST		Total receipts under pre-GST taxes and GST	Increase in <i>per cent</i>	Compensation received	Total receipts
			SGST	IGST apportionment				
2013-14	22,105.01	21,571.89	-	-	21,571.89	-	-	21,571.89
2014-15	26,084.99	25,240.11	-	-	25,240.11	17.00	-	25,240.11
2015-16	30,221.79	27,363.45	-	-	27,363.45	8.41	-	27,363.45
2016-17	29,945.00	29,581.78	-	-	29,581.78	8.11	-	29,581.78
2017-18*	31,590.00 ⁷	7,950.68	-	-	7,950.68	6.65	2,598.00	34,147.97
2017-18#		11,462.27	6,260.21	5,876.81	23,599.29			

* April to June 2017. # July 2017 to March 2018

⁵ Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax and Entertainment Tax.

⁶ There is a difference in budget estimate (RE) and actual receipts figures provided by the Department and figures shown in Finance Account (Budget Head 0040, 0042 and 0045) due to receipts relating to Registrar, Revenue Department, Ajmer and Deputy Secretary Finance (Ways and Means) being included in Finance Account as intimated by the Department.

⁷ Budget estimate (RE) for pre-GST taxes ₹ 19,890 crore and GST ₹ 11,700 crore.

The above table indicates that there was an increasing trend in receipts during the last four years.

2.4.6 Legal/statutory preparedness

The State Government notified (June 2017) the Rajasthan Goods and Services Tax Act, 2017 and the Rajasthan Goods and Services Tax Rules, 2017. E-way bill system was implemented in the State on inter-State transactions with effect from 1 April 2018 and on intra-State transactions with effect from 20 May 2018. Further, necessary notifications were issued by the State Government from time to time for facilitating implementation of GST in the State. The State Government/Commercial Taxes Department had issued 219 notifications/circulars/orders regarding GST from June 2017 to June 2018.

2.4.7 IT preparedness and capacity building efforts by the Department

GSTN was to provide three *front-end services* to the taxpayers namely registration, payment of tax and filing of returns. As Rajasthan had opted model-II for implementation of GST, *back-end applications* like registration approval, taxpayer detail viewer, Letter of Undertaking (LUT) processing, refund processing, management information system (MIS) reports *etc.* for GST administration were being developed by GSTN. As per information provided by the Department, the access for *back-end application* was available to State through Multi-Protocol Level Switching (MPLS) connectivity at State Data Centre.

Under the overall supervision of National Academy of Customs, Excise and Narcotics (NACEN), Faridabad, training programme for officers (upto the level of Junior Commercial Taxes Officer) in four phases was organised. IT training of selected Master Trainers (officers) had been organised in Chennai at *Infosys* campus under the supervision of GSTN. Further, IT training programmes were organised in State Tax Academy, Jaipur for the officers upto the level of Junior Commercial Taxes Officer and Tax Assistants. IT training was also provided to ministerial officials. More than 1,000 workshops were organised across the State wherein more than one lakh stake holders/taxpayers participated. '*GST Corner*' tab was also started on departmental website '*Rajtax*' to provide GST related information such as Act/Rules, notifications/circulars/orders, help/FAQ, important dates, GST Service Provider (GSP) E-mitra kiosk, GST rate finder App, taxpayer division, e-Way bill *etc.* A 'centralised call center' was also established to attend to the problems/queries of taxpayers.

Further, the Department informed that the present availability of desktops is quite sufficient for the present user base of Commercial Taxes Department staff created on GSTN portal.

2.4.8 Implementation of GST

Audit noticed that the major issues/challenges faced by the Department in implementation of GST were in registration, migration, allocation of taxpayers, filing of returns, payment of tax, transitional credit, refund *etc.*

These issues alongwith the changes in Rules and Regulations made since 1 July 2017 by the State Government were analysed in audit and are briefly discussed as follows:

2.4.8.1 Registration of taxpayers

Every person registered under any of the pre-GST laws and having a valid Permanent Account Number (PAN) was to be issued a certificate of registration on provisional basis. Thereafter, final certificate of registration was to be granted on completion of prescribed conditions. Further, taxpayers having turnover of more than the threshold limit of ₹ 20 lakh were required to be registered under GST.

- **Migration of existing taxpayers of Commercial Taxes Department**

As per Rule 24 of Rajasthan GST Rules, 2017, every person registered under any existing law of subsumed taxes and having a PAN shall enroll on common portal by validating his e-mail address as well as mobile number. Such person shall be granted registration on a provisional basis. Every person who has been granted a provisional registration shall submit an application alongwith the information and documents specified in the application on common portal. A certificate of registration shall be made available to the registered person electronically if the information and the particulars furnished in the application are found to be correct and complete. As per information provided by the Department, position of provisional registration and final registration of existing registered dealers in the Commercial Taxes Department is given below:

Total number of existing registered dealers with valid PAN	Total number of provisional ID received from GSTN (percentage w.r.t. column 1)	Number of dealers primary enrolled (percentage w.r.t. column 1)	Complete enrollment done (percentage w.r.t. column 1)
(1)	(2)	(3)	(4)
5,41,472	5,36,078 (99 per cent)	4,97,170 (92 per cent)	4,34,077 (80 per cent)

Source: Information furnished by Commercial Taxes Department.

It would be seen from the above table that 92 per cent of the existing dealers completed the primary enrollment but 80 per cent of the existing dealers completed the migration process and were finally registered under GST.

The Government stated (October 2018) that migration process was to be completed by the dealer and it was voluntary on his part. Some of the reasons for non-migration were that the dealer did not have registration liability as they were below threshold limit, having duplicate PAN, closure of business in VAT etc. Further, the Government intimated that out of the 63,093 dealers who have not completed their secondary enrollment, reasons in respect of 52,785 VAT dealers under the jurisdiction of the State have been analysed and these are nil turnover, short turnover, closing of business, business started with new registration etc.

- **Allocation of taxpayers between Centre and State**

(a) **Existing registered taxpayers of Commercial Taxes Department and Central Excise Department:** As per recommendation of GST Council, 90 per cent of existing registered taxpayers having turnover upto ₹ 1.50 crore and 50 per cent of existing registered taxpayers having

turnover of more than ₹ 1.50 crore were allotted to the State. Accordingly, State was allotted the jurisdiction of 4,64,007 existing registered taxpayers (November 2017) as detailed below:

Existing registered taxpayers			
	Turnover above ₹ 1.50 crore	Turnover below ₹ 1.50 crore	Total
State	30,954	4,33,053	4,64,007
Centre	30,969	48,135	79,104
Total	61,923	4,81,188	5,43,111

Source: Information furnished by Commercial Taxes Department.

(b) **New taxpayers:** Jurisdiction of newly registered taxpayers is being allotted to the State and Centre by GST portal electronically during submission of application for registration by the taxpayers. Position of new registration under the jurisdiction of State as on 12 June 2018 is given below:

Applications received upto 12 June 2018	Number of applications rejected	Number of applications approved	Number of applications pending
1,25,423	18,754	1,05,509	1,160

Source: Information furnished by the Commercial Taxes Department.

Thus 1,160 applications were pending at various stages of registration as on 12 June 2018. These include the cases received from date of framing rules *viz.* 22 June 2017.

2.4.8.2 Filing of returns

As per Rule 59 to 61 of Rajasthan GST Rules, 2017, taxpayers other than composition taxpayers were required to furnish details of outward supplies of goods or services in Form GSTR-1⁸, details of inward supplies of goods or services in Form GSTR-2⁹ and a return in Form GSTR-3 (electronically generated by system on the basis of information furnished through GSTR-1 and GSTR-2) monthly, whereas composition taxpayers were required to file a quarterly return GSTR-4.

The prescribed process of return filing was amended to address the difficulties faced by the taxpayers in the initial period of the new tax regime. The filing of GSTR-2 and GSTR-3 was postponed and all taxpayers were mandated to submit a simple monthly return in Form GSTR-3B¹⁰ with payment of tax by 20th of the succeeding month. Further, taxpayers having turnover below ₹ 1.50 crore were to file GSTR-1 on quarterly basis.

2.4.8.3 Payment of tax

Monthly return GSTR-3B and quarterly return GSTR-4 were required to be filed after payment of due tax. Therefore, monitoring of these returns was important to ensure timely deposit of due tax by the taxpayers. Scrutiny of the

⁸ GSTR-1: (a) Invoice wise details of all inter-State and intra-State supplies made to the registered persons and inter-State supplies with invoice value more than ₹ 2.50 lakh made to the unregistered persons, (b) consolidated details of all intra-State supplies made to unregistered persons and State wise inter-State supplies with invoice value upto ₹ 2.50 lakh made to the unregistered persons and (c) debit and credit notes, if any, issued during the month.

⁹ GSTR-2: (a) Invoice wise details of all inter-State and intra-State supplies received from the registered persons or unregistered persons, (b) Import of goods and services made and (c) Debit and credit notes, if any, received from supplier.

¹⁰ GSTR-3B: A monthly return required to be filed by all taxpayers other than composition taxpayers.

information provided (September 2018) by the Department for the period July 2017 to March 2018 revealed that taxpayers ranging between 3,29,244 and 3,92,416 had filed their monthly return GSTR-3B against taxpayers ranging between 3,84,815 and 4,62,794 required to file GSTR-3B. The remaining tax payers had not filed their 5,68,302 monthly returns in GSTR-3B for the period July 2017 to March 2018. There was a possibility of evasion of tax by the defaulters and claiming of ITC by the recipients against the tax paid to the defaulters. Further, 71 to 85 *per cent* of the composition taxpayers had filed their quarterly return GSTR-4.

The Government replied (October 2018) that e-mails had been sent to 93,666 taxpayers who did not file their GSTR-3B returns. Out of these, 30,482 taxpayers have submitted the returns GSTR-3B and declared tax liability amounting to ₹ 2,452.46 crore. However, details of GSTR-4 return defaulters were still awaited from GSTN. Audit is of the view that the Department needs to take concrete steps to ensure that remaining 63,184 taxpayers¹¹ file their returns expeditiously.

2.4.8.4 Transitional credit

As per Rule 117 of Rajasthan GST Rules read with Section 140 of Rajasthan GST Act, the registered taxpayers were entitled to carry forward and claim un-availed amount of ITC¹² of the pre-GST regime (as per VAT returns) in the GST regime. This included un-availed input tax credit in respect of capital goods not carried forward in the VAT returns. Further, the taxpayers were also entitled to take credit of VAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on which credit was not claimed in earlier law and the taxpayer is eligible for input tax credit on such inputs under the RGST Act. The registered taxpayers were required to file a return in prescribed form TRAN-1. However, the taxpayers shall not be allowed to take credit where all the returns required under the pre-GST law for the period of six months immediately preceding the appointed date were not furnished.

Scrutiny of relevant dump data¹³ provided (May 2018) by the Department and cross verification with VAT returns (VAT-10) for the quarter ending 30 June 2017 filed by taxpayers revealed that 61,517 taxpayers had filed TRAN-1 and claimed transitional credit of ₹ 4,758.66 crore. Out of 61,517 taxpayers, 51,209 taxpayers claimed transitional credit amounting to ₹ 1,161.71 crore as SGST. Audit test checked 90 cases (each of more than ₹ one crore) where transitional credit was claimed as SGST.

Cross verification of transitional credit (SGST) claimed as per dump data with ITC carried forward shown in VAT returns (VAT-10) submitted for the period from April to June 2017 revealed that there was difference in case of 16 taxpayers. These cases are discussed as follows:

- Eight taxpayers had irregularly claimed transitional credit of ₹ 56.87 crore in TRAN-1 in excess of ITC shown carried forward in VAT returns.

¹¹ 63,184 taxpayers: 93,666-30,482

¹² ITC: Input tax credit.

¹³ Dump data *i.e.* database provided (31May 2018) by the Department in softcopy regarding information of registration, returns (TRAN-1 and GSTR 3B) and refunds.

- Six taxpayers claimed transitional credit of ₹ 8.34 crore as *input held in stock* which could not be scrutinised by Audit as annual VAT returns (VAT-10A or VAT-11) along with trading accounts for the year 2017-18 (upto 30 June 2017) were yet to be submitted by these dealers. The Department extended the date of submission of annual VAT returns for the year 2017-18 from time to time and last extension was allowed upto 31 October 2018. Out of these six, two taxpayers irregularly claimed transitional credit of ₹ 1.50 crore in TRAN-1 in excess of ITC shown carried forward in VAT returns.
- Two taxpayers who claimed transitional credit of ₹ 4.98 crore in TRAN-1 not filed the VAT returns for the period of 2016-17 and 2017-18.

Thus, results of preliminary examination showed that all cases of transitional credit should be cross verified with the returns filed under earlier tax laws and other relevant records. After this being pointed out the Government stated (October 2018) that:

- Three cases were under jurisdiction of CGST Authorities and they have been informed accordingly.
- Action have been taken in 11 cases by reversing/blocking the ITC amounting to ₹ 42.84 crore.
- Investigation was under progress in remaining 2 cases.

The Government also stated that in 563 cases differences between information under VAT and TRAN-1 was found. Out of these, 34 cases were under jurisdiction of Centre. The Department examined 505 cases under its jurisdiction. Action of ITC reversion/blocking was taken in 112 cases, investigation was under progress in 24 cases and ITC claimed was found correct in remaining cases. However, the system put in place for verification of input tax credits in respect of the dealers transferred to and from the jurisdiction of Central and State was not intimated to audit.

2.4.8.5 Refund under GST

Refund module under GSTN was not operational hence the refunds are being allowed through manual system to the applicants. Specific procedures were prescribed for refund of the balance amount in the electronic cash ledger or unutilised input tax credit at the end of particular tax period. Refund of unutilised input tax credit was allowed in case of zero-rated supplies made without payment of tax or when the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. As per information provided by the Department position of refunds was as under:

(₹ in crore)

Applications received for refund upto 31 March 2018		Refunds allowed within prescribed period		Refunds allowed after prescribed period		Number of applications rejected
Number of taxpayers	Amount	Number of taxpayers	Amount	Number of taxpayers	Amount	
962	131.88	776 (81 per cent)	119.15	28 (3 per cent)	0.13	158

It could be seen from the above table that the Department allowed refunds to 81 per cent of the registered taxpayers within the prescribed period and

158 applications were rejected. As filing of GSTR-2 was postponed (till further orders), match/mismatch report of ITC could not be generated from the IT system. Therefore, possibility of claim of refund in case of unutilised input tax credit showing incorrect ITC amount in GSTR-3B cannot be ruled out.

The Government replied (October 2018) that circulars were issued (12 December 2017, 9 January 2018 and 21 March 2018) for manual processing of refunds and to ensure that no amount of unavailable ITC may be refunded to taxpayers. The Government further stated that the taxpayers applying for refunds are required to submit an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case of non-compliance of provisions.

Legacy issues

Audit assessed the legacy issues regarding assessment, recovery of arrears and other related matters and our observations are as follows:

2.4.9 Assessment of dealers

Dealers were registered under RVAT Act, 2003, CST Act, 1956 and other minor taxes *i.e.* entry tax, luxury tax, entertainment tax, *etc.* prior to implementation of GST. Therefore, assessments of the dealers registered under old tax regime for the year 2015-16, 2016-17 and 2017-18 (upto 30 June 2017) were to be completed by the Department within the prescribed period of two years after the relevant year. The Department introduced (31 May 2017) a '*Deemed Assessment Scheme for the assessment of the year 2015-16*'. Directions were also issued (11 August 2017) to the Assessing Authorities for early disposal of deemed assessments and other assessments. As a result, all assessments for the 2015-16 had been completed except 10 cases (March 2018). The Department extended the date of submission of annual returns for the year 2016-17 and 2017-18 from time to time and last extension was allowed upto 31 May 2018 for 2016-17 and 31 October 2018 for 2017-18. Further, the Department introduced (11 June 2018) a '*Deemed Assessment Scheme for the assessment of the year 2016-17*'. The Department, however, has not prescribed any timeline for early disposal of the assessments of the year 2016-17.

Scrutiny of *deemed assessment scheme* disclosed that there is a risk of revenue leakage while finalising assessments under the Scheme in those cases where the dealers claimed ITC for the purchases of taxable goods and used these goods for manufacturing of exempted goods/consigned outside the State or claimed ITC on purchase of goods (plants and machinery *etc.*) which were not covered under the definition of the capital goods. Further, there are possibilities of misuse of declaration forms, non-payment of tax on goods purchased on declaration forms but not included in returns, short payment of tax due to application of incorrect rate of tax, *etc.* in deemed assessed cases.

Therefore, the Department needs to evolve a system to detect such cases before finalising the assessments under *deemed assessment scheme*. During discussion, Commissioner Commercial Taxes stated that directions were

issued (September 2018) to the Assessing Authorities for proper scrutiny of the returns while finalising the assessments.

The Government replied (October 2018) that 2,14,529 assessments for the year 2016-17 were finalised upto 3 October 2018 and the Department would make efforts to finalise most of the assessments upto December 2018. Further, the Department would also make efforts to finalise assessments for the year 2017-18 during the year 2018-19 itself.

2.4.10 Recovery of arrears

As per information furnished by the Department, arrears (VAT and CST) aggregating to ₹ 16,072.68 crore were pending as on 1 April 2018. The Department had classified the arrears in different categories. More than 50 per cent of total arrears were locked up in two categories *i.e.* arrears due to non-submission of declaration forms (VAT/CST) amounting to ₹ 7,891.46 crore and arrears due to non-verification of ITC amounting to ₹ 1,186.93 crore. Audit observations on these two categories are discussed in succeeding paragraphs:

2.4.10.1 Arrears due to non-submission of declaration forms

Various type of declaration forms were prescribed under RVAT Act, 2003 and CST Act, 1956 for partial or full exemption from tax. As per Rule 12(7) of CST (Registration and Turnover) Rules, 1957, declaration forms shall be furnished to the prescribed authority within three months after the end of the period to which the declaration forms relates. Provided that if prescribed authority is satisfied that the person concerned was *prevented by sufficient cause* from furnishing such declaration forms within the aforesaid time, that authority may allow such declaration forms to be furnished within such further time as that authority may permit. Further, relevant provisions for submission of VAT declaration forms were prescribed in Rule 21 of RVAT Rules, 2006.

Audit noticed that where the dealers did not furnish the declaration forms upto the time of assessments, the Assessing Authorities levied the tax at prescribed rates¹⁴ and demands were raised accordingly. The Assessing Authorities, however, did not initiate action for recovery of these demands after the assessments were complete. The Department waited for the dealers to voluntarily submit the details of the forms. The demands were being reduced subsequently by the same Assessing Authorities whenever the dealer submitted the pending declaration forms. Audit findings on monitoring of submission of declaration forms, recovery of these demands and verification of declaration forms submitted after assessments were discussed below:

- **Incomplete information regarding pending declaration forms in the returns**

As per Rule 19 of RVAT Rules the dealers were required to mention the details of pending declaration forms *i.e.* name of purchasing dealer, TIN, name of commodity, amount of transaction, *etc.* in their annual returns (VAT-10A). The Government had clarified that providing of information in

¹⁴ Tax rate prescribed for sale of goods without support of declarations form.

prescribed columns of annual return (VAT-10A) was mandatory for the dealers.

Scrutiny of the dump data provided by the Department disclosed that the dealers were either not providing the details of pending declaration forms in their annual returns or were depicting it short. Audit called for the details regarding pending declaration forms mentioned by the dealers in their annual returns (VAT-10A) for the year 2015-16 and assessed by the Assessing Authorities. Details furnished by the Department are given below:

(₹ in crore)

Relevant Act/ Rules	As per annual return VAT-10A submitted by dealers		As per assessments done by the Assessing Authorities	
	Number of dealers	Amount of pending declaration forms	Number of dealers	Amount of pending declaration forms
VAT	344	681.75	3,694	4,392.85
CST	2,449	10,129.02	34,231	1,36,092.10
Total	2,793	10,810.77	37,925	1,40,484.95

Source: Information furnished by the Commercial Taxes Department.

It would be seen from the above table that more than 90 *per cent* of the dealers did not submit the details of pending declaration forms in their returns. The details of pending declaration forms are essential to levy correct rate of tax and to check the genuineness of the transactions shown by the dealers in their returns.

The Department, therefore, needs to introduce an IT system to monitor that Assessing Authorities collect the details of pending declaration forms at the time of assessments or at the time of providing extension of time for submission of the pending declaration forms.

During discussion, the Secretary, Finance (Revenue) agreed with the audit observation but expressed constraint in introducing the system to collect the details of all pending declaration forms before finalisation of the assessments.

- **Non-recovery of demands raised for non-submission of declaration forms**

RVAT declaration forms were required to be furnished prior to the date of filing of annual return. The Government, however, amended the RVAT Rules from time to time and provided successive extensions of time to the defaulting dealers for submission of RVAT declaration forms. As per amended Rules, the dealers could furnish the declaration forms upto 31 March 2018 for the assessments completed upto June, 2017.

It was noticed that recovery process was not being initiated by the Assessing Authorities for the tax levied for non-submission of declaration forms. As a result, arrears due to non-submission of declaration forms relating to assessments completed upto June, 2017 reached upto ₹ 3,110.86 crore against 97,706 dealers although the extended period allowed was over. Further, the arrears due to non-submission of declaration forms relating to assessments completed upto March, 2018 increased upto ₹ 7,891.46 crore. Thus, delay in recovery of old demands may hamper the possibility of recovery.

The Government replied (October 2018) that recovery proceeding of the demands raised for pending declaration forms was being initiated after expiry of time for submission of declaration forms. The Government further stated that no period was prescribed in Rule 12(7) of CST (Registration & Turnover) Rules for submission of declaration forms. The Assessing Authority may accept declaration forms any time on the basis of sufficient cause. However, instructions were issued to recover the demands of pending declaration forms in absence of sufficient cause.

The reply indicates that though the assessment were finalised but the recovery proceedings in such cases were not initiated and the dealers were allowed to submit their CST declaration forms even after the date of raising demand. This rendered the process of the assessment less effective and delayed the process of recovery particularly, in those cases where dealers had closed their business or had become non-traceable.

- **Verification of declaration forms-submitted after five years**

As per Section 71(5) of RVAT Act the accounts, registers and other documents relating to a particular year were to be preserved by a dealer for five years excluding the year to which they relate. Therefore, genuineness of the transactions mentioned in declaration forms which related to more than five years old cases could not be verified from the books of accounts of the dealers. Evasion of tax on submission of false declaration forms in such cases cannot be ruled out.

Secretary, Finance (Revenue) accepted the audit contention and stated that cases pending for more than five years will be prioritised.

2.4.10.2 Verification of Input Tax Credit

Section 18(2) of RVAT Act provides that the input tax credit shall be allowed only after verification of deposit of tax payable by the selling dealer in the manner as may be notified by the Commissioner. Further, the Commissioner notified (September 2009, October 2014 and June 2017) the manner for verification of deposit of tax for the purpose of allowing the input tax credit. Audit observed that demands amounting to ₹ 1,186.93 crore were pending as on 1 April 2018 due to non-verification of ITC, earliest being for the year 2006-07. This reduced to ₹ 741.10 crore as on 1 July 2018, out of which demands amounting to ₹ 192.95 crore were pending for more than five years. Cross check of invoices related to more than five years old cases submitted by the purchasing dealers would be difficult as matching records would not be verified from the books of accounts of the selling dealers due to legal provision to keep the accounts by a dealer for five years only.

The Department would not be able to verify whether the selling dealer had shown the transaction in their returns and deposited the tax in State exchequer in cases which are more than five years old. As significant amount was involved in these cases, the Department needs to verify ITC on priority basis.

During discussion, Secretary, Finance (Revenue) accepted the audit contention and stated that cases pending for more than five years will be prioritised.

2.4.11 Refunds of pre-GST period

Provisions were not available in the RVAT Act/Rules for processing the refunds as a result of assessment made without submission of refund application by the dealers as is provided in Income Tax Act.

As per information provided by the Department, position of refunds claimed in quarterly returns for the quarter ending 30 June 2017 by the dealers under RVAT Act is given below:

(₹ in crore)

Dealers who mentioned refund in quarterly return VAT-10 (quarter ending on 30 June 2017)		Dealers who applied refund in prescribed form VAT-20/20A/20AA/21		Refund sanctioned	
Number of dealers	Amount	Number of dealers	Amount	Number of dealers	Amount
8,886	300.69	441	79.50	356	75.44

Source: Information furnished by Commercial Taxes Department.

It would be seen from the above that 8,445 cases¹⁵ of refund involving amount of ₹ 221.19 crore would be decided after submission of application of refund by the dealers in prescribed form.

The Government replied (October 2018) that refunds were being sanctioned by the tax officials after submission of applications of refund by the dealers in prescribed form, however, changes could not be done in RVAT Act as it has been repealed.

The Department may consider sensitising the dealers to apply for refunds. This is in the interest of the revenue of the State as the shortfall in revenue, if any, due to allowing refunds would be compensated by the Central Government during the transitional period of five years only and refunds allowed after the transitional period would adversely affect the revenue of the State.

2.4.12 Conclusion

The Government/Department was prompt in its preparedness for implementation of GST as can be seen with reference to enactment of the Act and Rules as per model law approved by GST Council, primary enrollment of existing taxpayers, capacity building efforts *etc.* Audit noticed that frequent changes were made in the rules/regulations since 1 July 2017 on the recommendations of the GST Council by the State Government which have resulted in non-implementation of many of the procedures laid down in SGST. Further, the GSTN has not been able to provide the complete IT solution and thus the problems regarding filing of returns GSTR-2 and GSTR-3 have not been resolved. The Government of Rajasthan was hamstrung in implementing the provisions of GST as it had limited role in these matters. Further, the Department needs to sort out the legacy issues like assessments of pre-GST cases, recovery of arrears and refund of tax relating to pre-GST regime expeditiously in a time bound manner through focused arrangements.

¹⁵ 8,445 cases: 8,886 cases (-) 441 cases.

2.5 Disposal of Appeal cases by Departmental Authorities

2.5.1 Background

According to the Section 82 of the Rajasthan Value Added Tax (RVAT) Act and Section 23 of the Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, 1999, any dealer or person aggrieved by an order passed by an Assistant Commissioner, a Commercial Taxes Officer, an Assistant Commercial Taxes Officer or Junior Commercial Taxes Officer or Incharge of a check-post or barrier under this Act, may file an appeal to the First Appellate Authority (the Deputy Commissioner authorised as such by the State Government) against such order in the prescribed form and manner along with a prescribed percentage of the disputed tax amount¹⁶. Further, under Section 83, any person or dealer and the Commissioner/Deputy Commissioner or any authorised officers, if aggrieved by any order of first Appellate Authorities, may file an appeal before the Rajasthan Tax Board (second appeal).

The audit was carried out between January 2018 and May 2018 to examine the efficiency of the system of filing and disposal of appeals by the first Appellate Authority from 1 April 2014 to 31 March 2017 in selected five¹⁷ out of nine appeal offices. We examined records in the offices of the first Appellate Authority to assess whether the provisions/procedures prescribed for filing, acceptance and disposal of appeals were scrupulously followed. We test checked 4,318 cases (37.38 *per cent*) out of 11,442 appeal cases disposed off during 2014-15 to 2016-17.

2.5.2 Disposal of appeal cases by the first Appellate Authority

As per information furnished by the Department 4,396 appeal cases were pending for finalisation as on 1 April 2014, 10,471 cases were added during the period 2014-15 to 2016-17. Of these, 11,242 cases were disposed of during the period and 3,625 cases (24 *per cent* of the total cases) were pending as on 31 March 2017. Out of these, 1593 cases involving amount of ₹ 913.20 crore pertained to entry tax and were pending with the first Appellate Authority. Of these 1,069 cases (67.11 *per cent*) were pending for more than three years.

The Government intimated (November 2018) that validity of the RET Act was sub-judice at the Supreme Court, therefore, to avoid any legal complication cases were not disposed of. Thereafter, in the light of the Supreme Court's decision (March 2017), pending appeal cases are being disposed of. Further, it was also stated that directions to decide the pending matter (beyond one year) have already been issued (5 September 2018) to the authorities.

¹⁶ In case of an appeal for an *ex-parte* assessment order, five *per cent* and in other cases ten *per cent* of the disputed tax amount.

¹⁷ Ajmer, Bikaner, Jaipur-I, Jaipur-III and Udaipur.

2.5.3 Inadequate pleading in appeal cases by Departmental Representatives

According to Section 82(6) of the RVAT Act, the Appellate Authority may, before disposing of any appeal, make such further enquiry from the Assessing Authority concerned as it deems fit. The authority or officer against whose order the appeal has been preferred either in person or by a representative shall have the right to be heard at the hearing of the appeal. Further, under Section 82(7) the Appellate Authority may, in the case of an order of assessment, interest or penalty, confirm, enhance, reduce or annul the assessment, interest or penalty; or set aside the order of assessment, interest or penalty and direct the Assessing Authority to pass fresh order after such further enquiry as may be directed. According to existing procedure a departmental representative (DR) is posted in each Appellate Office to represent the Department at the time of hearing of appeal.

Audit observed that in selected offices, 132 out of 4,318 cases involving a disputed sum of ₹ 128.13 crore were disposed of between April 2014 and March 2017 and demand of ₹ 100.04 crore were set aside in 110 cases. Analysis of these 132 cases disclosed that, in 82 cases appellate orders had a single line mention of the role of the DRs as '*the departmental representative has supported the assessment order and requested to reject appeal filed by the appellant*' which shows that DRs did not argue indicating reasons for refuting the appeal. In 36 cases the DRs were not present at the time of hearing and in 14 cases the posts of DRs were stated to be vacant in the respective Appellate Authority offices.

The Government intimated (November 2018) that the DRs argued on the basis of comments mentioned in the assessment orders and majority of the appeal cases were decided in favour of the Department. However, the fact remains that out of 132 test checked cases, 50 cases were not argued while in 82 cases one line stereotype sentence was repeated in orders which shows effective defence was lacking. Further analyses of the appeals decided (2014-15 to 2016-17) by the first Appellate Authorities disclosed that there was decreasing trend (54.47, 46.22 and 36.80 *per cent*) of appeals being decided in favour of the Department.

The above fact indicates that the Department needs to strengthen its mechanism to ensure effective pleading in each case.

2.5.4 Utilisation of IT system for appeal process

The State Government through a notification dated 9 March 2015 (effective from 1 October 2015), decided that the appeal to first Appellate Authority shall be submitted electronically through the official website of the Department. The Appellate Authority shall forward the memorandum of appeal electronically to the Assessing Authority for submission of his comments through the official website of the Department.

During the audit of selected Appellate Offices, it was noticed that the appellants submitted memorandum of appeal and relevant documents electronically on website with application for condonation, if appeal was delayed. However, the Appellate Authorities did not forward the

memorandum of appeal electronically to the Assessing Authority for their comments and the Assessing Officers also did not submit their comments electronically. This resulted in non-inclusion of the Assessing Authorities views during hearing of cases which would have weakened the Department's case.

The Government intimated (August and November 2018) that IT system had limited capacity of uploading documents whereas the supporting documents along with the memorandum of appeal were of larger size. Hence, complete memorandum of appeal could not be forwarded electronically to the Assessing Authorities. Hard copies of memorandum of appeals were sent to the Assessing Authorities. The Assessing Authorities sent assessment record and their comments.

This indicates that there is need for improvement in the IT system and the Department may make efforts for enhancing the capacity of IT system so that the prescribed procedure is followed.

2.5.5 Delays in passing of Appeal orders

The CCT issued directions *vide* circular dated 1 April 2010 to all the first Appellate Authorities to compulsorily dispose of all appeals within one year and disposal of appeals pending on 1 April 2010 by 31 March 2011. The directions specified that in case of non-disposal of the appeals within one year the concerned Appellate Authority would be held responsible.

During scrutiny of records of appeal orders passed by the selected first Appellate Authorities, Audit observed that 266 appeal cases filed during 2008-09 to 2016-17 were finalised (between April 2014 and November 2017) with delays ranging from 6 to 2,510 days beyond the stipulated period of one year.

The Government intimated (November 2018) that directions have been issued to decide the pending cases (beyond one year) upto March 2019. The Government also reiterated its instructions to decide the appeal cases within the period of one year.

There is a need for early finalisation of appeal cases as after the introduction of GST, with the passage of time it will be difficult to monitor the recoveries in respect of the taxes subsumed under the GST.

2.5.6 Control registers

Control registers were not prescribed in Departmental manual and RVAT rules. Information such as date of demand notices served, disputed amount, depositable amount for filing of appeal case, date of disposal of appeal, *etc.*, was necessary for monitoring the efficiency of appeal process. These records were not maintained either manually or electronically.

The Government intimated (November 2018) that a circular has been issued (October 2018) to get the desired results by prescribing a format of appeal register having all necessary information. Further, it intimated that a revised monthly status reports is being prescribed for effective monitoring.

2.5.7 Recommendations

The Department needs to ensure speedy disposal of appeal cases and may instruct the authorities to make proper use of the IT system available for the purpose. The Department should introduce an IT based solution for maintaining necessary information by the first appellate authorities. The DRs should represent the Departmental view in an effective manner during appeal.

2.6 Levy and Collection of Electricity Duty from Captive Power Plants (CPPs)

Levy and collection of Electricity duty is governed by the Rajasthan Electricity Duty Act, 1962 (RED Act) and Rajasthan Electricity Duty Rules, 1970 (RED Rules) along with the notifications issued thereunder. Electricity Duty (ED) is a consumption tax, levied by the State Government on the consumption of electricity by a consumer¹⁸ either for commercial or for domestic purpose within the State.

ED is payable to the State Government irrespective of the fact whether the energy is supplied to a consumer by a licensee, by a board or by the State Government or the Central Government. The 'owners of the captive power plants' (entity) have to pay the ED to the Government as per their actual monthly consumption. Rule 3B(1) of the RED Rules prescribes that every person (other than a supplier) who intends to generate energy for his own use or consumption or supplies the same to others free of charge shall be assigned a registration within a period of 30 days from the date of receipt of his application for registration.

The Government of Rajasthan's notification dated 9 March 2015 (effective from 16 March 2015) under Section 3 of the RED Act fixed the rate of electricity duty payable on consumption of self-generated energy for any purpose in respect of energy generated by captive power generating at ₹ 0.40 per unit (Kilo Watt Hour). Revenue collected as electricity duty from Captive Power Plants during 2014-15, 2015-16 and 2016-17 amounted to ₹ 0.82 lakh, 252.40 crore and ₹ 271.41 crore respectively¹⁹. System of levy and collection of electricity duty²⁰ is administered by the Commercial Taxes Department of the Government of Rajasthan.

Audit called (August 2017) for the information regarding registration of CPP entities registered with the Department. The CCT collected and furnished (October 2017) a list of 18 entities registered in 14 Circles.

On cross checking this list with the list of entities paying electricity duty through *e-treasury*, Rajasthan, Audit found that there were 31 entities that were paying ED. Thus 13 entities were not found in the list supplied by the Department. Of these 31 units Audit selected 10 entities for detailed scrutiny and found the following deficiencies.

¹⁸ A person who is supplied with energy by a supplier or by any other person who generates energy and includes a supplier in respect of the energy consumed by him in or upon premises used by him for his commercial or residential purposes.

¹⁹ As intimated by the Department.

²⁰ 0043 Sub-head 101: Taxes on Consumption and Sale of Electricity.

2.6.1 Non-registration of CPP

Audit found that no register relating to the registration of the CPP was maintained. The units were allotted registration number on the basis of the files maintained by the CTO. As a result the monitoring of the registration of entities could not be ascertained.

Audit found in Circle Special-1, Jaipur from the returns submitted by an entity for the period from March 2015 to September 2016 that it had paid ED amounting to ₹ 12.37 lakhs during this period but was not assigned any registration number by the Department. There was nothing on record to indicate that the entity had applied for registration. After this was reported (June 2018), the Government intimated (October 2018) that Registration certificate has been issued to the entity.

In view of such a case, the Department should evolve a system to ensure that timely registration is being granted to every eligible CPP.

2.6.2 Non-submission of Returns by the CPP

Rule 6 of the RED Rules, prescribes that every CPP shall furnish to the CCT a quarterly return in duplicate in Form XII within 30 days from the date of expiry of the quarter to which the return pertains. However an entity²¹ of Circle Special-I, Jaipur did not submit its returns during 2014-15 to 2016-17 but the concerned Authority had not taken any action for non-submission of returns. In the absence of returns, it could not be ensured whether the entity paid the electricity duty correctly. There was no register to monitor timely submission of the returns and collection of the duty payable by the CPP.

After this being pointed out the Government intimated (August 2018) that the defaulted entity has submitted all the returns due on 26 June 2018 after issue of a notice for non-submission of returns and has also deposited the due electricity duty.

The fact remains that the Department does not have a monitoring mechanism to ensure timely submission of returns by the entities. Therefore, submission of returns may be checked in all of the cases and a system may be devised for watching the returns for all the entities.

2.6.3 Returns not submitted in prescribed format

Audit observed that one entity²² of Circle Special-II, Udaipur had not submitted the returns in the prescribed Form-XII. The entity had four CPPs for production of energy and was required to submit a consolidated return in Form-XII for all the CPPs. However, the entity submitted CPP-wise details of units consumed and showed consumption of 184.67 crore units during the year 2015-16. The Assessing Authority incorrectly assessed ED at 181.57 crore units of only three CPPs and omitted to levy duty of ₹ 62 lakh²³ on the remaining 3.10 crore units generated by the fourth CPP despite the fact the company had paid entire amount of the duty payable by it. The Government accepted the audit observation and stated (August 2018) that the

²¹ M/s HSB Agro Industries.

²² M/s Hindustan Zinc Limited.

²³ Concessional rate at ₹ 0.20 under Rajasthan Investment Promotion Scheme.

unit had submitted the return in incorrect format, therefore, a penalty of ₹ 800 was imposed (July 2018) under Section 9(1) of RED Act for non-submission of returns in prescribed format and a revised assessment order was passed on 19 July 2018 to rectify the omission.

2.6.4 Non-inclusion of opening and closing meter readings in Returns

Two entities²⁴ did not record the opening and closing meter readings in the 18 returns submitted by them, though there were specified columns in the return form. Thus, it could not be ensured that the consumption of units was correctly recorded in the returns and consequent payment of ED by these entities was correct. The Government accepted the fact and assured (August 2018) that the concerned Authorities will accept the forthcoming returns in proper format only.

2.6.5 Absence of the provisions in the RED Act

2.6.5.1 Provision for conducting assessment

RVAT Act, 2003, Rajasthan Tax Entry on Goods into Local Area Act, 1999 provide a time limit for completion of an assessment, however, no such provision existed for assessment of electricity duty under the RED Act. Audit observed that the two authorities (Special-I, Kota and Special-II, Udaipur) assessed three entities. The remaining seven entities out of selected 10 entities were not assessed by the three concerned authorities *i.e.* Special-Rajasthan, Jaipur; Special-I, Jaipur and Special-Pali. Therefore, it could not be ascertained whether the entities were paying the electricity duty correctly.

A provision for fixation of a time limit for finalisation of the assessments would have prompted the Department for early finalisation of the assessments and correct payment of the duty.

2.6.5.2 Provision for on-line submission of returns

Audit observed that there was no IT platform for submission of the returns for the electricity duty and these were submitted manually. Further, the competent authority did not keep a track of returns received by maintaining receipt-dispatch Register for returns.

2.6.5.3 Provision for submission of annual returns by entities

According to Rule 6 of the RED Rules, the Electricity Distribution Companies (DISCOMs) are mandated to submit annual returns, however, there is no provision for submission of an annual return by an entity (CPP owners). As a result, consolidated figures of generation of electricity by the CPPs and payment of electricity duty were not readily available with the Department.

The Government stated (August 2018) that a request was being submitted by the Department for insertion of provisions in RED Act/Rules regarding assessment, submission of annual return and online submission of returns. Further progress is awaited (February 2019).

²⁴ M/s Hindusthan Zinc Limited and M/s Nirma Limited.

2.6.5.4 Penal provisions

There was no specific penal provision for non/delayed submission of the return under the RED Act. Consequently penalty could not be imposed for non/delayed filing of return. Scrutiny of returns submitted by the selected 10 entities disclosed that three entities²⁵ of Circle Special-II, Udaipur and Special Pali submitted their quarterly returns with delays ranging between 4 and 247 days, but no action was taken by the concerned Authorities for delay in submission of returns.

The Government replied (August 2018) that a request was being submitted by the Department for insertion of provisions in RED Act/Rules for imposition of penalty for non/delayed filing of return.

2.6.6 Irregular exemption of Electricity Duty on auxiliary consumption

‘Auxiliary consumption²⁶’ has not been defined under RED Act. As per Section 3(2) of the Karnataka Electricity (Taxation on Consumption or Sale) Act, 1959 electricity duty at a lower rate is leviable on auxiliary consumption, however, RED Act does not provide any such exemption/concession clause. The State Government *vide* notification dated 9 March 2015 fixed the rate of electricity duty at ₹ 0.40 per unit payable on consumption of self-generated energy for any purpose by CPP.

During the scrutiny of returns (for the years 2014-15 to 2016-17) submitted by the 10 selected entities, Audit observed that four entities²⁷ claimed deduction on account of auxiliary consumption of units from their total units generated and paid electricity duty accordingly. The concerned Authorities²⁸ however, allowed the deduction without any provision in the Act/Rules. Thus, exemption from payment of electricity duty amounting to ₹ 12.36 crore was allowed to the four entities on 33.15 crore consumed units.

The Government intimated (August 2018) that auxiliary consumption means electricity consumed by captive power plant itself and for machinery related to CPP and it also includes transmission losses of electricity. Further, it was also mentioned that as per Section 3 of the RED Act, electricity duty was leviable on the energy consumed by a consumer/person other than a supplier generating energy for his own use, therefore, electricity duty was not leviable on the auxiliary consumption.

The fact however, remains that neither auxiliary consumption has been defined nor the extent and system of measurement of self-consumed electricity has been specified by the Government. The entities had not installed any separate meter for measuring the consumption declared as exempted by them.

There was no uniform system for claiming such exemption. Out of ten selected entities six entities had not claimed exemption on account of

²⁵ M/s Hindusthan Zinc Limited, M/s Nirma Limited and M/s Binani Cement Limited.

²⁶ According to Section 2(1) of the Karnataka Electricity (Taxation on Consumption or sale) Act, 1959 (KE Act) it is defined as electricity consumed by any electrical apparatus situated in a generating station, for generating electricity, including Captive Generating Plant, Co-Generating Plant.

²⁷ M/s Mangalam Cement Limited, M/s Nirma Limited, M/s JK Laxmi Cement Limited and M/s DCM Shriram Limited.

²⁸ Authorities: Special-Rajasthan, Jaipur; Special-II, Udaipur; Special-Pali and Special-I, Kota.

auxiliary consumption, only four entities mentioned in this para had deducted the auxiliary consumption. The notification dated 9 March 2015 stipulated electricity duty payable on self-generated energy for any purpose.

The Government may consider to define the auxiliary consumption in the Act/Rules and to prescribe a system to monitor the auxiliary consumption and other consumption.

2.6.7 Monitoring System

2.6.7.1 Installation of suitable meter

Rule 3B(3) of RED Rules provided that every entity generating energy for his own use or consumption shall install a suitable meter (duly tested) by an Electrical Inspector or by an officer authorised by the Commissioner.

During scrutiny of records (2014-15 to 2016-17) Audit observed that except in one case certificate regarding installation of a suitable meter was not available in the assessment records of the concerned Assessing Authorities. After being pointed out, the Government intimated (August 2018) that concerned authorities were being directed to ensure installation of suitable meter (duly tested) and if already installed to collect and keep on records a certificate to that effect.

2.6.7.2 Non-verification of records and returns i.e. meter readings etc.

It was noticed that there was no procedure for taking meter readings as done by DISCOMs during levy and collection of electricity charges and other dues from the consumers. The Commercial Taxes Department may adopt such system to prevent any revenue leakage.

The Government intimated (August 2018) that Audit recommendations to evolve/create a system for checking and verifying the particulars of the returns to levy correct electricity duty are worth considering and directions are being issued in this regard to the field authorities.

2.6.8 Conclusion and Recommendations

Absence of provisions regarding on-line submission of returns and for conducting of assessment of returns resulted in lack of monitoring of the returns submitted by the entities which led to non-levy and short levy of duty. The periodic inspection for checking of the meter reading and verification of the particulars required for calculation of the amount of electricity duty was not done. There were no specific penal provisions for non/delayed submission of returns in the Act/rules.

The Government may consider to:

- *evolve a system to ensure that every entity liable to pay electricity duty in the State is registered under the RED Act;*
- *monitor the submission of returns by entities and it should introduce specific penal provisions in the Act/Rules for defaulting entities;*
- *make specific provision for on-line submission of returns and the time bound assessment should be introduced in the rules;*
- *follow the provisions relating to periodic inspection for checking of the meter reading and verification of the particulars required for calculation of the amount of electricity duty; and*
- *take timely action to ensure recovery of arrears from the defaulting entities.*

2.7 Compliance audit observations

Audit observed during test-check of the assessment records of CST/VAT/entry tax several cases of non/short levy of tax/interest, irregular allowance of Input Tax Credit, non-imposition of penalty for misuse of declaration forms, irregular allowance of investment subsidy, application of incorrect rate of tax and non-observance of provisions of Acts/Rules. Audit pointed out some of the similar omissions in earlier years also, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit so that occurrence of such cases can be avoided. A few cases involving ₹ 30.41 crore are discussed in the succeeding paragraphs. These cases are illustrative only as these are based on a test check of records.

Sl. No.	Number of AAs (Date of assessment)	Particulars of irregularities	Reply of Government/ remarks
1	16 AAs ²⁹ (between July 2014 and March 2017)	<p>Non-levy of Entry Tax</p> <p>Audit collected information from <i>RajVISTA</i> regarding goods received/purchased using declaration forms in respect of few evasion prone notified goods for the financial years 2012-13 to 2014-15 during audit of 16 Circles and cross checked it with the assessment records of 45 dealers. It was noticed that Assessing Authorities did not utilise the information regarding inter-State purchases available in the <i>RajVISTA</i> and omitted to levy the taxes on these goods.</p> <p><i>This resulted in non-levy of entry tax and interest amounting to ₹13.68 crore.</i></p>	The Government replied (August 2018) that in 48 cases demand of ₹ 11.84 crore has been raised of which ₹ 0.72 crore has been recovered.
2	4 AAs ³⁰ (between March 2014 and March 2017)	<p>Application of incorrect rate of Entry Tax</p> <p>Assessing Authorities applied incorrect rate of tax and thus levied entry tax of ₹ 35.30 lakh only instead of ₹ 66.32 lakh on the goods <i>i.e.</i> pet coke, furnace oil, electronic goods, packing material brought into the State by seven dealers.</p> <p><i>This resulted in short levy of entry tax of ₹ 31.02 lakh besides leviable interest of ₹ 13.87 lakh.</i></p>	
3. Irregular allowance of Input Tax credit			
3(i)	11 AAs ³¹ (between December 2015 and January 2017)	<p>Audit analysed the information available on <i>RajVISTA</i> and observed 13 cases³² where ITC was allowed to dealers of VAT exempted goods. ITC was not to be allowed to these dealers as their entire sales were exempted. These dealers irregularly claimed ITC of ₹ 24.91 lakh. The Assessing Authorities, however, while finalising the assessment disallowed ITC of ₹ 0.89 lakh only according to mismatch report of</p>	The Government replied (September 2018) that in these cases ITC amounting to ₹ 24.30 lakh has been reversed/rejected and demand of ₹ 16.14 lakh has been

²⁹ Circle: Special-I, Ajmer; Special-I, Bhilwara; Special-II, Bhilwara; Special-I, Bhiwadi; Special-Rajasthan, Jaipur; Special-IV, Jaipur; Special-XI, Jaipur; I-Jaipur; K-Jaipur; O-Jaipur; Q-Jaipur; C-Jodhpur; E-Jodhpur; Special-I, Kota; B-Sikar and Special-II, Udaipur.

³⁰ Circle: Special-I, Bhilwara; Special-I, Bhiwadi; I-Jaipur and C-Jodhpur.

³¹ Circle: B-Beawar; B-Bharatpur; A-Bhiwadi; Bundi; B-Hanumangarh; H-Jaipur; K-Jaipur; P-Jaipur; C-Jodhpur; A-Kota and E-Phalodi.

³² Out of 243 cases checked wherein ITC of more than ₹ one lakh was allowed by Assessing Authorities.

		<p>RajVISTA and did not levy any penalty for irregular claim of ITC.</p> <p><i>This resulted in irregular allowance of ITC of ₹ 24.02 lakh and non-imposition of penalty of ₹ 49.82 lakh, besides leviable interest of ₹14.74 lakh.</i></p>	<p>raised. Reasons for short levy³³ of demand was called for but reply is awaited (February 2019).</p>
3(ii)	AA Circle C, Bikaner (17 February 2017)	<p>A dealer, purchased goods worth ₹ 21.48 crore within the State and availed ITC of ₹ 0.78 crore on entire purchase of taxable goods during 2014-15. The dealer disclosed sale of ₹ 31.64 crore of which the dealer consigned goods amounting to ₹ 24.54 crore outside the State. Since the part of the purchased goods was consigned outside the State, the dealer could have availed the ITC only to the extent³⁴ as prescribed by notification dated 31 March 2006. The Assessing Authority, however, while finalising the assessment could not detect the irregularity and allowed ITC as claimed by the dealer.</p> <p><i>This resulted in non-reversal of ITC of ₹0.55 crore and non-imposition of penalty of ₹1.11 crore.</i></p>	<p>The Government replied (August 2018) that recovery of ₹ 0.40 crore against the demand of ₹ 1.20 crore (reverse tax amount ₹ 0.40 crore and penalty ₹ 0.80 crore) has been made.</p> <p>The Government further replied (January 2019) that the Appellate Authority has quashed the penalty imposed and remanded the case to the Assessing Authority.</p> <p>The Department has sent the matter to the Additional Commissioner (Legal) for filing appeal against the decision of the Appellate Authority.</p>
3(iii)	Two AAs ³⁵ (between May 2015 and July 2016)	<p>Two dealers availed ITC of ₹ 23.78 lakh on purchases of motorcycles/parts and hydraulic excavator/dumpers. The dealers were traders/manufacturers of the wooden/stone articles, etc. In one case the dealer availed the ITC as purchases of capital goods (hydraulic excavator/dumpers). Hydraulic excavators/dumpers are meant for excavation and transportation of minerals, therefore, these could not be defined as capital goods. In other case the dealer availed the ITC as trade articles (motorcycles/parts), however, the dealer did not show sale of motorcycles/parts in his returns. Thus, ITC in both cases was not allowable. The Assessing Authorities could not detect the irregularities which resulted in irregular allowance of ITC and non-imposition of penalty and interest.</p> <p><i>This resulted in irregular allowance of ITC of ₹ 23.78 lakh and non-imposition of penalty of ₹47.56 lakh, besides interest of ₹16.55 lakh.</i></p>	<p>The Government replied (September 2018 and January 2019) that in one case demand of ₹ 23.55 lakh (tax amount ₹ 14.80 lakh and interest ₹ 8.75 lakh) has been raised but penalty was not leviable since the dealer had shown the goods in his audited trading accounts. In another case demand of ₹ 32.52 lakh has been raised.</p>
4	Two AAs ³⁶ (between April 2015 to	<p>Six dealers (purchasing dealers) purchased taxable goods from a dealer (selling dealer) and availed ITC of ₹ 24.75 lakh. The selling dealer had not deposited</p>	<p>The Government intimated (September 2018 and January</p>

³³ Short demand ₹ 48.14 lakh: leviable 88.58 lakh (24.02 +49.82+14.74) (-) levied ₹ 40.44 lakh (24.30+16.14).

³⁴ A dealer can claim ITC, in excess of four per cent of tax paid in the State on purchase of goods which are used as raw material in manufacture of goods and such manufactured goods are consigned outside the State by way of branch transfer.

³⁵ Circle: K- Jaipur and Special-III, Kota.

³⁶ Circle: Special-III, Jaipur and Special-VIII, Jaipur.

	January 2017)	<p>the tax payable. The purchasing dealers, therefore, were not eligible to avail ITC. The Assessing Authorities did not verify whether the selling dealer had deposited the tax and allowed ITC to these purchasing dealers.</p> <p><i>This resulted in irregular allowance of ITC of ₹ 24.75 lakh besides interest of ₹ 14.62 lakh is also to be levied.</i></p>	<p>2019) that demand of ₹ 37.38 lakh has been raised and ₹ 13.90 lakh was recovered. However, stay was granted by the Appellate Authority in two cases. In another case Appellate Authority passed an order for reassessment. In reassessment demand was not raised against the dealer in the light of a decision passed (April 2018) by the High Court of Rajasthan in a similar case. Notices have been issued in the remaining two cases for recovery.</p>
5	Four AAs ³⁷ (between June 2015 to February 2017)	<p>Non-imposition of penalty for misuse of declaration forms</p> <p>Five dealers purchased goods worth ₹ 34.13 crore against declaration forms 'C' for the specified purposes³⁸ as defined in the CST Act. Scrutiny of records disclosed that these purchased goods were not used for the specified purposes. The Assessing Authorities, however, failed to impose penalty for non-compliance with the provisions of the Central Sales Tax Act, 1956.</p> <p><i>This resulted in non-imposition of penalty of ₹ 6.86 crore.</i></p>	<p>The Government intimated (between May 2018 and February 2019) that demand of ₹ 7.92 crore had been raised.</p> <p>In two cases Appellate Authorities had stayed the recovery proceedings after recovery of ₹ 6.94 lakh. Recovery proceedings have been initiated in the remaining three cases.</p>
6	Two AAs ³⁹ (2 July 2016 and 5 July 2016)	<p>Non-levy of tax on goods purchased on 'C' forms</p> <p>Two dealers had shown purchases of goods <i>i.e. mobile phones, furniture, electric items, sanitary items, diesel generating sets, etc.</i> amounting to ₹ 18.57 crore against declaration forms 'C' during the year 2013-14. The dealers, however, did not submit their annual returns. The assessing authorities finalised the assessments on nil turnover basis and only imposed a penalty of ₹ 5,000 in each case for non-filing of returns.</p> <p><i>This resulted in non-levy of tax of ₹ 1.14 crore and non-imposition of penalty of ₹ 0.23 crore besides interest of ₹ 0.74 crore.</i></p>	<p>The Government intimated (September 2018) that demand of ₹ 1.73 crore has been made. Demand of ₹ 0.14 crore was adjusted with the deposits.</p> <p>Reasons for demand of ₹ 1.73 crore instead of ₹ 2.11 crore were called for by Audit.</p> <p>The Government intimated (November 2018) that demand was raised as per the initial audit observations.</p> <p>Reply is not tenable as</p>

³⁷ Circle: I-Jaipur; Q-Jaipur; C-Jodhpur and Special-II, Kota.

³⁸ Re-sale by him or use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation of electricity or any other form of power.

³⁹ Circle: K-Jaipur and A- Jodhpur.

			the Department was required to calculate the interest upto the date of assessment instead of date of audit observation and penalty was also leviable.
7	AA Circle Special-I, Ajmer (between April 2016 to February 2017)	<p>Irregular allowance of investment subsidy</p> <p>A cement manufacturing dealer claimed investment subsidy of ₹ 44.32 crore for the period January 2016 to December 2016 under <i>Rajasthan Investment Promotion Scheme</i>. The subsidy was admissible only on the sale of cement. Scrutiny of records, however, disclosed that the dealer had claimed that subsidy of ₹ 23.93 lakh on account of taxes paid on goods other than cement <i>i.e.</i> clinker, used motor vehicles, scrap <i>etc.</i> during the period which was irregular. The AA, however, did not detect the irregularity and allowed investment subsidy on ineligible goods.</p> <p><i>This resulted in irregular allowance of investment subsidy of ₹23.93 lakh besides recoverable interest of ₹4.88 lakh.</i></p>	The Government intimated that demand of ₹ 28.81 lakh has been raised and ₹ 4.39 lakh recovered. The Appellate Authority partially accepted (August 2018) the appeal, therefore, the Department is filing second appeal.
8	AA Circle Special-IV, Jaipur (27 January 2017)	<p>A selling dealer had shown goods returned by two dealers amounting to ₹ 23.15 crore in VAT returns. The dealer had not paid tax on these returned goods. Cross verification of this with the VAT returns of the two purchasing dealers disclosed that there was a difference of ₹ 6.17 crore in the amount of goods returned shown by the selling dealer and the purchasing dealers. Therefore, either selling dealer claimed the sales return irregularly or these purchasing dealers did not correctly reverse the input tax credit on purchase returns.</p> <p><i>The Assessing Authority failed to cross check the returns which resulted in short realisation of tax amounting to ₹ 30.92 lakh and interest amounting to ₹15.13 lakh.</i></p>	Government intimated (September 2018 and January 2019) that tax including interest (₹45.42 lakh) was levied on the purchasing dealers, out of which entire demand (₹ 34.86 lakh) of a dealer has been adjusted/recovered. In respect of another dealer demand of ₹ 3.32 lakh has been adjusted with the ITC available. Further progress for recovery of pending demand of ₹ 7.24 lakh is awaited (February 2019).
9	Three AAs ⁴⁰ (between June 2015 to February 2017)	<p>Application of incorrect rate of tax</p> <p>Three dealers had shown sale of taxable goods <i>i.e.</i> mobile charger, cooked food served and laminated automobile textile fabrics amounting to ₹ 89.91 crore at incorrect rate of tax. The Assessing Authorities, however, while finalising the assessments did not detect the irregularity and applied incorrect rate of tax.</p> <p><i>This resulted in short levy of tax of ₹ 1.82 crore besides interest of ₹92.45 lakh.</i></p>	The Government intimated (between July 2018 and November 2018) that demand of ₹ 2.76 crore had been raised and ₹ 1.80 crore had been recovered. It was also intimated that the Appellate Authority had stayed the recovery of remaining demand in two cases.

Further progress is awaited in these cases (February 2019).

⁴⁰ Circle: C-Bhilwara; Special-IV, Jaipur and Special-IX, Jaipur.

CHAPTER-III
TAXES ON VEHICLES

CHAPTER-III: Taxes on Vehicles

3.1 Tax administration

The receipts for the Transport Department (Department) are regulated under the provisions of the Central and the State Motor Vehicles Acts and rules made thereunder, and are under the administrative control of the Department. The receipts from road tax and special road tax are regulated under the provisions of the Rajasthan Motor Vehicles Taxation (RMVT) Act, 1951, the Rules framed thereunder and notification issued from time to time.

The Department is headed by the Transport Commissioner and is assisted by five Additional Transport Commissioners and 12 Deputy Transport Commissioners. The entire State is divided into 12 regions, headed by Regional Transport Officers (RTO) cum *ex-officio* Member, Regional Transport Authority. Besides, there are 51 vehicles registration cum taxation offices headed by District Transport Officers (DTO).

3.2 Internal audit

The Department has an Internal Audit Wing under the charge of Financial Advisor. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria laid down by the Steering Committee so as to ensure adherence with the provisions of the Act and Rules as well as departmental instructions issued from time to time.

The position of last five years of internal audit was as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2013-14	-	43	43	39	4	9.30
2014-15	4	51	55	45	10	18.18
2015-16	10	57	67	66	1	1.50
2016-17	1	57	58	50	8	13.79
2017-18	8	57	65	44	21	32.31

Source: Information provided by the Transport Department.

There was shortfall in conducting internal audit ranging between 1.50 and 32.31 *per cent* during the years 2013-14 to 2017-18.

It was noticed that 5,959 paragraphs were outstanding at the end of 2017-18. The year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1994-95 to 2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
Paragraphs	1,823	729	1,186	1,127	982	112	5,959

Source: Information provided by the Transport Department.

Out of 5,959 paragraphs, 1,823 paragraphs pertained to the period prior to 2013-14 which indicates that the Department needs to pay more attention towards settlement of the observations particularly those that are pending for

more than five years as with the passage of time, the chances of recovery would become bleak.

The Government may issue appropriate instructions to the Department for early disposal of the outstanding observations raised by the Internal Audit Wing.

3.3 Results of audit

There are 51 Transport Districts headed by RTOs/DTOs and 1,49,00,562 vehicles were registered therewith. There were 122 auditable units including 26 implementing units in the Transport Department. Out of these, 33 units¹ were selected for test check wherein 99,04,845 vehicles were registered. Out of these, 1,20,082 vehicles (approximate 1 per cent) were selected for test check. Audit noticed 14,418 cases (approximate 12 per cent of sampled cases) involving ₹ 39.22 crore of non/short payment of tax, penalty, interest and compounding fees, irregularities relating to non/short determination of tax, computation of motor vehicle tax/special road tax and includes two cases of non/short realisation of temporary registration certificate (TRC) fee from two vehicle manufacturers. These cases are illustrative and are based on a test-check carried out by us. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. Audit observed that no system existed in the Department to monitor proper maintenance of tax ledgers of registered vehicles to ensure the recovery of tax, fee and other charges. Besides, no return was prescribed to show the number of vehicles from which tax was due but not received or deposited through 'e-Gras' (Online Government Receipts Accounting System (e-Gras) that facilitates collection of tax/non tax revenue in both the mode online as well as manual) which are not linked to the electronic system (VAHAN) of the Department. There is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non/short payment of tax, penalty, interest and compounding fees, etc.	13,586	31.82
2	Irregularities relating to non/short determination of tax, computation of motor vehicle tax/special road tax, etc.	832	7.40
Total		14,418	39.22

During the year, the Department accepted underassessment and other irregularities of ₹ 28.02 crore in 8,129 cases, out of which 2,481 cases involving ₹ 10.53 crore were pointed out in audit during the year 2017-18 and the rest in earlier years. During the year 2017-18, an amount of ₹ 4.77 crore was recovered in 1,512 cases, out of which ₹ 1.84 crore in 373 cases were pointed out in 2017-18 and the rest in earlier years.

A few illustrative cases involving ₹ 37.36 crore are discussed in the following paragraphs.

¹ These 33 units includes 10 implementing units in 16 Transport Districts.

3.4 Realisation of Temporary Registration Certificate Fee

Rule 4.2(1)(a) of the Rajasthan Motor Vehicles Rules, 1990, provides that application for temporary registration is to be made when any motor vehicle is sold or distributed by manufacturer to his dealer or sub-dealer or its branch for resale. Rule 4.28 prescribes fees for temporary registration as ₹ 500 and ₹ 200 per vehicle per month for transport vehicles and non-transport vehicles respectively.

3.4.1 During test check of the records of RTO Alwar for the year 2016-17, it was noticed (February 2018) that a manufacturer of four wheelers (*M/s Ashok Leyland*) transferred 9,269 and sold 1,589 transport vehicles during 2016-17. TRC fee amounting to ₹ 54.29 lakh at the rate of ₹ 500 per vehicle should have been deposited. However, the manufacturer deposited ₹ 25.50 lakh only, which resulted in short realisation of ₹ 28.79 lakh. No action was initiated by the Department for realisation of the said amount.

3.4.2 Similarly, a manufacturer (*M/s Hero Motocorp Limited*) of two wheelers (non-transport vehicles) manufactured 9,55,859 two wheelers during 2016-17. TRC fees at the rate of ₹ 200 per vehicle was to be collected for vehicles transferred/sold by the manufacturer. Information about the number of vehicles transferred/sold by the manufacturer was not available with the RTO, Alwar and there was nothing on record to show that the taxation officer made any attempt to obtain such information. Audit requested the Superintendent, Central Goods and Service Tax, Range-XXII, Neemrana for the said information. In reply, the Superintendent informed that 9,55,859 vehicle were sold/transferred by the manufacturer during 2016-17. Scrutiny of records disclosed that neither the manufacturer deposited the TRC fee amounting to ₹ 19.12 crore nor the RTO issued any notice to recover it.

Thus, an amount of ₹ 19.41 crore was short/not realised by the Department in these two cases.

The cases were pointed out to the Department and reported to the Government (June 2018 and July 2018) the Department stated (September 2018) that letter has been issued to RTO, Alwar for compliance. Reply of Government is awaited (February 2019).

3.5 Taxes on motor vehicles not realised

As per Section 4 and 4-B of the RMVT Act and the Rules made thereunder, motor vehicle tax and special road tax are to be levied and collected on all transport vehicles used or kept for use in the State at the rates prescribed by the State Government from time to time except those transport vehicles which have paid lump sum tax under Section 4-C besides surcharge is also leviable at the rate of five *per cent* on tax due. In case of non-payment of the tax, penalty at the rate of 1.5 *per cent* per month or part thereof subject to twice the amount of tax due is also leviable² after the expiry of admissible period.

During test check (between May 2017 and February 2018) of the registration records, tax ledgers and general index registers of 11 RTOs³ and 4 DTOs⁴ for the period 2014-15 to 2016-17, it was noticed that owners of 2,081 vehicles

² Notification dated 1 May 2003.

³ RTOs: Ajmer, Alwar, Bharatpur, Bikaner, Chittorgarh, Dausa, Jodhpur, Kota, Pali, Sikar and Udaipur.

⁴ DTOs: Beawar, Bhilwara, Didwana (Nagaur) and Jaipur (Goods).

did not pay the tax for the period April 2014 to March 2017. There was no evidence on record to prove that the vehicles were off the road/were transferred to other Districts/States or their registration certificates were surrendered. The taxation officers, however, did not initiate any action to realise the tax due. This resulted in non-realisation of tax (including surcharge) and penalty amounting to ₹ 11.49 crore.

The cases were reported to the Government (June 2017 and July 2018). The Government intimated (between August 2018 and December 2018) that ₹ 1.63 crore had been recovered in respect of 352 vehicles and in respect of 30 vehicles ₹ 0.31 crore was not recoverable due to various reasons *i.e.* deposit of lump-sum tax, surrender of Registration Certificate, transfer of vehicles to other districts, *etc.* However, reasons for not updating the tax ledgers/VAHAN were not intimated. Reply in respect of remaining vehicles is awaited (February 2019).

3.6 Realisation of outstanding instalments of lump-sum tax

According to Section 4-C of the Rajasthan Motor Vehicles Taxation Act, 1951 and the Rules made thereunder, lump-sum tax on transport vehicles is levied at the rates prescribed through notifications⁵ issued from time to time by the State Government. The lump-sum tax payable can be paid at the option of vehicle owner either in full or in six equal instalments with effect from 14 July 2014 within a period of one year. According to State Government's notification dated 9 March 2011, surcharge at the rate of 10 *per cent* on the lump-sum tax is also payable. Further, according to notification dated 1 May 2003 penalty at the rate of 1.5 *per cent* per month or part thereof limited to twice the amount of tax due is also to be levied after the expiry of admissible period. Rule 8 and 33 of the Rajasthan Motor Vehicles Taxation Rules, 1951 empowers the Taxation Officer to serve notice for recovery of tax.

During test check (Between May 2017 and February 2018) of the records of 15 RTOs/DTOs⁶ for the years 2014-15 to 2016-17, we noticed that 496 vehicle owners out of 1,180 transport vehicle owners opted for payment of lump-sum tax in instalments. However, these vehicle owners did not pay the remaining instalments after paying the first or second instalments. We also observed that the remaining 684 vehicle owners had not paid the tax. There was nothing on record in the tax ledgers or registration records or in VAHAN⁷ to indicate that any of these vehicle owners had exercised any option for payment of tax in instalment or the vehicles were transferred to other States or registration certificates of these vehicles were surrendered. The taxation officers, however, did not initiate any action to realise the tax due. This resulted in non/short realisation of lump-sum tax (including surcharge) and penalty amounting to ₹ 6.46 crore.

The cases were reported to the Government (between June 2017 and June 2018). The Government intimated (October 2018 and December 2018) that ₹ 1.52 crore had been recovered in respect of 242 vehicles and in respect

⁵ Notifications number: 22 dated 16 February 2006, 22-A dated 9 March 2007, 22-C dated 14 July 2014 and 22-D dated 8 March 2016.

⁶ RTOs: Ajmer, Alwar, Bharatpur, Bikaner, Chittorgarh, Jaipur (Goods), Jodhpur, Kota, Pali, Sikar and Udaipur. DTOs: Beawar, Bhilwara, Didwana (Nagaur) and Pratapgarh.

⁷ VAHAN is used for processing transactions related to vehicles *i.e.* registration, permit, tax, fitness and SARATHI is for processing driving licence and related activities.

of 19 vehicles ₹ 0.15 crore was not recoverable due to various reasons *i.e.* vehicles transferred to other districts, being Government vehicles, *etc.* However, reasons for not updating the tax ledgers/*VAHAN* were not intimated. Reply in respect of remaining vehicles is awaited (February 2019).

CHAPTER-IV

LAND REVENUE

CHAPTER-IV: LAND REVENUE

4.1 Tax administration

Allotment of land and assessment and collection of land revenue are governed by the provisions of Rajasthan Land Revenue Act, 1956 and rules framed thereunder. Land revenue mainly comprises rent on land, lease rent, premium¹, conversion charges and receipts from sale of Government land.

The Revenue Department (Department) functions as the Administrative Department of the Government. The overall control of revenue related judicial matters, supervision and monitoring over revenue officers and maintenance of land record vested with the Board of Revenue (BOR), Ajmer. The BOR is assisted by 33 District Collectors (DCs) at district level for management of land. Further there are 289 Sub-Divisional Officers (SDOs) at the sub-division level and 314 *Tehsildars* at the *tehsil* level to assist the Collector.

4.2 Internal audit

The Financial Advisor, BOR is the head of the Internal Audit Wing. There are 18 internal audit parties. The position of number of units due for audit, number of units actually audited and number of units remaining unaudited during the period from 2013-14 to 2017-18 is as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2013-14	72	672	744	586	158	21
2014-15	158	672	830	551	279	34
2015-16	279	809	1,088	883	205	19
2016-17	205	815	1,020	772	248	24
2017-18	248	815	1,063	739	324	30

Source: Information provided by the BOR.

The Department has been consistently stating for the last three years that the arrear in audit was due to the shortage of posts and deployment of staff in disposal of outstanding audit paras raised by the Internal Audit Parties.

It was noticed that 17,926 paragraphs were outstanding at the end of 2017-18. Year-wise break up of outstanding paragraphs of Internal Audit Wing is as under:

Year	Upto 2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
Paras	8,176	814	871	1,744	2,711	3,610	17,926

Source: Information provided by the BOR.

Out of 17,926 paragraphs, 8,176 paragraphs were outstanding for more than five years for want of compliance/corrective action. The reason given for slow pace of disposal of paras was the shortage of posts in various cadres.

¹ Premium here means cost of land.

The Government may take steps to ensure expeditious compliance with the outstanding observations raised by the Internal Audit Wing.

4.3 Results of audit

There are 690 auditable units in the Department. There were 12,08,800 cases of encroachments in the State noticed by the Department during 2014-17.

- Audit of 'Encroachments on Government land' was conducted in 14 units in which 74,627 cases (approximate 6 per cent of the total encroachments cases) were noticed by the Department during 2014-17. Audit found irregularities in 10,194 cases (approximate 14 per cent of sampled cases) of encroachments relating to registration, disposal of the cases, eviction of trespassers, etc.
- Further, audit of 128 units revealed irregularities in conversion, allotment and lease of the Government land in 1,426 cases. This resulted in short/non-recovery of cost of land, conversion/regularisation charges, short realisation of Government's share and non-reversion of land to Government, etc. involving ₹ 66.69 crore.

Audit pointed out some of the similar omissions in earlier years also, not only these irregularities persist but also remain undetected till next audit is conducted. Thus, there is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly fall under the following categories:

Sl. No.	Particular	(₹ in crore)	
		Number of cases	Amount
1	A paragraph on 'Encroachment on Government land'	1	-
2	Non-recovery/short recovery of premium and lease rent	83	12.45
3	Non-recovery/short recovery of conversion charges from <i>khatedars</i> ²	512	23.00
4	Non-reversion of land to Government	6	9.77
5	Other irregularities relating to:		
	(i) Revenue	714	0.11
	(ii) Expenditure	110	21.36
	Total	1,426	66.69

During the year 2017-18, the Department accepted audit observation worth ₹ 55.86 crore pertaining to 1,000 cases, of which 47 cases involving ₹ 2.17 crore were pointed out during the year 2017-18 and 953 cases involving ₹ 53.69 crore were pointed out prior to 2017-18. The Department recovered ₹ 3.58 crore in 461 cases during the year 2017-18, of which 2 cases involving ₹ 0.01 crore related to the year 2017-18 and 459 cases involving ₹ 3.57 crore were pointed out prior to 2017-18.

A paragraph on 'Encroachment on Government land' and a few illustrative cases involving ₹ 2.80 crore are discussed in the succeeding paragraphs.

² *Khatedars* are tenants on Government land to whom the land is given for agricultural purpose.

4.4 Audit on 'Encroachment on Government land'

4.4.1 Introduction

The Government land is managed under the provisions of the Rajasthan Land Revenue (LR) Act, 1956 and rules made thereunder. As per Section 88 of the LR Act, all roads, water bodies and lands which are not the property of any individual or legal persons, belongs to the State.

Land being a scarce and limited resource needs to be used efficiently by the State Government. Unauthorised occupation of Government land and its eviction are dealt with under Section 91 of the LR Act and LR (Eviction of Trespassers) Rules, 1975. The cases of encroachment against trespassers are disposed off in the court of *Tehsildar/Naib Tehsildar* after the trespassers are accorded an opportunity of being heard.

The encroachments on Government land can broadly be bifurcated into two categories *i.e.* for agricultural and non-agricultural purposes. The scope of present audit was encroachment on Government land within the jurisdiction of the Department of the State Government and did not include the encroachments on land under the control of local bodies.

4.4.2 Audit objectives

The Audit was conducted with the view to ascertain that:

- the land revenue records of the encroachment cases were maintained properly;
- a proper mechanism existed in the Department for identification, eviction and regularisation of encroached land; and
- adequate and effective monitoring controls were in place for safeguarding the Government land.

4.4.3 Audit criteria

The audit criteria were derived from the provisions of the following acts and rules/notifications/circulars/orders issued thereunder:

- Rajasthan Land Revenue Act, 1956;
- Rajasthan Tenancy Act, 1955;
- Rajasthan Land Revenue (Eviction of Trespassers) Rules, 1975;
- Rajasthan Land Revenue (Allotment of land for digging of wells and installing of pumping sets for irrigation purposes) Rules, 1979;
- Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959; and
- Rajasthan Land Revenue (Allotment of Land for Establishment of Brick Kilns) Rules, 1987

4.4.4 Scope of audit

The State is divided into seven revenue divisions. Audit test checked the records of 14 *tehsils* of seven districts³ out of total 314 *tehsils* of 33 districts, selecting one district from each revenue division. The selection of *tehsils* was

³ 1. Baran (*Tehsil*: Baran and Shahbad) 2. Bharatpur (*Tehsil*: Weir and Bhusawar) 3. Bikaner (*Tehsil*: Bikaner) 4. Dausa (*Tehsil*: Dausa and Ramgarh Pachwara) 5. Dungarpur (*Tehsil*: Bichhiwada and Sagwada) 6. Jodhpur (*Tehsil*: Bilara, Pipar City and Shergarh) and 7. Tonk (*Tehsil*: Tonk and Newai).

made through random statistical sampling. Records pertaining to encroachment and removal thereof maintained by *tehsils*, regularisation of encroachment cases maintained by SDOs and records maintained by DCs and BOR for monitoring, planning and controlling of encroachment activity were test checked.

The audit was conducted between November 2017 and May 2018 covering the period from 2014-15 to 2016-17. A Factual Statement was issued to the Government and BOR on 4 July 2018; their replies are awaited (February 2019).

4.4.5 Trend of encroachments

According to the information provided by the BOR after collecting it from DCs, the position of encroachments and their disposal in 33 districts during the years 2014-15 to 2016-17 was as under:

Year	Opening Balance		Additions		Cases disposed of		Closing Balance as on 31 March	
	Number of cases	Area in hectares	Number of cases filed during the year	Area in hectares	Number of cases	Area in hectares	Number of cases	Area in hectares
2014-15	28,315	29,207	3,95,530	2,94,877	3,93,543	2,95,572	30,302	28,511
2015-16	30,302	28,511	4,04,012	3,51,805	4,13,561	3,55,007	20,753	25,309
2016-17	20,753	25,309	4,09,258	3,44,288	4,10,999	3,38,174	19,012	31,423

Source: Information provided by BOR and DCs.

As it evident from the table, 19,012 cases of encroachment involving 31,423 hectare of land were pending as on 31 March 2017. There was an increase of 3.47 and 16.76 *per cent* respectively in number of cases and area of encroached land during the period 2016-17 in comparison to 2014-15. The number of cases had decreased from 28,315 as on 1 April 2014 to 19,012 as on 31 March 2017 *i.e.* 32.86 *per cent* but the area under encroachment increased from 29,207 to 31,423 hectares *i.e.* 7.59 *per cent*.

Out of above, position of encroachments and their disposal in selected 14 tehsils of seven districts during the years 2014-15 to 2016-17 was as under:

Year	Opening Balance		Additions		Cases disposed of		Closing Balance as on 31 March	
	Number of cases	Area in hectares	Number of cases filed during the year	Area in hectares	Number of cases	Area in hectares	Number of cases	Area in hectares
2014-15	660	356	24,441	21,309	24,141	21,219	960	446
2015-16	960	446	23,260	21,177	23,644	21,001	576	622
2016-17	576	622	26,926	38,662	25,552	35,205	1,950	4,079

Source: Information provided by BOR and DCs.

Scrutiny of these cases disclosed a number of system and compliance deficiencies in regulations and identification of cases of encroachments. These are discussed in the succeeding paragraphs.

System and compliance deficiencies

4.4.6 Maintenance of records and identification of encroachments

4.4.6.1 Database of Government land

Complete and proper database of Government land is an essential prerequisite for ensuring its effective use for social and welfare activities *i.e.* for housing, education, medical and health *etc.* as well as for monitoring encroachments.

It was noticed that there was no centralised system of maintaining database of Government land at State/BOR/District/*tehsil* level for ensuring proper planning and monitoring. The Government stated (September 2018) that no physical and remote sensing survey was conducted in this regard. The total land available with the Government *viz-a-viz* the land under encroachment was not available with the Department. The Authorities at apex level were wholly dependent on the *Patwaris* working in villages for ascertaining the extant of land under encroachment as mentioned in the following paragraphs.

4.4.6.2 Maintenance of record of encroachments

The cases of encroachment were filed under Section 91 of the LR Act on the basis of report of the *Patwari* and thereafter decided by *Tehsildar/Naib Tehsildar* after according an opportunity of being heard to trespassers. For this purpose a *Dayra*⁴ register containing the entries of case number, date of registration of the case, name and address of trespasser, village, type of land, *Khasra* number and area of encroached land, date of decision, penalty imposed and the amount recovered from the trespassers through auction of crop was maintained by *Tehsildar/Naib Tehsildar*. An auction report⁵ based on the bids received by participants was prepared by Land Record Inspectors (LRIs) and *Patwaris*.

It was noticed that the *Dayra* registers were not computerised and were being maintained manually by each *Tehsildar/Naib Tehsildar*. No uniform format for the register was prescribed by the Department. On scrutiny of the registers in the concerned offices, it was found that these were incomplete *i.e.* essential entries relating to date of first encroachment in case of repeated encroachment, period of encroachment, date of eviction, action taken against the trespassers, *etc.* were not entered in the registers. Year-wise register(s) were not maintained, all cases were entered in one register irrespective of the year of encroachment. Further, the registers were not submitted to *Tehsildar/Naib Tehsildar* periodically for ensuring the correctness of the details entered in this regard.

Report of *Patwari*: Scrutiny of the reports of the *Patwaris* revealed following deficiencies:

- In case of repeated encroachments by same trespasser, the date of first encroachment by the trespassers was not mentioned.
- In case of encroachments for well details regarding purpose of construction *i.e.* for drinking, irrigation or commercial and whether it was electrified or not were not mentioned in the reports of *Patwaris*.

⁴ A register for keeping details of all encroachment cases maintained at each *tehsil/ Sub tehsil*.

⁵ A report of auction of seized crop from encroached land prepared by Land Record Inspector and *Patwari*.

Auction Report: Scrutiny of records of selected *tehsils* revealed that quantity of the seized crop and reserve price of the crop were not mentioned in the auction reports. Auction reports of *tehsil* Weir disclosed that the form of the report contained a printed sentence ‘*फसल की हालत देखते हुए इससे अधिक बोली लगाने को कोई तैयार नहीं है*’ (as per the condition of the crop no one has agreed to bid more amount for the crop). Thus, it can be seen that the reports were not prepared diligently.

4.4.6.3 Non-registration of cases of encroachment in *Dayra* registers

*Abadi Vistar*⁶ proposals are being sent from *Gram Panchyat* to *Tehsildars* for allotment of land for residential purpose. Out of selected *tehsils*, in five *tehsils*⁷, 12 *Abadi vistar* proposals were available on record, in the remaining *tehsils* no *Abadi vistar* proposals were found on the records or were produced to the Audit. Cross verification of *Dayra* registers with the *Abadi vistar* proposals revealed that the trespassers encroached upon 1.78 lakh square metre of Government land for residential purpose (constructed houses) as detailed below:

- In one *Abadi vistar* proposal of *tehsil* Bikaner, 37,600 square metre Government land was shown as encroached by 40 to 45 trespassers from 32 to 37 years.
- In another *Abadi vistar* proposal of *tehsil* Baran, 8,000 square metre Government land was depicted as encroached by 25 trespassers from 20 years.
- In remaining 10 *Abadi vistar* proposals wherein 1.32 lakh square metre land was shown as encroached, period of encroachment was not mentioned in any case and number of trespassers was mentioned in four proposals only.

These encroachments were not registered in the respective *Dayra* registers, hence, remained out of the records. Thus, the system of identification of encroachments and record maintenance was lacking and needs strengthening.

4.4.6.4 Delay in registering the cases of encroachment in *Dayra* registers

Cross verification of *Dayra* registers with five *Abadi Vistar* proposals and related records of four *tehsils*⁸ revealed that in five cases, 314 trespassers encroached Government land measuring 44,837 square metre and constructed houses thereon. Out of these, in three cases the Government land had been encroached by 74 trespassers for the period ranging from 5 years to 50 years, these were identified and registered in *Dayra* registers between 2009 and 2015 after a delay ranging between 4 and 49 years. In remaining two cases actual period of encroachment by 240 trespassers could not be ascertained.

It was mentioned in the *Abadi Vistar* proposals that the encroachments were prior to 2014. Inaction/inordinate delay in identification/registration of encroachments and not taking timely action for eviction thereof resulted in undue benefit to trespassers and also deprived the cattle from grazing on the pasture land⁹.

⁶ A proposal submitted by *Gram Panchyat* for allotment of land for residential purpose.

⁷ Baran, Bichiwada, Bikaner, Bilara and Shergarh.

⁸ Bhusawar, Bilara, Shergarh and Weir.

⁹ Pasture land mean land recorded in the land records for use of grazing the cattle of a village or villages.

The Department has a system of reporting of encroachment cases at *tehsil* level. Periodical returns of total number of encroachments and involved area were sent to the BOR and the State Government through the DCs. However, detailed information of encroachment was not readily available with DCs, BOR and State Government for monitoring the eviction of trespassers. The DCs furnished the information to Audit after collecting the same from their field offices indicating the need of strengthening the system by proper maintenance, computerisation and also centralisation of records at apex levels.

4.4.7 Unauthorised use of Government land for non-agriculture purposes – deterrent measures

LR Act provides penalty for encroachment of land for agriculture purpose. No separate rates of penalty for housing, commercial, industrial, *etc.* purposes have been prescribed. Penalty for these purposes were based on rent rate(s) prescribed for agriculture land also called *lagaan* and was 50 times the *lagaan* under Section 91(2)¹⁰.

It was noticed in 10 *tehsils*¹¹ that 3,101 trespassers had encroached upon 30.77 lakh square metre of Government land for housing, commercial, industrial and brick kiln purposes. In absence of separate provision, the *Tehsildars* imposed penalty on the basis of rent (*lagaan*) applicable for agricultural land. Had the penalty been calculated on the basis of the rates determined by the District Level Committees (DLC)/State Government for housing, commercial, Industrial, *etc.* purposes, it would have been much higher. For example, out of these 3,101 trespassers, in case of industrial use by eight trespassers, it would have been ₹ 3.33 lakh instead of a penalty of ₹ 272 only if it would have been calculated on the basis of rent applicable for allotment of Government land for industrial purpose. Further, in case of use of land for brick kiln industry by 77 trespassers, it would have been ₹ 37.49 lakh on the basis of rent applicable for allotment of Government land for brick kilns instead of imposed penalty of ₹ 2.08 lakh.

Thus, there is a need to provide separate rates of penalty regarding encroachments for non-agriculture purposes that could act as an effective deterrent measure against the trespassers.

4.4.8 Non-renewal of penal provision for agriculture purposes

The settlement¹² operations are undertaken for fixation of rent (*lagaan*) taking into account the soil classification and production potentiality of land. As per Section 175 of the LR Act, the term of settlement for all districts is 20 years provided that the State Government may increase or decrease the term of settlement in certain circumstances.

It was noticed that settlement operations were not undertaken for more than 20 years in any of the selected *tehsils* and hence, the rates of *lagaan* were not

¹⁰ Trespasser shall be liable to pay, for each agricultural year or any part thereof, in which he has been in such unauthorised occupation, a penalty which may be extended to fifty times of the annual rent or assessment, as the case may be, for the first act of trespass. In the case of, each subsequent act of trespass, he shall be liable to civil imprisonment for a term which may extend upto three months besides payment of penalty.

¹¹ Baran, Bilara, Bhusawar, Dausa, Newai, Pipar City, Ramgarh Pachhwara, Shahabad, Shergarh and Tonk.

¹² Settlement means settlement or resettlement of rent or revenue or both and shall include a summary settlement under the Rajasthan Lands Summary Settlement Act, 1953.

revised. As the *lagaan* rates remained static for years, the penalty which was to be decided based on *lagaan* also remained unchanged. The penalty rates have thus lost the deterrent power with passage of time as benefits derived from encroachment were highly lucrative. For example rates of *lagaan* in three *tehsils* are as follows:

Sl. No.	Name of <i>tehsil</i>	Year of last settlement	Rate of <i>lagaan</i>	
			Minimum	Maximum
1	Dausa	<i>Samwat</i> 2041(1984)	₹ 2.50 per hectare	₹ 55.00 per hectare
2	Ramgarh Pachhwara	<i>Samwat</i> 2021(1964)	₹ 0.48 per hectare	₹ 25.98 per hectare
3	Tonk	<i>Samwat</i> 2028(1971)	₹ 0.40 per <i>bigha</i>	₹ 7.50 per <i>bigha</i>

On being pointed out the Joint Secretary Revenue replied (September 2018) that rates of *lagaan* would be increased by the Land Settlement Department after completion of settlement operations.

4.4.9 Delayed framing of Policy and absence of Action Plan

The Supreme Court directed (28 January 2011) that all the State Governments should prepare schemes for eviction of illegal/unauthorised occupants of *Gram Sabha/Gram Panchayat* land and these may be restored to *Gram Sabha/Gram Panchayat* for common use of villagers. For this purpose, the Chief Secretaries of all the State Governments/Union Territories had been directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupants, after giving them show cause notices and chances for brief hearings. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or regularising the illegal possession. Regularisation should only be permitted in exceptional cases *i.e.* where lease has been granted under some Government notification to landless labourers or members of scheduled castes/scheduled tribes, or where there was already a school, dispensary or other public utility exists on the land. However, the State Government did not frame the policy. Thereafter, the Rajasthan High Court, Jaipur directed (7 November 2016) the State Government to frame an appropriate policy for this purpose within four months. The State Government belatedly framed (11 September 2017) a policy after lapse of 10 months from the directions. However, no action plan for removal of encroachments from the Government land was produced to Audit though called for between December 2017 and May 2018.

However, nine *tehsils*¹³ out of the selected *tehsils* stated (between December 2017 and May 2018) that no action plan was prepared in this regard. It shows slackness of State Government regarding removal of encroachments from the Government land.

4.4.10 Encroachment for agricultural purposes

Scrutiny of the records of the selected *tehsils* disclosed ineffective action by authorities which led to repeated encroachments by the trespassers, and non-regularisation of wells constructed on Government land. The financial

¹³ Bhusawar, Bichhiwara, Bikaner, Dausa, Newai, Pipar City, Sagwada, Tonk and Weir.

impact of these lapses noticed in audit during the test check of cases was ₹ 2.43 crore as discussed in the table below:

		(₹ in crore)
Sl. No.	Nature of irregularity	Amount
1.	<p>Ineffective action led to repeated encroachments on Government land</p> <p>Under Section 91(6) of LR Act, in case of encroachment on Pasture land, Public well, <i>Nadi</i>, <i>Johar</i> and <i>Talab</i> (called specified lands) the trespasser shall on conviction be liable to be punished with simple imprisonment which shall not be less than one month but may be extend upto three years with fine upto twenty thousand rupees. In cases of the other trespasses penalty for first act of trespass was required to be levied as 50 times of <i>lagaan</i> under Section 91(2) and for repeated such acts of encroachment the trespassers was liable to imprisonment which may extend to three months in addition to penalty mentioned above.</p> <p>(i) Scrutiny of <i>Dayra</i> registers, <i>furd</i>¹⁴ and other records of 13 <i>tehsils</i>¹⁵ revealed that in 6,832 cases of encroachments, 2,671 trespassers or their family members continued encroachment on the same piece of Government land or its nearby area aggregating to 2,426.07 hectares year after year for agricultural purpose. It was intimated that action for imprisonment was taken against 175 trespassers. The reasons for not taking action against the remaining trespassers was not intimated.</p> <p>(ii) Out of the above, 999 trespassers had encroached upon 742.36 hectares specified land for which penalty of ₹ 2.00 crore could have been imposed. No action was taken resulting in non-realisation of revenue to that extent.</p>	2.00
<p>Remarks: <i>Tehsildars</i> had confirmed eviction of these trespassers in their records in the year of the encroachment, however, repeated encroachments on the same land or nearby land by the same persons indicates that the eviction in that particular year was not effective.</p>		
2	<p>Non-regularisation of wells constructed on Government land</p> <p>According to Rule 12A¹⁶ read with Rule 7 of the Rajasthan Land Revenue Rules¹⁷, if any person constructed a well or installed a pumping set on unoccupied Government land, the concerned DC may allot land¹⁸ for a period of 20 years on payment of one-time lease money equal to the price at the prevalent rates¹⁹ for allotment of land.</p> <p>In 230 registered cases pertaining to 170 trespassers of eight <i>tehsils</i>²⁰, the trespassers constructed wells on Government land measuring 6.36 hectares during 2014-15 to 2016-17. However, the concerned DC neither allotted the land to the trespassers nor removed the encroachments. Due to non-regularisation of these wells, trespassers were using the wells without paying the cost of land worth ₹ 43.47 lakh as per DLC rates.</p> <p>The <i>Tehsildar</i> Tonk did not furnish any reason for inaction against the trespassers in his reply. The <i>Tehsildar</i> Weir stated that notices had been issued to trespassers. No reply was received from other <i>Tehsildars</i>.</p>	0.43

4.4.11 Encroachment for Schools, *Dharamshalas* and *Ashrams*

It was noticed in 10 cases of encroachments pertaining to nine trespassers of five *tehsils*²¹ that the trespassers had encroached upon 62,820.73 square metre of Government land for construction of Schools, *Dharamshalas* and *Ashrams*. On being pointed out, the *Tehsildar*, Weir stated (March 2018) that notices had been given to the trespassers. No reply was received from other *tehsils*.

¹⁴ *Furd* is a case file of encroachments prepared by *Patwari*.

¹⁵ Baran, Bhusawar, Bichiwada, Bikaner, Bilara, Dausa, Newai, Pipar City, Ramgarh Pachwara, Sagwada, Shahbad, Tonk, Weir.

¹⁶ As amended *vide* Notification dated 13 October 2009.

¹⁷ Allotment of land for digging of wells and installing of pumping sets for irrigation purposes.

¹⁸ Provided that the total area of land to be regularised and allotted shall not exceed 0.25 *bigha* per well or pumping set.

¹⁹ Recommended by the DLC or the rates approved by the Inspector General of Registration and Stamps or the rates determined by the State Government, whichever is higher.

²⁰ Bhusawar, Bilara, Dausa, Newai, Pipar City, Ramgarh Pachwara, Tonk and Weir.

²¹ Dausa, Newai, Ramgarh Pachwara, Sagwada and Weir.

Out of these, study of a case is discussed below:

Case study

Government land measuring 26.50 *bigha* (42,896.61 square metre) in village Divrabada in *tehsil* Sagwada was under encroachment of *Saint Shri Asharam Ji Ashram (Ashram)* since 1992. The *Tehsildar* Sagwada vide its decision dated 4 November 2008 favoured the trespasser by recommending for allotment of land on concessional rates on the plea of being in public interest. On the basis of recommendation of *Tehsildar*, the DC, Dungarpur sent (2 June 2011) a proposal to the State Government for allotment of 23 *bigha* land. The SDO Sagwada also favoured (14 March 2013) the proposal. Later on, due to resentment expressed by public, the DC requested the Government (12 November 2013) for withdrawal of the proposal, the approval for the same was accorded (12 March 2014) by the Government. Legal cases in this regard are pending at various forums as detailed below:

Sl. No.	Name of court	Date of filing the case	Date of decision	Detail of decision	Period granted for appeal against decision	Date of appeal in higher court
1	<i>Tehsildar</i> Sagwada	5 September 2005	28 November 2005	Declared trespasser and order of eviction was given	Copy of decision not available in the file	10 January 2006
2	DC, Dungarpur	10 January 2006	5 July 2006	The encroachment was irregular, hence, it was to be removed	No time period prescribed in the decision.	-
3	Revenue Appellate Authority (RAA), Udaipur ²²	5 May 2014	6 May 2014	Stay was granted by RAA	-	-
4	RAA, Udaipur	-	23 November 2016	Order to remove the encroachment issued.	Not mentioned in the decision	7 December 2016
5	BOR, Ajmer	7 December 2016	Case file not available	Case file not available	-	-

Instead of timely removal of encroachment, the concerned Authorities ostensibly favoured the trespasser which resulted in non-removal of encroachment since last 25 years, presently the matter is under jurisdiction of BOR.

4.4.12 Pasture land encroached by Government Departments

It was noticed in four cases of Bichhiwada and Shahbad *tehsils* that Government Departments had irregularly constructed buildings on 8.05 *bigha* of pasture land. In two cases of Shahbad, the Government Departments constructed buildings in 1983, still the land was not allotted (April 2018). In two cases of Bichhiwada buildings were constructed by the Government Departments though allotment orders (February and August 2014) were issued after construction of buildings. This reflects that Government has not earmarked the land before construction of the buildings.

4.4.13 Monitoring and Inspection

4.4.13.1 Survey for assessing encroachment on Government land

Data collection techniques *i.e.* periodical surveys, remote sensing *etc.* are essential to safeguard the Government land from encroachments. These were not conducted and the Department relied on the reports submitted by the *Patwaris*.

The information about the survey for identification of encroachments on land was not furnished by the Department to audit. The *Tehsildar*, Bikaner

²² Case was filed against DC's order dated 24 March 2014 to remove encroachment.

informed that a survey was conducted during November 2016. However, records in this regard were not produced. The Joint Secretary Revenue stated (September 2018) that physical/remote sensing survey was not conducted.

For an effective monitoring and planning adequate measures to collect complete information about the encroachments need to be taken for which the Department may make a mandatory provision in the rules.

4.4.13.2 Formation of Vigilance and Encroachment Prevention cell

Proper vigilance through a Vigilance and Encroachment Prevention Cell is an effective tool for prevention of the encroachments and timely removal thereof. However, no such mechanism exists at state/district/*tehsil* level in Rajasthan.

Audit noticed that Revenue and Forest Department, Government of Maharashtra had issued a circular in May 1999, to form a squad at district level for identification and prevention of encroachment in Maharashtra State. It is recommended that similar mechanism may be put in place in Rajasthan.

On being pointed out the Joint Secretary Revenue accepted the audit contention and replied (September 2018) that neither any order regarding formation of Vigilance and Encroachment Prevention cell has been passed nor it was constituted.

4.4.13.3 Monitoring and supervision by DCs and State Government

Tehsildars prepare a quarterly report of disposal of cases of encroachments and submit it to the concerned DC. After consolidation of these reports, the concerned DC sends it to the BOR and thereafter it is sent to the State Government.

It was noticed in four districts²³ that meetings were organised by the DCs and general instructions were issued to *Tehsildars*, SDOs and other revenue officials for quick disposal of encroachment cases and to take effective action against trespassers under the provisions of the LR Act. It was also noticed that regular compliance reports on these instructions were not sent by the *Tehsildars*. Thus, effectiveness of these meetings could not be ascertained. The Department may ensure follow up of the instructions issued in the meetings.

4.4.14 Conclusion and Recommendations

The Government did not maintain the database of the Government land either manually or electronically at *tehsil*/district/state level. Documentation and record keeping of encroachment cases was deficient. There were discrepancies in maintenance of *Dayra* register. Periodical surveys were not conducted for identification of encroachment. Effective action was not taken for eviction of trespassers. Though policy to curb encroachments was framed after directions of the Supreme Court and the Rajasthan High Court but action plan for time bound removal of encroachments was not prepared. The penal provisions were weak and did not act as effective deterrent against repeated offenders. Separate rates of penalty were not prescribed for encroachments for non-agriculture purposes.

²³ Bharatpur, Bikaner, Dungarpur and Jodhpur.

- Information of a Government land in given place and identification of encroachments are two important aspects that need to be addressed for effective action to deal with encroachment. Accordingly, computerised database should be prepared for the Government land and encroachment thereof, detailing name of the trespassers, period of encroachment, area of encroachment and action taken;
- Periodical survey of the Government land and constitution of Vigilance and Encroachment Prevention Cell and action plan for eviction of trespassers at district/tehsil level may be considered; and
- Separate rates of penalty may be prescribed for encroachments for non-agriculture purposes.

4.5 Non-compliance with provisions of Act/Rules

The LR Act and the various rules made thereunder along with notifications of the Government provide for allotment and conversion of land.

During test check of records audit observed short/non-recovery of cost of land, conversion/regularisation charges, short realisation of Government's share and non-reversion of land to Government. These cases are illustrative only as these are based on test check of records. There is a need for the Government to improve the existing internal control of the Department in order to avoid recurrence of such cases. A few cases involving ₹ 2.80 crore noticed during 2017-18 are mentioned below:

Name of the district/ period involved	Audit criteria	Nature of irregularity
1. Incorrect application of rates of conversion charges		
Alwar June 2015 and September 2016.	As per Rule ²⁴ 7, premium for conversion of agricultural land for non-agricultural purpose shall be charged at the rates ²⁵ prescribed by the Government from time to time.	The DC applied incorrect rates of land for calculation of conversion charges for land situated on Alwar-Bhiwadi Mega Highway. The conversion charges of ₹ 1.18 crore ²⁶ for land(s) measuring 9.88 hectare in villages Pavati and Shahbad in tehsil Tijara were charged instead of ₹ 1.90 crore ²⁷ . This resulted in short levy and recovery of conversion charges of ₹ 0.72 crore ²⁸ .
The Government accepted the audit contention and replied (May 2018) that notices for recovery had been issued to the executants and instruction for recovery in both the cases had been issued to the Tehsildar.		

²⁴ Rajasthan Land Revenue (Conversion of Agricultural Land for non-agricultural purposes in Rural Areas) Rules, 2007,

²⁵ Residential Colony: ₹ 7.5 per square metre or 7.5 per cent amount of DLC rate of agricultural land or 7.5 per cent amount of the purchase rate of that agricultural land as mentioned in registered sale deed, if any, whichever is higher.

²⁶ ₹ 1.18 crore: ₹ 54.23 lakh (48,904 square metre X ₹ 110.90 per square metre as per DLC rates) + ₹ 64.05 lakh (49,900 square metre X ₹ 128.35 per square metre as per purchase rate mentioned in sale deed).

²⁷ ₹ 1.90 crore: ₹ 1.08 crore (48,904 square metre X ₹ 221.80 per square metre as per DLC rates) + ₹ 81.75 lakh (49,900 square metre X ₹ 163.83 per square metre as per DLC rates).

²⁸ ₹ 0.72 crore: ₹ 1.90 crore (-) ₹ 1.18 crore.

Name of the district/ period involved	Audit criteria	Nature of irregularity
2. Non-levy of regularisation charges		
Jaipur Prior to December 2017	Rule 13 of the rules ²⁴ prescribes that a person who used agricultural land for non-agricultural purpose without permission, shall submit an application for regularisation of land to the prescribed authority along with a copy of the challan depositing four times of the conversion charges.	Agricultural land measuring 72,481 square metre in three <i>tehsils</i> ²⁹ was used for non-agricultural purpose (brick kilns) without payment of premium for conversion of land. The Departmental Authorities, however, did not take action to recover the regularisation charges amounting to ₹ 33.33 lakh ³⁰ .
The Government replied (July 2018) that action will be taken under Section 90A of the LR Act which stipulated procedures for ejection, regularisation and levy of premium in the form of fine.		
3. Non-raising of demand		
Jodhpur May 2002 to July 2017	The cost of the land is required to be recovered in accordance to sanction order issued (July 2017) by the Government.	An educational institution in village Kheru, <i>tehsil</i> Jodhpur was allotted (May 2002) land measuring 5 <i>bigha</i> free of cost for establishing school for primary education of girls. Against the term of allotment, the school admitted 2,947 boys for which revised sanction for allotment of land on cost was accorded in July 2017. The Department, however, did not raise the demand of ₹ 28.30 lakh ³¹ for the cost of the allotted land.
The Government replied (October 2018) that demand of ₹ 14.15 lakhs has been raised by the DC in June 2018. The reasons for short raising of the demand were not produced to audit.		
4. Short realisation of Government's share on sale of Government land		
Jaipur November 2007 to January 2008	JDA, Jaipur was required to deposit 20 <i>per cent</i> share of sale proceeds of Government land in Government's account as per notification dated 8 December 2010. Further, as per circular dated 8 October 2007, interest at the rate of 12 <i>per cent</i> per annum was also chargeable in case Government's share is deposited with delay.	Jaipur Development Authority (JDA) allotted (November 2007) Government land measuring 4,716 square metre worth ₹ 18.86 crore ³² situated in village Jhalana, <i>tehsil</i> Sanganer to a private company. The JDA was required to deposit ₹ 3.77 crore ³³ in Government account as Government share against which it deposited (January 2008) ₹ 3.11 crore. This resulted in short realisation of Government's share amounting to ₹ 0.66 crore ³⁴ besides recoverable interest of ₹ 0.81 crore ³⁵ . This was not demanded by the Government.
The Government replied (August 2018) that a letter has been written (July 2018) to the JDA to deposit the amount and efforts are being made for recovery.		

²⁹ Bassi, Maujmabad and Phagi.

³⁰ ₹ 33.33 lakh: ₹ 27.26 lakh (52,500 square metre X ₹ 12.98 per square metre X 4) + ₹ 4.05 lakh (9,864 square metre X ₹ 10.26 per square metre X 4) + ₹ 2.02 lakh (10,117 square metre X ₹ 5 per square metre X 4).

³¹ ₹ 28.30 lakh: 5.00 *bigha* X 2 X ₹ 2.83 lakh per *bigha* as per DLC rates (effective from 13 February 2018).

³² ₹ 18.86 crore: ₹ 0.40 lakh per square metre X 4,716 square metre.

³³ ₹ 3.77 crore: 20 *per cent* of ₹ 18.86 crore.

³⁴ ₹ 0.66 crore: ₹ 3.77 crore (-) ₹ 3.11 crore.

³⁵ Calculated from February 2008 to March 2018 (for 122 months at the rate of 12 *per cent* per annum of ₹ 0.66 crore).

Name of the district/ period involved	Audit criteria	Nature of irregularity
5. Non-reversion of land to Government		
Ajmer, Bharatpur and Jaisalmer June 1990, July 2012 and January 2013	The terms and conditions of allotment orders provided that in case of breach of any condition of grant of the land(s), it shall be reverted to the Government.	Three allottees ³⁶ neither utilised the Government land allotted for specified purpose within the prescribed period nor applied for extension of the period for utilisation. The Department, however, did not initiate action to revert the land measuring 1,659.31 <i>bigha</i> to the Government.
The Government replied (July 2018) in case of Bharatpur that process to revert the land is under progress and a notice has been issued (April 2018) to an allottee in this regard. The Government replied (January 2019) in case of Ajmer that reversion of land to the Government is under process. Reply has not been received in case of Jaisalmer.		

³⁶ *Shergarh Tree Growers Co-operative Society*, Sarwad (Ajmer) (156.25 *bigha* Government land in village Shergarh, *tehsil* Sarwad); Rajasthan State Agriculture Marketing Board, Jaipur (110.02 *bigha* Government land at Village Khatoti, *tehsil* Nadbai.) and M/s. Suzlon Gujarat Wind Park Limited, Jaipur (1,393.04 *bigha* Government land in Jaisalmer).

CHAPTER-V

**STAMP DUTY AND
REGISTRATION FEE**

CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

5.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State are regulated under the Registration Act, 1908, the Rajasthan Stamps (RS) Act, 1998 and the Rules made thereunder. According to Section 3 of the RS Act, every instrument shall be chargeable with duty according to the rates mentioned in the Schedule to the RS Act. The SD is leviable on execution of instruments and RF is payable on registration of instruments. Surcharge is also chargeable on SD with effect from 9 March 2011.

5.2 Results of audit

There are 547 auditable units¹ in the Registration and Stamps Department, 17,28,017 instruments were registered during 2017-18 therewith. Out of these, 167 units were selected for test check in which 7,21,914 instruments were registered, of these 4,82,023 instruments (approximate 67 per cent) were selected for test check. During scrutiny, audit noticed short/non-realisation of SD and RF of ₹ 148.43 crore in 2,000 cases (approximate 0.5 per cent of sampled cases). These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. Thus, there is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Particulars	Number of Cases	Amount
1	Performance Audit on 'Levy and collection of stamp duty and registration fee'	1	88.40
2	Incorrect determination of market value of properties	1,356	33.54
3	Non/short levy of SD and RF	562	12.98
4	Other irregularities related to:		
	(i) Revenue	77	0.14
	(ii) Expenditure	4	13.37
Total		2,000	148.43

During the year 2017-18, the Department accepted underassessment and other deficiencies of ₹ 59.00 crore pertaining to 3,686 cases, of which 1,057 cases involving ₹ 21.43 crore were pointed out during the year 2017-18 and the rest in the earlier years. The Department recovered ₹ 9.28 crore in 2,386 cases during the year 2017-18, of which 47 cases involving ₹ 0.08 crore related to the year 2017-18 and the rest to the earlier years.

The Government accepted and recovered the entire amount of ₹ 11.75 lakh in one case after it was pointed out (January 2018) by the Audit. This paragraph has not been discussed in the Report. A Performance Audit on 'Levy and collection of stamp duty and registration fee' involving ₹ 88.40 crore is discussed in the succeeding paragraphs.

¹ 547 auditable units: 527 SRs (Registering authorities) and 20 administrative offices.

5.3 Performance Audit on ‘Levy and collection of stamp duty and registration fee’

5.3.1 Introduction

Receipts from Stamp Duty (SD) and Registration Fee (RF) in the State of Rajasthan are regulated under the Rajasthan Stamp Act (RS Act), 1998, the Registration Act, 1908 and rules made thereunder. The Stamp Act is fiscal enactment, its primary object is to collect revenue. The SD was payable at the rates (*ad valorem* or fixed) as prescribed in the schedule under Section 3 to the RS Act. The RF was payable under Section 78 of Registration Act, for registration of document, searching the registries, safe custody and return of documents and filing transactions *etc.*

RF was fixed *vide* notification dated 9 April 2010 *i.e.* at the rate of one *per cent* of the value or consideration subject to a maximum of ₹ 50,000. The notification was amended on 9 March 2015 and maximum limit of RF was deleted. It was again amended on 8 March 2017 and was fixed one *per cent* of value or consideration, subject to maximum of ₹ 4 lakh and further fixed on 12 February 2018 subject to maximum of ₹ 3 lakh. Surcharge was also payable on SD at the rate of 10 *per cent*. Additional surcharge at the rate of 10 *per cent* was also payable *vide* notification dated 8 March 2016.

Market value of the property and the rates of stamp duty and registration fee are essential elements in collection of revenue on account of SD and RF of an instrument. The market value was determined in accordance with the procedure laid down in Rule 58 of RS Rules and the rates of SD and RF were notified by the Government from time to time. The Government introduced a real time IT system ‘*E-Panjiyan*’ on 1 December 2014. It provides executants real time facility of self-valuation of their properties as well as assessment and payment of duty by booking of time slot for registration.

5.3.2 Organisational set-up

The Department functions under the overall administrative control of Finance Department. The Inspector General, Registration and Stamps (IGRS) is the administrative head of the Department. The Additional Inspector General (AIG), is the *Ex-officio* superintendent of stamps at headquarter and also assists the IGRS in administrative matters. The Financial Advisor (FA) assists the IGRS in financial matters. The entire State has been divided into 18 circles which are headed by Deputy Inspector General (DIG) *cum Ex-officio* Collector (Stamps). There are 111 Sub Registrar (SR) offices headed by SRs and 403 *Ex-officio* SRs offices headed by *Tehsildars* or *Naib Tehsildars* working under the administrative control of the District Registrar in each District.

5.3.3 Audit objectives

The Performance Audit (PA) was carried out to examine whether:

- the provisions of the relevant Act/Rules and Departmental instructions were adequate and enforced properly to safeguard revenue of the State;
- the Department had devised systems to ensure that the documents required to be registered were presented for registration and the requisite stamp duty and registration fee were levied;

- a system is in place to watch compliance of conditions under which exemption/remissions in stamp duty and registration fee, if any granted;
- internal control mechanism was effective and sufficient to safeguard collection of the stamp duty and registration fee; and
- the registering authorities and Public offices were discharging their functions in accordance with the prescribed rules and procedures.

5.3.4 Audit Criteria

- The Registration Act, 1908;
- The Rajasthan Stamps Disposal Rules 1962;
- The Rajasthan Stamp Act, 1998;
- The Rajasthan Registration Rules, 1955;
- The Rajasthan Stamp Rules, 2004 and
- Notifications and circulars issued under the Act and Rules *ibid.*

5.3.5 Scope and Methodology

The PA was conducted between October 2017 and July 2018 for the period from April 2012 to March 2017. The records of IGRS, Ajmer, nine² out of 18 DIGs, 68³ out of 514 SRs along with the records of major Public offices were examined with a view to ascertain the efficiency and efficacy of the Department in levy and collection of SD and RF payable on instruments. The sample selection⁴ of the units for field audit was drawn in such a manner so as to represent the entire population and major portion of the revenue of the State.

Total number of instruments registered in the 514 SRs⁵ during the period 2012-13 to 2016-17 were 75.20 lakh. Out of these 17.86 lakh instruments were registered in selected 68 SRs. Audit selected 3,040 instrument, each having money value of more than one crore rupee. Scrutiny of these instruments disclosed irregularities in 566 instruments (approximate 19 *per cent* of selected cases) resulting in short recovery of revenue on account of stamp duty and registration fee of ₹ 88.40 crore⁶ as discussed in the succeeding paragraphs.

At the outset an Entry Conference was held on 23 January 2018 with the members of the Department headed by Secretary, Finance (Revenue) and IGRS, wherein objectives, scope and methodology of PA were explained. Exit Conference was held on 21 August 2018, wherein audit findings were discussed in detail with the departmental and the Government officers, the replies received in the exit conference and at other point of time have been appropriately commented in the respective paras. Thereafter, the findings of

² DIG Alwar-I, II, Bikaner, Jaipur-I, II, III, Jodhpur, Kota and Udaipur.

³ SR: Alwer-I, Asind, Bagru, Bansoor, Bap, Baseri, Behror, Bhiwadi, Bhilwara-I, Bundi, Bhadra, Bilara, Bhindar, Chirawa, Shri Dungargarh, Dausa, Deedwana, Deogarh, Ghatol, Gajsinghpur, Hindumalkot, Jaipur-I, II, III, IV, V, VI, VII, VIII, Jalore, Jaswantpura, Jodhpur-I, III, Kishangarh, Khairthal, Kusalgarh, Kolayat, Kapasan, Kharchi, Kota-II, Laxmangarh, Luni, Mojmabad, Malsisar, Mandawa, Mundwa, Neemrana, Nokh, Pishangan, Pallu, Pali-I, Phalasia (Jhadol), Ramsin, Rajakhera, Relmagra, Sawar, Shrinagar, Sujangarh, Sangod, Sadulsahar, Sanchore, Sanganer-II, Tapukara, Talawada, Uchain, Udaipur-I, II and Viratnagar.

⁴ The sample was drawn on the basis of *probability proportion to size sampling method*. There are total 514 auditable units in the Department which are further divided into two categories *i.e.* full time SR offices (111) and ex-officio SR offices (403). Total 28 units (25 *per cent* units covering 54.93 *per cent* revenue) out of available 111 units of full time SR offices and 40 units (10 *per cent* units covering 18.32 *per cent* revenue) out of available 403 units of *Ex-officio* SR offices have been selected. The selection of units in this manner covered 46.71 *per cent* of the total average revenue of all SR offices.

⁵ There are total 527 SRs, out of these 514 SRs are working.

⁶ This includes observations amounting to ₹ 4.95 crore noticed during regular audit.

the audit in the form of a Draft Paragraph was issued to the Government and IGRS on 18 October 2018. Reply of the Government on the Draft Paragraph was received on 13 December 2018 and the same has been incorporated in respective paragraphs appropriately. Cases of similar nature noticed in performance audit and in the compliance audit have been clubbed together in the PA.

5.3.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of Finance Department and Registration and Stamp Department in providing necessary information and records for Audit.

5.3.7 Trend of Revenue

Actual receipts from SD and RF during the last five years from 2012-13 to 2016-17 along with the total tax receipts of the state for the same period are shown in the following table:

(₹ in crore)						
Year	Revised Budget Estimate (REs)	Actual	Variation excess (+) short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts viz-a-viz total tax receipts
2012-13	3,300.00	3,334.87	34.87 (+)	1.05 (+)	30,502.65	10.93
2013-14	3,350.00	3,125.33	224.67 (-)	6.70 (-)	33,477.70	9.34
2014-15	3,500.00	3,188.89	311.11(-)	8.89 (-)	38,672.92	8.25
2015-16	3,450.00	3,234.00	216.00 (-)	6.26 (-)	42,712.92	7.57
2016-17	3,250.00	3,053.25	196.75 (-)	6.05 (-)	44,371.66	6.88

Source: Information provided by IGRS and State Finance Accounts.

It would be seen from the above that the variation between the REs and the actuals was less than nine *per cent* however collection of revenue had reduced from ₹ 3,334.87 crore in 2012-13 to 3,053.25 crore in 2016-17 *i.e.* by nine *per cent*.

The Government replied that reduction in collection of revenue was due to downturn of the market, vacant post of SRs, exemption in SD on developer agreements, DLC rates fixed were not based on market rates, various exemptions granted in public interest, *etc.*

5.3.8 Uncollected Revenue-Arrears

Arrears of revenue mainly comprise of the cases of unpaid amounts of the stamp duty on account of the underassessment noticed during inspection of Public offices⁷ by the registering authorities or internal and external Audit or brought to notice of the department by any other person. The Department raises fresh demand(s) where the instrument(s) are found not properly stamped. The concerned party has an option to appeal against the demand raised before an appellate authority prescribed under the RS Act.

⁷ Means any office whom the State Government may by notification in the official Gazette, notified on this behalf. We test checked records of major Public Offices *i.e.* Registrar of Firms, Registrar of Company, Urban Improvement Trust, RIICO and Regional Auditor Co-operative Societies of the selected districts.

As per information provided by the IGRS office Ajmer, 10,993 cases involving amount of SD of ₹ 305.23 crore were pending for recovery as on 31 March, 2017 as shown below:

(₹ in crore)

Year	Arrears prior to 1 April		Demand raised during the year		Recovery during the year		Recovery outstanding as on 31 March	
	Number of cases	Amount involved	Number of cases	Amount involved	Number of cases	Amount involved	Number of cases	Amount involved
2012-13	NA	170.96	NA	99.21	NA	67.07	NA	203.10
2013-14	NA	203.10	NA	69.12	NA	99.59	18,860	172.63
2014-15	18,860	172.63	2307	225.70	6,776	149.71	14,391	248.62
2015-16	14,391	248.62	2552	91.76	3,813	62.82	13,130	277.56
2016-17	13,130	277.56	548	88.93	2,685	61.26	10,993	305.23

Source: information provided by IGRS.

The Department did not provide information regarding the number of cases pending recovery up to 31 March 2014. This could also not be electronically be ascertained by Audit as no module was developed in 'E-Panjiyan' to monitor the recovery of arrears. However, the age wise position of outstanding arrears, as on 31 March 2017 as furnished by the Department is given below:

Age wise category	Number of cases	Amount involved (₹ in crore)
Cases outstanding upto one year	1,841	87.93
Cases outstanding between one and five years	3,264	164.39
Cases outstanding more than five years	5,888	52.91

The Government intimated that out of ₹ 305.23 crore (10,993 cases), ₹ 69.93 crore (2,510 cases) have been recovered while ₹ 235.30 crore (8,483 cases) are pending for recovery. Out of these, ₹ 175.30 crore (1,220 cases) are pending due to stay granted by various courts. Continuous efforts are being made to recover the outstanding revenue

It is recommended that a module for recovery of arrears may be developed in 'E-Panjiyan' system which would be compatible to tag the details of recoveries with the properties and executants so that arrears could be recovered before further transfer of such properties to other hands.

The Government stated that a module is being developed in 'E-Panjiyan' which would enable the Department to tag the details of recoveries with the properties.

System and compliance deficiencies

The system and compliance deficiencies noticed are mentioned in the following paragraphs:

5.3.9 Determination of rates of immovable properties

Rule 58 of RS Rules *inter-alia* envisages that in case of agriculture, residential and commercial categories of land, the market value shall be assessed on the

basis of the rates recommended by the District Level Committee⁸ (DLC), in case of other categories of land on the basis of the rates determined by Inspector General of Stamps with approval of the State Government and in case of constructed portion, on the basis of the rates determined by the State Government.

5.3.9.1 Determination of rates by DLC

As per rule 58(2) of RS Rules, the DLC is required to conduct meeting once a year for determining the DLC rates. According to Rule 58(3) of RS Rules, if the DLC does not revise the rates of agriculture, residential or commercial categories of land up to 31 March of any year, the market value of such categories of land in that district, shall be assessed by increasing the existing rates by 10 *per cent* from 1 April of the following year with effective from 14 July 2014. The holding of DLC meetings was an effective tool in the hands of the Department for determining the true market value of the properties from time to time.

Scrutiny of information in respect of meetings conducted by DLCs in six districts⁹ revealed that 30 meetings of DLCs were required to be conducted during the period 2012-13 to 2016-17. However, only 10 DLC meetings were conducted during this period. The position of DLCs meetings was as under:

Sl. No.	Name of District	2012-13	2013-14	2014-15	2015-16	2016-17	No. of meetings conducted
1	Jaipur	Not conducted	Not conducted	Increased the prevailing rates upto 49 <i>per cent</i> .	Rates were remained unchanged	Not conducted	2
2	Jodhpur	Rates increased 5 to 20 <i>per cent</i>	Rates increased 5 to 50 <i>per cent</i>	Rates increased 5 to 50 <i>per cent</i>	Rates increased 5 to 50 <i>per cent</i>	Not conducted	4
3	Bikaner	Not conducted	Not conducted	Not conducted	Rates increased 4 to 50 <i>per cent</i>	Not conducted	1
4	Alwar	Not conducted	Not conducted	Rates increased 10 to 49 <i>per cent</i>	Not conducted	Not conducted	1
5	Udaipur	Not conducted	Rates increased 8 to 15 <i>per cent</i>	Not conducted	Not conducted	Not conducted	1
6	Kota	Not conducted	Not conducted	Rates increased 10 to 40 <i>per cent</i>	Not conducted	Not conducted	1

It would be seen that there was a short fall of 66.66 *per cent* in holding the DLC meetings. On the basis of the recommendations of the DLCs the rates of properties were increased up to 50 *per cent* and where DLC did not conduct

⁸ The DLCs were constituted under Rule 2(b) of RS Rules by the State Government for each district for determination the market value of land. As per order dated 7 March 1996, DLC consists of District Collector as chairman, *Pradhan* of each *Panchayat Samiti*, members of Legislative Assembly, Secretary of Urban Improvement Trust, representative of local authorities, Secretary of Jaipur Development Authority, concerned DIG (Stamps) and SRs of that area as members.

⁹ Six districts *i.e.* Alwar, Bikaner, Jaipur, Jodhpur, Kota and Udaipur covers selected nine DIGs (Stamps).

the meeting (during 2012-13 and 2013-14) the rates were not modified. After 14 July 2014, the SRs increased the rates by 10 *per cent* where meetings were not conducted. This, however, did not provide opportunity for incorporating the effects of specific market conditions on the rates of the properties, if any, in the DLC rates. Therefore, it is imperative that meetings of the DLC are conducted regularly to decide whether rate should be changed or not.

The Government replied that all the District Collectors would be instructed for conducting regular meetings of DLCs.

• **Absence of parameters for determination the market rates**

It was observed that the SRs sent the proposals for revision in prevailing rates of various categories of lands to DLC. No parameter or criteria was prescribed by the Government that could be followed by the DLC while recommending the revision in rates or by the SRs while sending the proposals to the DLC for revision.

The rates were being revised after adding a certain *percentage* to the prevailing rates and the same were approved in the DLC meetings. The rates determined by the DLCs were compared by audit with the auction rates of 30 properties auctioned by Jaipur Development Authority (JDA), Rajasthan Housing Board (RHB) Jaipur and Urban Improvement Trust (UIT) Kota. It was noticed that rates at which properties were auctioned in different localities varied by 152 to 806 *per cent* in comparison to the DLC rates fixed in same area in same year as mentioned in the following table:

Sl. No.	Name of local body	Name of locality	Auction rate in ₹ (per square metre)	Rate in ₹ determined by DLC (per square metre)	Difference in percentage
1	JDA, Jaipur	Chitrakoot Sector 1 to 4 (Residential) (Plot No B4/176A)	77,100 (21 August 2018)	21,798	354
		Paladi Meena (Residential) (Plot No E-34)	18,500 (20 August 2018)	5,850	316
		Gokul Nagar Yojna, Gokulpura, Jhotwara (Residential) (Plot No 605C)	40,600 (27 June 2018)	5,040	806
2	RHB, Jaipur	Pratap Nagar Sector-19 (Residential) (Plot No 193/ 10A)	76,400 (19 October 2015)	12,500	611
		V. T. Road Mansarovar (Commercial) (Plot No S-65)	2,79,000 (27 June 2017)	67,176	415
		Indira Gandhi Nagar Jagatpura Jaipur (Commercial) (Plot No 11-SC-32)	62,000 (17 May 2018)	40,707	152
3	UIT Kota	Mahaveer Nagar-I (Residential) (Plot No 1265)	6,270 (per square feet) (28 February 2018)	2,281 (per square feet)	275
		Ramkrishanpuram-A (Residential) (Plot No 12)	5,300 (per square feet) (8 June 2016)	1,940 (per square feet)	273

Source: Information collected from website of JDA and provided by RHB Jaipur and UIT Kota.

Price indicators such as rates of auctions of immovable properties by local bodies, trend of consideration shown in sale deeds registered in previous years

may be considered while fixing DLC rates. Besides, expert opinion may also help in arriving at actual market prices of properties.

The Government replied that Department has sent draft guidelines prepared for guiding the DLC to the Finance Department for approval. Certain parameters have been included in the draft to eliminate the difference between actual market rates and DLC rates.

5.3.9.2 Determination of rates by state Government

- **Absence of system of periodical revision of rates of 'Cost of construction'**

Rule 58 of RS Rules provided that the registering officer shall assess the market value of constructed portion of properties on the basis of rates determined by the State Government. The rates for assessment of market value of constructed portion of property were revised on 8 December 2009 which were again revised *vide* notification dated 14 July 2014 and 9 March 2015. Government did not revise rates of constructed portion of properties between December 2009 and July 2014 and after 9 March 2015. No provision for periodical revision of the rates of constructed portion was made in the Act or Rules.

Provisions should be made for periodical revision of rates of constructed portion and criteria for determination of the cost should also be prescribed. Basic schedule of rates adopted by Public Works Department may be considered for the same.

The Government replied that determination of rate of construction is being done on the basis of cost of construction and other involving factors. Further, it was also informed that standards prescribed by Public Works Department would also be considered while revising the rates of construction.

5.3.9.3 Inconsistency/'chop and change' of fixation of market rates

Audit found that the rates of the land were not valued according to the purpose for which the land(s) were intended to be used. A few cases noticed are detailed as follows:

- **Agriculture lands purchased for institutional purpose**

Neither any parameter was prescribed for fixation of rates for institutional purposes till March 2011 nor was any separate rates fixed for lands purchased for these purposes. The rates of lands purchased for institutional purpose were prescribed *vide* notification dated 9 March 2011 as 1.5 times of the residential rates.

It was observed that the rates of land purchased for the institutional purpose were revised four times during the period 2011-2015. The changes in the rates of land purchased (agriculture lands) for institutional purposes by

firms/companies are as below:

Notification dated 9 March 2011	Notification dated 12 July 2012	Notification Dated 14 July 2014	Notification dated 9 March 2015
Equal to 1.5 times of the residential DLC rates for that area	(notification dated 9 march 2011 was withdrawn) No separate rates were prescribed between 12 July 2012 and 13 July 2014.	<ul style="list-style-type: none"> • Equal to 1.5 times of rates of agriculture land of that area where land purchased by co-operative Societies/ charitable institutions and • Two times of rates of agriculture of that area where such land purchased by companies or firms or by any institutions. 	The following provision was made in addition to notification dated 14 July 2014 <ul style="list-style-type: none"> • Equal the residential rates where agriculture rates are not recommended by the DLC(s).

• **Agriculture lands purchased by Firms/Companies**

The rates for agricultural land purchased by firms/companies were not specifically prescribed. The Finance Department issued a notification in May 2012 to prescribe rates for such land. It was observed that the rates of agricultural land purchased by firms/companies were revised and withdrawn three times during July 2012 to March 2015 as discussed below:

Notification dated 8 May 2012	Notification dated 12 July 2012	Notification dated 14 July 2014	Notification dated 9 March 2015
Agriculture land purchased by companies or partnership firms is to be determined equal to 1.5 times of the residential land of that area	Rates fixed <i>vide</i> notification dated 8 May 2012 were deleted, no separate rates were prescribed between 12 July 2012 and 13 July 2014.	Equal to 1.5 times the rates of agriculture land of that area.	Equal to the rates of agriculture land of that area.

It would be seen from above tables that there was no consistency in prescribing rates of lands for institutional purpose and agriculture lands purchased by companies/firms. Further no specific rates were prescribed for the period from 12 July 2012 to 13 July 2014. Rates fixed for agriculture lands purchased by firms/companies *vide* notification dated 14 July 2014 were again revised to same as agriculture land of that area *vide* notification dated 9 March 2015.

The practice to '*chop and change*' the rates shows that the Government was indecisive to prescribe norms for determination of rates of these categories of land. This resulted in fluctuations in valuation of such lands.

Secretary (Finance) in Exit Conference stated that lands should be valued according to the purpose, they are intended to use. He directed Deputy Legal Remembrance and IGRS to look into the matter and suggest suitable clarification in notification dated 9 March 2015.

The Government replied that rate of land(s) were not revised since 2015. It was also informed that rates are being revised in public interest on the basis of recommendations made by various organisation to the advisory committee at the time of budget. However, no supporting documents were furnished in this regard.

5.3.10 Site inspection of immovable properties

Rule 57 of the RS Rules provides that in case an instrument relating to immovable property chargeable with duty on the market value of the property, the facts affecting duty shall be set forth truly in instruments by executants. Where the registering officer has a doubt about correctness of facts mentioned

in the instrument affecting duty, he may inspect the property himself or may direct his subordinate employee authorised by IGRS in this regards to inspect the property so as to ascertain the correctness of facts and determine the market value accordingly.

IGRS *vide* circular number 11/2004 instructed DIGs to constitute a panel of two to ten inspectors in each SR office for timely inspection of properties. Provision was also made at para 4(vi) of circular *ibid*, to recover loss of revenue from responsible Inspector, in case of incorrect reporting by him.

This arrangement was further modified *vide* circular number 16/09, *vide* which instrument was to be returned immediately after registration and properties valuing upto 25 lakh were to be inspected on random basis by SRs (25 *per cent*) and DIGs (10 *per cent*) and all the properties valuing more than 25 lakh were compulsorily be inspected.

Scrutiny of information provided by the SRs revealed that short levy of SD of ₹ 7.38 crore in 1,676 cases during 2012-13 to 2016-17 was detected by nine SRs during inspections. Out of which ₹ 4.36 crore was recovered.

Thus, it would be seen that conducting of inspection is an important tool in the hands of the Department for detecting the underassessment of the SD and needs to be strengthened in the interest of revenue. Information of site inspections of immovable properties was called for from selected DIGs and SRs. The information was not provided by the DIGs. Information provided by selected SRs for the period 2012-13 to 2016-17 revealed that:

- Records of site inspections were not maintained in six SRs¹⁰ and in 12 SRs¹¹ the information made available was incomplete as the information was provided only for two to three years, bifurcation of site inspections according to monetary value was not provided, *etc.*
- In 20 SRs 71,572 site inspections were to be conducted as per prescribed norms. Out of these, 52,648 inspections (526 inspections per SR per year) were conducted by these SRs. On an average 26 *per cent* inspections¹² were not conducted against the norms, the short fall ranged between one *per cent* and 100 *per cent*.
- In 30 SRs 1,78,257 site inspections were to be conducted (on an average 1,188 inspections¹³ per SR per year). These SRs submitted reports showing conduct of all the targeted inspections.

Effectiveness of the inspections conducted:

- Audit noticed short payment of stamp duty and registration fee of ₹ 1.81 crore in 10 instruments of immovable properties (each valued at more the ₹ 25 lakh) which were shown as inspected by the SRs. It indicates that the inspections were not conducted diligently.
- Further, number of inspections conducted by the SRs ranged between 21 and 22,162 during the years 2012-17 (details in *Appendix-I*). It would mean conducting up to 17 inspections a day considering 250 working days in a year which is not a practical option and may not prove an effective tool in achieving the intended purpose.

¹⁰ Jhadol, Kapasan, Kota-II, Kushalgarh, Malsisar and Sangod.

¹¹ Bagru, Bundi, Ghatol, Jaipur-IV, Jaipur-V, Khairthal, Laxmangarh, Mandawa, Rajakheda, Sanganer-II, Uchain, and Viratnagar.

¹² 26 *per cent*: Out of 71,572 inspections, 18,924 inspections were not conducted.

¹³ 1,188 inspections: Total 1,78,257 inspections ÷ 150 (Five years X 30 SRs).

The Government replied that an application is being developed in 'E-Panjiyan' for monitoring the site inspections, SRs have been instructed to conduct the prescribed site inspections and to maintain proper record of site inspections, DIGs have also been instructed to ensure recovery of remaining amount of ₹ 3.02 crore.

The rate of properties and the number of registrations both have increased many folds since 2009 when these norms were prescribed, therefore, the Government may consider to revise these norms to make the inspections practical and effective. Further the IGRS may monitor the work of inspections to ensure compliance of the department's instructions.

5.3.11 Computerisation in Department

The Government of Rajasthan introduced an IT system 'Rajcrest' in 2003 to provide online registration facility. This system was in operation at all the full time SR offices and 144 ex-officio SR offices. This system was replaced with 'Sarathi' in 11 full time SR offices of Jaipur City in 2006. Further, the Government introduced 'E-Panjiyan' on 1 December 2014. This system is now operative at all SR offices with effect from 26 October 2017.

It was noticed that

- Separate modules for calculation of SD payable in various categories of instruments such as developer agreement, lease deeds, sale deeds of specific properties like agriculture land upto 1,000 square metre, industrial land, institutional land and transfer of mining lease, were not developed or suitably programmed in the 'E-Panjiyan'.
- Integration of *khasra* numbers, unit conversion table and history of earlier transactions of same property with the 'E-Panjiyan' was also not made.

In light of the above the 'E-Panjiyan' could not calculate correct SD payable on the instruments. These functions if available in the 'E-Panjiyan', could have prevented short levy of SD of ₹ 10 crore in 249 cases related to 43 SRs as discussed in succeeding paragraphs.

5.3.11.1 Non-linking of *khasra* numbers with DLC rates and 'E-Panjiyan'

Scrutiny of DLC rates of five SRs¹⁴ revealed that the rates for agricultural land situated on the National Highways, State Highways, district roads and village roads were determined on the basis of certain distances from said road *i.e.* 100 metre, 200 metre, 500 metre, *etc.* whereas, the DLC rates of six other SRs¹⁵ determined were based on near to road/*abadi* or away from road/*abadi* without providing specific distances. It was seen that the *khasra* numbers of lands falling under above categories of locations were also not shown in DLC rates of these SRs.

It was noticed in SR Railmagra and Kolayat that seven deeds (Six sale and one gift deed) comprising of 115.05 *bigha* were registered between October 2015 and May 2016. The value of the land as per prevailing DLC rates was ₹ 3.35 crore involving SD and RF of ₹ 22.48 lakh. However, the SRs did not determine the value based on the distances from the national/state highway

¹⁴ Bap, Bhilwara, Dausa, Kolayat and Railmagra.

¹⁵ Behror, Bundi, Kishangarh, Sangod, Udaipur-I and II.

and incorrectly levied SD of ₹ 9.06 lakh on a consideration of ₹ 1.40 crore. This resulted in short levy of SD and RF of ₹ 13.42 lakh.

The Government replied that provisions to link the *khasra* numbers with DLC rates are available in the '*E-Panjiyan*' and DIGs have been instructed to link the *khasra* numbers of state/national highways with the DLC rates. Entire amount of SD of ₹ 1.51 lakh in respect of five cases have been recovered while in remaining two cases notices for recovery have been issued.

5.3.11.2 Non-integration of conversion table with the '*E-Panjiyan*'

As per notification dated 9 March 2015, market value of agriculture land having area up to 1,000 square metre shall be assessed at the rates of residential land of that area. It was found that DLCs rates were approved in different measurement units *i.e. bigha, are, hectare etc.* The measurement of land can be worked out on the basis of length of *zarib*¹⁶, however this unit was neither mentioned in DLC rates nor in '*E-Panjiyan*'. Besides, the '*E-Panjiyan*' could not convert the land area from hectare to *bigha*, *bigha* to metre/yards/feet and *vice versa* in absence of conversion table due to which valuation of agriculture lands comprising area upto 1,000 square metre depends solely upon manual inputs given by registering officials.

Audit examined the sale deeds with saleable area upto 1,000 square metre in 28 SRs¹⁷ and found that 175 deeds of agriculture land were registered between October 2015 and May 2016. The concerned SRs while converting the local units into hectares incorrectly considered the saleable area of land as more than 1,000 metre and levied SD of ₹ 0.09 crore on a consideration of ₹ 1.50 crore at agricultural rates instead of ₹ 1.03 crore on market value of ₹ 16.53 crore at residential rates. This resulted in short levy of SD and RF of ₹ 0.94 crore. Thus, non-integration of unit conversion table with '*E-Panjiyan*' by the Revenue Department resulted in short realisation of revenue to that extent.

The Government replied that the work relating to integration of unit conversion table and linking of land record computerisation with '*E-Panjiyan*' is under progress. Entire amount of SD of ₹ 6.07 lakh in respect of 26 cases have been recovered, 48 cases are under consideration with DIGs (Stamps) while in remaining 101 cases notices for recovery have been issued.

5.3.11.3 Absence of the provision for determination of SD on Development Agreements in '*E-Panjiyan*'

Audit analysis revealed that '*E-Panjiyan*' was not made compatible to determine the value of the property according to the purpose of development of property, work out share of land owner and developer and assess SD separately on share of owner and developer as required in provisions. The SD on these instruments was being done manually which resulted in a number of mistakes.

¹⁶ *Zarib* is a measurement unit used to measure land. Each district uses different size of *zarib* and length of *zarib* varies from 110 to 165 feet.

¹⁷ Asind (Eight cases), Bansoor (Two cases), Basedi (22 cases), Bilara (Four cases), Bundi (Two cases), Chirava (Three cases), Devgarh (Six cases), Ghatol (Nine cases), Hindumalkot (Two cases), Jalore (Six cases), Jaswantpura (14 cases), Jhadole (One case), Kharchi (Two cases), Kolayat (One case), Malsisar (One case), Mandava (Two cases), Mojmabad (Five cases), Pisangan (One case), Railmagra (23 cases), Rajakhera (10 cases), Ramsin (14 cases), Sanchore (Eight cases), Sangod (Four cases), Sawar (Two cases), Srinagar (Five cases), Sujangarh (One case), Talawara (One case), Uchain (16 cases), [Total 175 cases]

During scrutiny of records of seven SR offices it was noticed that 11 instruments of developer agreement were executed and registered between land owners and developers. These properties were undervalued resulting in short levy of SD and RF of ₹ 1.80 crore. Of these, six cases are detailed in the following table:

(₹ in crore)							
Sl. No.	Name of SR	Number of cases	Market value assessed	Market value to be assessed	SD and RF leviable	SD and RF levied	Short levy and recovery
1	Sanganer-II & Jaipur-II	3	17.65	34.33	0.82	0.37	0.45
	Land was to be developed for mixed use <i>i.e.</i> residential and commercial purpose and as per notification dated 9 March 2015 it should have been valued at 75 per cent of commercial rate. But it was incorrectly valued at the agriculture rates in two cases and in one case the rate applied was less than approved DLC rate. This resulted in short levy of SD of ₹ 45 lakh.						
2	Neemrana	2	5.26	12.38	0.40	0.17	0.23
	Recitals of the deeds indicated that land(s) were to be developed as multi-storey building, therefore, these should be valued at residential rates under Section 51 of the RS Act which stipulated that the potentialities and purpose to which the land may be put to use should also be considered in determination the market value of the property. But it was valued at the agriculture rates. This resulted in short levy of SD of ₹ 23 lakh.						
3	Bhiwadi	1	3.35	40.00	1.12	0.09	1.03
	The rate of land for <i>group housing projects</i> were more than the residential rates prescribed by the DLC and should have been considered for the purpose of SD and RF. But the SRs incorrectly adopted rates of residential land prescribed by the DLC resulting in short levy of SD of ₹ 1.03 crore.						

The Government replied that 'E-Panjiyan' is compatible to assess SD and RF according to the inputs such as actual use of land, type of land, *etc.* given to the system. Entire amount of SD of ₹ 1.94 lakh in two cases have been recovered, eight cases are under consideration with DIG (Stamps) while in remaining one case, reply from concerned DIG (Stamps) is awaited.

'E-Panjiyan' should also be made compatible to assess SD separately on share of owner and developer as required in provisions.

5.3.11.4 Short levy of SD on Lease deeds

Lease deeds executed for various periods are chargeable with SD under Article 33 of the Schedule to the RS Act as under:

Article	Period of lease	SD chargeable
33(a)(iii)	Term in excess of 20 years	as on a conveyance on market value of the property.
33(a)(ii)	Term more than 10 years upto 20 years	as on a conveyance for a consideration equal to the amount or value of the average rent of two years.
33(c)(i) (Amended <i>vide</i> notification dated 14 July 2014)	Term upto ten years (if money advanced or development charges advanced or securities charges advanced is refundable and the lease purports)	at the rate of one <i>per cent</i> of the rent for the entire period subject to minimum of ₹ 5000 in case of leases of other than residential properties.

Audit noticed that 'E-Panjiyan' was not compatible to link instruments of lease registered earlier in respect of the same property to sum up such stated periods along with all previous periods immediately preceding this without a break for which the lessee and lessor remained the same. The 'E-Panjiyan' was also not compatible to work out average rent of certain period as required.

During audit of records of 18 SRs¹⁸, it was noticed that 31 instruments were registered as lease deeds. Scrutiny of these cases revealed short levy of SD amounting to ₹ 1.61 crore as discussed below:

- Recitals of the 11 lease deeds indicated that their period of execution exceeded 20 years for levy of SD and RF but these were incorrectly treated as less than 20 years as the period of lease, earlier period(s) of leases and option to renew was not taken into consideration. This resulted in short levy of SD of ₹ 1.06 crore on these instruments.
- Out of 20 lease deeds, in two cases average rent was wrongly calculated, in seven cases SD was charged at the rate of two *per cent* and in one case at the rate of one *per cent* instead of five *per cent* of average rent of two years. In nine cases, SD was charged at the rate of one or two *per cent* of average rent of two years instead of one *per cent* of rent of entire period of lease and in one cases SD was not charged at all. This resulted in short/non-levy of SD of ₹ 55 lakh.

The Government replied that entire amount of SD of ₹ 3.04 lakh has been recovered in four cases, 12 cases are under consideration with DIG (Stamps), notices for recovery have been issued in 11 cases while in four cases concerned DIG (Stamps) disagreed with audit observation stating that SD at the rate of conveyance has been charged on previous instruments executed between the same executants. However, reasons for disagreements are contradictory to the provisions.

5.3.11.5 Non-integration of provisions in ‘E-Panjiyan’ for delayed registration of lease deeds.

Notification dated 14 July 2014 stipulated the method of valuation of lease deeds executed by local bodies or authorities¹⁹ in respect of land allotted or sold by them. It prescribed enhanced valuation of land in case of presentation of a document before the registering authority after two months of its execution for the purpose of levy of SD. Besides, as per Section 23 of the Registration Act any instrument shall be accepted for registration within four months from the date of its execution. Delay in presentation shall be regulated by charging a fine as provided in part XIII of the Rajasthan Registration Rules, 1955.

Audit found that there was delay in presentation of the lease deeds before the registering authorities for which the concerned SRs were required to levy SD on the values to be worked out in accordance with the provisions of the RS Act and also collect fine on account of the RF for the default. However, there was no provision in the ‘E-Panjiyan’ to identify such delays and compute SD and RF leviable on their delayed presentation automatically.

Scrutiny of records of selected SR offices disclosed that in 25 cases, documents were delayed presented for registration. The SRs while registering the deeds omitted to work out the value of the properties in accordance with the notification *ibid* and fine under the Rajasthan Registration Rules. This

¹⁸ SR: Bap, Chidawa, Deedwana, Jaipur-I & II, Jalore, Khairthal, Kharchi, Kolayat, Mojmabad, Mundwa, Railmagra, Sanchore, Srinagar, Sujangarh, Udaipur-I & II and noticed during regular audit: SR Aspur.

¹⁹ Local Bodies or Authorities *i.e.* State Government, Rajasthan Housing Board, Development Authorities (Jaipur, Jodhpur and Ajmer), Urban Improvement Trusts (UITs), *Krishiupajmandi, Mandisamittee, Gram Panchayats, Panchayat Samittee*, Rajasthan State Industrial Development and Investment Corporation (RIICO), Rajasthan State Cooperative Housing Federation or by any other authority or enterprises of the state Government *etc.*

resulted in short levy of SD and RF of ₹ 5.52 crore including fine for late presentation of lease deeds as discussed below:

- **Registered within three and four months of execution of the lease deed:** As per notification *ibid* if an instrument is submitted for registration between two and four months from the date of its execution, SD shall be leviable on 125 *per cent* of the ‘premium, other charges paid in consideration including interest or penalty, if any and the average amount of the rent of two years’.

Audit found that a lessee got a lease deed registered in SR Bap on 28 July 2016 after its execution on 31 March 2016. The SR while registering the document ignored the delay of three months and 28 days and valued the property at consideration amount of ₹ 44.28 crore instead of ₹ 55.35 crore *i.e.* 125 *per cent* of premium *etc.* The SD and RF of ₹ 3.10 crore was charged instead of ₹ 3.87 crore. This resulted in short levy of SD and RF of ₹ 0.77 crore.

- **Registered within five and eight months of execution of the lease deed:** (i) As per notification *ibid* if an instrument is submitted for registration between five and eight months from the date of its execution, SD shall be leviable on 150 *per cent* of the ‘premium, other charges paid in consideration including interest or penalty, if any and the average amount of the rent of two years’. As per the provisions of the Rajasthan Registration Rules *ibid* if an instrument is submitted for registration with a delay of more than three months but less than four months after the prescribed period of four months, a fine of 50 *per cent* of the proper RF is also leviable.

A lessee got a lease deed registered in SR Bap on 14 July 2016 after its execution on 18 November 2015. Thus, there was a delay of seven months and 26 days in the registration of the deed under RS Act. SD of ₹ 7.40 crore on ₹ 123.34 crore (*i.e.* 150 *per cent* of the consideration ₹ 74.75 crore) was leviable as per notification *ibid*. The SR, however, levied SD of ₹ 4.48 crore on consideration of ₹ 74.75 crore. Besides, as per Rajasthan Registration Rules *ibid* RF of ₹ 1.85 crore including fine was leviable, however, the SR levied RF of ₹ 74.75 lakh only. This resulted in short levy of SD and RF including fine of ₹ 4.02 crore.

(ii) As per the provisions of the Rajasthan Registration Rules *ibid* if an instrument is submitted for registration with a delay of more than two months but less than three months after the prescribed period of four months, a fine of 30 *per cent* of the proper RF is also leviable.

Audit noticed that a lease deed was registered on 12 August 2016 under Rajasthan Investment Promotion Scheme²⁰ (RIPS) with a delay²¹ of two months and 22 days after its execution on 21 January 2016. SD was exempted under RIPS, therefore, only RF was leviable. However, the SR did not levy a fine of ₹ 26 lakh on the deed.

- **Registered after eight months of execution of the lease deed:** As per notification *ibid* if an instrument is submitted for registration after eight months from the date of its execution and revalidated from the local bodies, SD shall be leviable on market value of the property or on 150 *per cent* of

²⁰ A Scheme to promote investment and employment opportunities in the State.

²¹ A document can be presented for registration within a period of four months of its execution, therefore, delay is worked out beyond the period of four months.

the 'premium, other charges paid in consideration including interest or penalty, if any and the average amount of the rent of two years', whichever is higher.

Audit noticed that in 22 cases, instruments were presented for registration after expiry of eight months of their execution and were revalidated by concerned local bodies²². The lease deeds were valued at consideration amount of ₹ 0.97 crore instead of ₹ 8.12 crore i.e. market value of properties. Therefore, SD and RF of ₹ 0.06 crore was charged instead of ₹ 0.53 crore. This resulted in short levy of SD and RF of ₹ 0.47 crore.

The Government replied that entire amount of SD of ₹ 0.15 lakh has been recovered in two cases, notices for recovery have been issued in 21 cases while in two cases of SR Bap, DIG/SR disagreed with audit observation without stating reason.

Separate module should have been developed in 'E-Panjiyan' that could capture all the data relating to correct calculation of SD and RF in case of delay in presentation of lease deeds.

The Government stated that necessary action to be taken in the 'E-Panjiyan' is under progress.

5.3.12 Lack of co-ordination between IGRS and Public Offices

Section 37 of the RS Act, provides that every person-in-charge²³ of a Public Office before whom any instrument chargeable with SD is produced or such an instrument comes to his notice in the performance of his functions, shall examine every such instrument, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed as per Sub-section 2 of Section 37 of the RS Act.

The State Government notified (16 December 1997) certain offices as Public offices. IGRS through a circular (August 2010) instructed the SRs to inspect every Public office once in a quarter and the DIGs to inspect the same once in a year. Further, IGRS vide circular dated 29 December 2011, instructed Public offices to submit quarterly returns to DIGs/SRs concerned in respect of instruments executed/presented in their offices.

Section 17(1)(b) of the Registration Act, provides that other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or confined, of the value of ₹ 100 and above, to or in immovable property, are required to be compulsorily registered.

Information furnished by selected SRs revealed that 35 SRs did not inspect any of the Public offices²⁴ and required quarterly returns were not sent to 24 SRs²⁵ by the Public offices.

²² Gram Panchayat: 4 B Badi (Pakki), Bansoor, Bhoopseda, Gyanpura, Hameerpur, Hazipur, Mojmabad, Rampur, Ransigaon and Shivpur; Nagar Palika: Deedwana and Sanchore and JDA Jaipur.

²³ Means any officer whom the State Government notified in the official Gazette.

²⁴ Registrar of Firms, Registrar of Company, Urban Improvement Trust (UIT), RIICO and Regional Auditor Co-operative Societies.

²⁵ Asind, Behror, Bhadra, Bhilwara-I, Bilada, Chirawa, Deedwana, Devgarh, Ghatol, Jaipur-V, Jodhpur-III, Kapasan, Kishangarh, Kushalgarh, Luni, Malsisar, Mandawa, Mundawa, Pallu, Railmagra, Sadulsahar, Shri Dungargarh, Sujangarh and Tapukada.

The Government replied that a new Section 10(A)²⁶ under RS Act has been introduced through Finance Bill 2018 to ensure payment of SD on the documents not compulsorily registrable. The Department *vide* circular dated 1 June 2018 instructed persons-in-charge of Public offices in this regard.

During PA non/short levy of SD of ₹ 66.64 crore in 176 cases was noticed in 22 Public offices out of 35 Public offices inspected. This shows lack of co-ordination between IGRS and Public offices as discussed in succeeding paragraphs:

5.3.12.1 Contribution of immovable property to partnership firms

According to Article 43(1)(c) of the Schedule under the RS Act in case of an Instrument of partnership, where share contribution is brought in by way of immovable property, the SD shall be chargeable as on conveyance on the market value of such property.

During scrutiny of records of eight²⁷ Registrar of Firms (RoF), it was noticed that in 39 cases²⁸, immovable properties valuing ₹ 137 crore were brought in by the partners as share contribution in the partnership firms during the period 2012-13 to 2016-17, through the deeds of partnership. The SD of ₹ 0.32 lakh was paid on these partnership deeds at the rate of ₹ 5,000 in one case, ₹ 2,000 in five cases each and ₹ 500 in remaining 33 cases each instead of five *per cent* on market value which resulted in short levy of SD of ₹ 8.77 crore. The Person-in-charge of RoF neither impounded these instruments nor made any references to the DIGs (Stamps) for short payment of SD.

The Government replied that entire amount of SD of ₹ 10.94 lakh has been recovered in three cases, eight cases are under consideration with DIG (Stamps) while notices for recovery have been issued in 28 cases.

5.3.12.2 Transfer of property on retirement or incoming of a new partner

According to Article 43(2)(a) of the Schedule to the RS Act, an instrument of dissolution of the partnership or if on retirement of a partner, any property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership, the SD is chargeable as on conveyance on the market value of such property.

- **Cases related to RoF Offices**

Scrutiny of records of RoF Jaipur (city) and Bhilwara revealed that in two cases of partnership firms, on retirement of existing partner/incoming of a new partner, immovable properties valuing ₹ 7.53 crore were taken (between December 2014 and October 2015), as their share by the partners other than the partners who brought in that property as their share of contribution in the partnership firms. The instrument in respect to RoF Jaipur was unstamped while SD of ₹ 500 was paid on the instrument registered with RoF Bhilwara instead of ₹ 49.24 lakh calculated at the rate of five *per cent* on market value of these properties which resulted in short levy of SD ₹ 49.24 lakh.

The Government replied that notices for recovery have been issued.

²⁶ Under Section 10(A), the Government may notify all Departments of State Government, Institutions of Local Self Government, Semi Government Organisations, Banking or Non-Banking Finance Institutions or the body owned, controlled or substantially financed by the State Government or any class of them, specified in the schedule appended here to ensure that the proper stamp duty is paid to the State Government through electronic Government Receipt Accounting System (*e-GRAS*) in respect of instruments specified in the schedule.

²⁷ Alwar, Bhilwara, Bhiwadi, Bikaner, Bundi, Jaipur, Jodhpur and Pali.

²⁸ Alwar(one case), Bhilwara (seven cases), Bhiwadi (one case), Bikaner (10 cases), Bundi (seven cases), Jaipur (four cases), Jodhpur (one case) and Pali (eight cases).

• **Similar cases noticed in SR offices**

Scrutiny of records of two SRs offices²⁹, revealed that three sale deeds of immovable properties were registered (between May 2016 and February 2017). Recitals of the sale deeds disclosed that in these cases, on retirement/incoming of a new partner of partnership firms, immovable properties valuing ₹ 2.71 crore were taken as their share by the partners other than the partners who brought in that property as their share of contribution in the partnership firms. There was no mention of the partnership deeds being stamped. The SRs did not consider the fact of transfer of such share in immovable properties on which SD was chargeable on market value of transferred properties which resulted in non-levy of SD and RF of ₹ 18.95 lakh.

The Government replied that entire amount of SD of ₹ 4.40 lakh has been recovered in one case while remaining two cases are under consideration with DIG (Stamps).

5.3.12.3 Non-execution/registration of lease deeds by RIICO

As per notification dated 30 January 2018, SD is chargeable on lease deeds or sale deeds executed by UIT, RIICO and State Government in respect of land allotted or sold by them, at the rates of conveyance on the 50 *per cent* of the market value of the property if an instrument is submitted for registration within 2 months from the date of its execution and on the amount of purchase money, if the instrument is executed in respect of land sold through public auction.

Scrutiny of the records of 12 RIICO offices³⁰ disclosed that RIICO allotted/sold 85 plots³¹ (between November 2005 and December 2017) measuring 6,60,872.50 square metre to 74 entrepreneurs and 10,00,020 square metre³² to one entrepreneur. Lease deeds (81) of these plots were to be registered within 30, 60, 90, 120 or 150 days from the date of allotment of land or on deposit of full amount as per the terms and conditions of allotment letters. It was observed that lease deeds of above plots were not executed even after a lapse of period ranging between one year and 13 years and therefore, could not be registered by the purchasers. Persons-in-charge of RIICO offices did not take any action for execution of lease deeds. This resulted in non-levy of SD of ₹ 21.15 crore on value of ₹ 342.82 crore of these plots. Information regarding inspection of these RIICO offices was called for (September 2018) and is awaited (February 2019).

The Government replied that SD of ₹ 9 crore has been recovered in 24 lease deeds, notices for recovery have been issued in 47 cases, one case is under consideration with DIG (Stamps) while remaining nine cases are under process.

5.3.12.4 Partition deeds of immovable properties

Article 42 of the Schedule to the RS Act prescribes that SD on an instrument, whereby co-owners of any property, divide or agree to divide such property in

²⁹ Jaipur-III and Udaipur-II.

³⁰ Bais Godam, Bhilwara, Bhiwadi, Dausa, Jalore, Kota, Malviya Nagar, Neemrana, Shahjahanpur, Sitapura, Udaipur and VKIA.

³¹ Bais Godam (five cases), Bhilwara (17 cases), Bhiwadi (two cases), Dausa (four cases), Jalore (two cases), Kota (seven cases), Malviya Nagar (nine cases), Neemrana (seven cases), Shahjahanpur (23 cases), Sitapura (one case), Udaipur (five cases) and VKIA (three cases).

³² 10,00,020 square metre: 247.11 acre X 4,046.86 square metre per acre.

severally parts, is leviable as on a conveyance on the market value of the separated share or shares of the property. The largest share remaining after this property is partitioned (or if there are two or more shares of equal value, the one of such equal shares) shall be deemed that from which the other shares are separated. The SD was further revised *vide* notification dated 8 March 2017 to three *per cent* of market value of separated shares of immovable properties.

- **Cases noticed in UIT Udaipur**

Scrutiny of records of UIT Udaipur revealed that 31 documents of partition deeds of immovable properties were executed (between July 2011 and October 2017) between co-owners/co-sharers. These deeds were registered at Notaries Public paying SD of ₹ 100 each in 29 cases and ₹ 500 each in two cases instead of ₹ 2.16 crore calculated on market value of separated shares of immovable properties *i.e.* ₹ 71.42 crore which resulted in short levy of SD of ₹ 2.16 crore.

Neither the Notaries Public nor the Person-in-charge of UIT, being Public officer impounded the instruments and made references to Collector (Stamps) for duly stamping.

The Government replied that notices for recovery have been issued.

- **Similar cases noticed in SR offices**

During scrutiny of records of three SRs offices³³, audit noticed non/short levy of stamp duty in three sale deeds of immovable properties and one instrument of partition deed registered between July 2015 and August 2016.

Sale Deeds: Recitals of the three sale deeds disclosed that the co-owners or co-sharers initially had joint ownership rights in the undivided immovable properties. Thereafter, they separated their shares of the properties by executing partition deeds and sold their shares of property in individual capacity. The facts about registration of three partition deeds were neither mentioned in the sale deeds nor were the copies of registered partition deeds enclosed with the sale deeds for ready reference. The SD and RF of ₹ 75.09 lakh was chargeable on market value of ₹ 20.77 crore of separated shares of the properties partitioned as the recital of these sale deeds.

Registered partition deeds: In the case of registered partition deed, the SR charged SD of ₹ 1.93 lakh on value of construction cost of ₹ 27.60 lakh at the rate of conveyance instead of SD ₹ 7.05 lakh on market value of land including construction of separated share of ₹ 1.01 crore.

This resulted in short/non-levy of SD and RF of ₹ 80.21 lakh on these four partition deeds.

The Government replied that notice for recovery has been issued in one case, two cases are under consideration with DIG (Stamps) while in remaining one case the DIG disagreed with observation stating that partition deed was not registered. Disagreement in the case is contrary to the provisions as unstamped/unregistered instrument could not be considered as evidence. Further, it is also responsibility of the concerned authority to take appropriate action for duly stamping the instrument.

³³ Jaipur-IV, Jodhpur-III and Udaipur-II.

5.3.12.5 Non-availability of appropriate information regarding collection of SD by Registrar of Company

As per schedule to the RS Act following instruments are chargeable with SD as under:

Article 10	Article of Association of a Company	0.5 <i>per cent</i> of the authorised share capital
Article 11	Amendment in Article of Association of a Company	0.5 <i>per cent</i> of the authorised share capital (reduced to 0.2 <i>per cent vide</i> notification dated 14 July 2014).
Article 36(b)	Memorandum of Association of a Company, if not accompanied by Article of Association under Section 26 of Companies Act 1956.	0.5 <i>per cent</i> of share capital or ₹ 500, whichever is higher.
Article 52	Share Warrants to bearer issued under the Companies Act	5 <i>per cent</i> of consideration (reduced to 2 <i>per cent vide</i> notification dated 9 March 2011).

On being requested to provide the records and details of collection of SD and realisation in Government Account under above mentioned Articles, the Registrar of Company (RoC) Jaipur stated that these data are maintained at E-governance cell, New Delhi. Information in this regard was called for from E-governance cell, New Delhi (July and August 2018), the same is awaited (February 2019).

We also requested the IGRS for details of the arrangements in place to monitor the levy, collection and realisation of SD to the Government account by RoC Jaipur under these articles.

The Government replied that data related to collection of SD by RoC is maintained in E-governance cell and is initially credited to Account Head 8658 "Suspense" and transferred to Account Head 0030 of Department and the matter will be taken up with RoC for its monitoring. Further, it was also stated that detailed information regarding collection of SD from companies have been called for from Ministry of Corporate Affairs, New Delhi and efforts are being made for collecting the same.

The above facts indicate that the Department lacked coordination with the RoC as well as E-governance cell and in absence of the information, Audit could not ascertain/ensure the correctness of the SD leviable.

5.3.12.6 Short levy of SD on amalgamation of companies

According to Article 21(iii) to the Schedule of the RS Act, an order under Section 394 of the Company Act, 1956 in respect of amalgamation, demerger or reconstruction of a company is chargeable with SD subject to a maximum of ₹ 25 crore:

- (i) An amount equal to four *per cent* of the aggregate amount comprising the market value of shares issued or allotted or cancelled in exchange of or otherwise, or on the face value of such shares, whichever is higher and the amount of consideration, if any, paid for such amalgamation, demerger or reconstruction, or
- (ii) An amount equal to four *per cent* of the market value of the immovable property situated in the State of the Rajasthan of the transferor company whichever is higher.

Scrutiny of records provided by RoC, Jaipur revealed that 13 companies valuing ₹ 648.57 crore were amalgamated with eight other companies (between April 2015 and November 2017). These amalgamation/demerger/reconstruction orders were not duly stamped under Article *ibid*. The Person-in-charge of RoC Jaipur neither impounded these documents nor referred them under sub-section 4 of Section 37 to the Collector (Stamps). This resulted in non-levy of SD of ₹ 31.13 crore at the rate of four *per cent* on consideration value of ₹ 648.57 crore.

The Government replied that entire amount of SD of ₹ 1.51 crore has been recovered in two cases, notice for recovery has been issued in one case, reply of concerned DIG is awaited in three cases, another case is under consideration with High Court and in remaining one case final reply is awaited (February 2019).

5.3.13 Non-registration of instruments by the Housing Co-operative Societies

The Government introduced an Act 'Rajasthan Co-operative Societies Act 1965' to consolidate and amend the law relating to co-operative Societies in the State of Rajasthan, it was consolidated and amended in 2001 under the policy to encourage and promote the co-operative movement in the State. Activities of these Societies are regulated by Co-operative Societies Rules 1966 which were amended in 2003. All Registered Co-operative Societies have also been notified as Public offices *vide* notification dated 16 December 1997.

5.3.13.1 Audit of Housing Co-operative Societies

The Registrar shall prepare three panels of auditors *viz.* Departmental Auditors, Certified Auditors and Chartered Accountants, the society can choose one from such panels as its Auditor. The Auditor on completion of audit shall submit the Audit report in a proforma prescribed by the Registrar. If the result of audit discloses any defects in the working of housing co-operative society (society), the Registrar may make an order directing the Society to remedy the defects disclosed within the time mentioned in the order.

The Government replied that directions have been issued to DIG Jaipur-I in this regard.

5.3.13.2 Non-conversion of land before allotment

As per Section 90A of Land Revenue Act (LR Act) 1956, no person holding any land for the purpose of agriculture shall use the same for any other purpose except with the written permission of the State Government obtained in the prescribed manner.

Test check of information furnished by the Regional Auditor Co-operative Societies and Audit reports relating to the Societies in Jaipur was conducted. There are 160 Societies in Jaipur District established with the objective of development of townships for their members. Out of these only 80 Societies were working in the year 2016-17, while remaining were in the process of liquidation. The Audit reports of 30 Societies contained format-A. The information given in format-A disclosed that lands were acquired by them through unregistered agreements for which payment was also made to land

owners. The Societies allotted the residential plots to their members without conversion of the land. After allotment of plots these Societies submitted their records to JDA for regularisation of these residential schemes. These activities of the Societies are contrary to the provisions of Section 17 and 78 of Registration Act, Section 3 of RS Act and Section 90A of LR Act.

The Government replied that directions have been issued to DIG Jaipur-I and a letter has been written to Registrar of Co-operative Societies in this regard.

5.3.13.3 Leakage of revenue

As per explanation below Article 21 of the Schedule to the RS Act, SD on instrument of conveyance relating to immovable property shall be levied at the rate of five *per cent* on the market value of the property. Rule 58 of RS Rules provided that the market value of the land shall be assessed on the basis of the rates recommended by DLC or the rates approved by State Government, whichever is higher.

Fifteen schemes³⁴, out of total of 264 schemes of three Societies which had submitted the prescribed documents related to acquisition of land were selected for detailed check. Scrutiny of Audit reports of these Societies revealed that land measuring 1,70,617 square metre situated in nine villages of Jaipur district valuing ₹ 44.82 crore was purchased by the Societies for the purpose of development of residential colonies through unregistered agreements. It was observed that these land(s) are still (July 2018) recorded in the name of original *khatedars* in the land records. These agreements were required to be registered under Section 17 of the Registration Act and chargeable with duty amounting to ₹ 2.94 crore at rate of five *per cent* on market value of such properties.

Neither the Societies got the agreements registered and paid the SD nor the Regional Auditor, co-operative Societies being Person-in-charge of a Public office made any reference to the DIGs (Stamps) in the matter, which resulted in revenue leakage of ₹ 2.94 crores.

The Government replied that notice for recovery has been issued in one case, 10 cases were under consideration with DIG (Stamps) while reply of concerned DIG (Stamps) in remaining four cases was awaited.

Information regarding inspections of these Public offices by DIGs (Stamps) was called for and is awaited (February 2019).

5.3.14 Deficit Stamp Duty and Registration fees

The executants while registering any instrument have to submit information, about property *i.e.* subject matter of transfer, location, area, nature of use, any other fact affecting duty, *etc.* in a prescribed check list. To assess the correct SD, the SR has to review the submitted check list along with facts contained in recital of instrument.

During scrutiny of records it was noticed that in 127 cases either complete information was not given in check lists or facts were mentioned in recital of documents/supporting documents were enclosed but incorrect input was given

³⁴ Five schemes each of the three Societies selected.

in 'E-Panjiyan'. This resulted in non/short levy of SD and RF of ₹ 10.77 crore as discussed in table below:

Sl. No.	Particulars	Reply of the Government
1	<p><u>Undervaluation of immovable properties:</u></p> <p>73 Instruments were registered (between April 2012 and March 2018) in 29 SR offices³⁵ as sale deed/correction deed/consent deed/power of attorney (POA) in respect of agricultural/ commercial/ residential/ industrial/ institutional properties. Scrutiny of these instruments revealed that the concerned SRs had assessed the market value of the properties at ₹ 88.86 crore instead of ₹ 179.36 crore. The omission was due to application of pre-revised rates of RIICO of industrial properties, incorrect classification of properties, application of rates relating to other area, etc. Therefore, immovable properties were undervalued amounting to ₹ 90.50 crore. Due to this SRs charged SD and RF of ₹ 4.67 crore instead of ₹ 9.87 crore which resulted in short levy of SD and RF of ₹ 5.20 crore.</p>	<p>The Government replied that entire amount of SD of ₹ 4.80 lakh has been recovered in 16 cases, 38 cases are under consideration with DIG (Stamps) while notices for recovery have been issued in 19 cases.</p>
2	<p><u>Irregular exemption of SD and RF on Release deeds:</u></p> <p>36 instruments were registered (between April 2016 and March 2017) in 11 SRs offices³⁶ as release deeds for releasing ancestral properties to relatives. These ancestral properties were released to those relatives³⁷ who were not eligible for exemption in SD under Article 48 of the Schedule to the RS Act. The concerned SRs, however, allowed irregular exemption and charged SD of ₹ 4.36 lakh instead of ₹ 1.01 crore. This resulted in irregular exemption of SD and RF of ₹ 96.30 lakh³⁸.</p>	<p>The Government replied that entire amount of SD of ₹ 0.63 lakh has been recovered in two cases, notices for recovery have been issued in 16 cases while remaining 18 cases are under consideration with DIG (Stamps).</p>
3	<p><u>Lease deeds issued on the basis of unregistered instruments:</u></p> <p>In two cases of SR Jaipur-VI and Jodhpur, lease deeds were irregularly registered (April 2014 and May 2016) on the basis of unregistered/unstamped instruments³⁹ executed prior to registration. SD of ₹ 8.99 lakh only was charged instead of ₹ 91.85 lakh. This resulted in short levy of SD and RF ₹ 82.86 lakh.</p>	<p>The Government replied that notice for recovery has been issued in one case while another case is under consideration with DIG (Stamps).</p>
4	<p><u>Transfer of mining leases:</u></p> <p>Two instruments were registered (March 2015 and March 2017) at SR Sawar as lease deeds for transfer of mining rights. The SR charged SD and RF of ₹ 1.83 lakh on amount of two times of the annual dead rent (₹ 8.80 lakh) of the mining leases instead of correct SD and RF of ₹ 16.40 lakh on amount of royalty paid in two preceding years (₹ 2.36 crore) according to notification dated 14 July 2014. This resulted in short levy of SD and RF of ₹ 14.57 lakh.</p>	<p>The Government replied that both the cases are under consideration with DIG (Stamps).</p>
5	<p><u>Conversion of partnership firm/companies into Limited Liability Partnership:</u></p> <p>Four instruments of immovable properties were registered</p>	<p>The Government replied that</p>

³⁵ Noticed during PA: SR Bagru, Bhiwadi, Bilara, Deedwana, Jaipur-I, Jaipur-II, Jaipur-V, Jaipur-VI, Jaipur-VII, Jaipur-VIII, Kapasan, Kishangarh, Kolayat, Luni, Madawa, Mojmabad, Mundawa, Neemrana, Sadulsahar, Sanchore and Sujangarh. Noticed during regular Audit: SR Ajmer-I, Alwar-II, Barmer, Behror, Bundi, Kota-I, Ramgarh and Sanganer-I.

³⁶ Noticed during PA: SR Gajsinghpur, Jaipur-I, Jaipur-III, Laxmangarh, Neemrana, Railmagra, Rajakheda, Sadulshahar, Sangod, Shri Dungargarh. Noticed during regular Audit: SR Sanganer-I.

³⁷ Like uncle, nephew, sister-in-law, etc as per Article 48(a) of the RS Act.

³⁸ ₹ 96.30 lakh: ₹ 100.66 lakh (-) ₹ 4.36 lakh.

³⁹ Consent letter in case of SR Jodhpur and Possession letter in case of Jaipur-VI.

Sl. No.	Particulars	Reply of the Government
	(between April 2016 and February 2017) as sale deeds. Scrutiny of the recitals of the deeds revealed that in three cases, companies registered under Companies Act, 1956 and in one case partnership firm registered under Partnership Act, 1932 changed their legal entity to Limited Liability Partnership (LLP) under LLP Act, 2008. The SR was required to levy SD retrospectively as per the provision of notification of March 2017. The fact about change in legal entity from partnership firm/companies to LLP was not reviewed by the SRs. This resulted in non-levy of SD and surcharge of ₹ 61.91 lakh ⁴⁰ .	three cases are under consideration with DIG (Stamps). In one case ₹ 34.04 lakh was recovered against ₹ 55.14 lakh as pointed out by Audit. Reasons for short levy have not been furnished.
6	<u>Transfer of lease by way of assignment:</u> Four documents were registered (between May 2016 and February 2017) at four SR offices ⁴¹ as lease/ <i>supplementary</i> /sale deeds. Scrutiny of the recitals of the deeds revealed that legal entity of the individual, proprietorship/partnership firm was changed to partnership firm/company which should have been categorised as <i>transfer of lease by way of assignment</i> under Article 55 of the Schedule to the RS Act and to be charged with additional SD of ₹ 1.95 crore on market value of ₹ 35.08 crore of the properties.	The Government replied that notices for recovery have been issued in two cases while two cases are under consideration with DIG (Stamps).
7	<u>Irregular exemption of SD under Rajasthan Investment Promotion Scheme (RIPS):</u> Two instruments were registered (between May 2016 and January 2017) at two SR offices ⁴² with 50 <i>per cent</i> exemption in SD under RIPS. Scrutiny of the recitals revealed that the beneficiaries were not entitled for the exemption under the Scheme as it was granted on purchase of established unit and on sale of land without establishing the unit. This resulted in irregular exemption of SD of ₹ 20.06 lakh, besides interest of ₹ 4.31 lakh.	The Government replied that both the cases are under consideration with DIG (Stamps).
8	<u>Short levy of stamp duty on exchange deed:</u> An exchange deed was registered (6 May 2016) at the office of SR Amber (Jaipur) wherein a tenant exchanged his 40.01 <i>bigha</i> (market value ₹ 3 crore ⁴³) agricultural land with another tenant having 32.54 <i>bigha</i> land (market value ₹ 10.53 crore ⁴⁴). The SR charged SD and RF of ₹ 3.98 lakh ⁴⁵ only on market value of ₹ 56.03 lakh ⁴⁶ of difference area of the lands exchanged <i>i.e.</i> 7.47 <i>bigha</i> , however, SD and RF of ₹ 73.70 lakh ⁴⁷ was to be levied on market value of the land of greater value exchanged under Article 29 of the Schedule to the RS Act. This resulted in short levy of SD and RF amounting to ₹ 69.72 lakh ⁴⁸ .	The Government replied that the case is under consideration with DIG (Stamps).

⁴⁰ At the rate of 0.5 *per cent* of value of assets (₹ 103.18 crore) so transferred (According to State Government's notification dated 8 March 2017).

⁴¹ Noticed during PA: SR Bhiwadi, Jaipur-VII and Pali-I. Noticed during regular Audit: SR Sanganeer-I.

⁴² Noticed during PA: SR Sawar. Noticed during regular Audit: SR Sawai Madhopur.

⁴³ ₹ 3 crore: 40.01 *bigha* x ₹ 7.50 lakh per *bigha*.

⁴⁴ ₹ 10.53 crore: 32.54 *bigha* x ₹ 32.35 lakh per *bigha*.

⁴⁵ ₹ 3.98 lakh: SD of ₹ 2.84 lakh, surcharge of ₹ 0.57 lakh and RF of ₹ 0.57 lakh.

⁴⁶ ₹ 56.03 lakh: 7.47 *bigha* x ₹ 7.50 lakh per *bigha*.

⁴⁷ ₹ 73.70 lakh: SD of ₹ 52.64 lakh, surcharge of ₹ 10.53 lakh and RF of ₹ 10.53 lakh.

⁴⁸ ₹ 69.72 lakh: ₹ 73.70 lakh (-) ₹ 3.98 lakh.

Sl. No.	Particulars	Reply of the Government
9	<p><u>Non-registration of powers of attorney:</u> Three POAs were enclosed with a sale deed executed (September 2016) at the office of SR Bhanwari (Sirohi). These POAs were unregistered and had only been notarised on stamp papers worth ₹ 1,100⁴⁹. Non-registration of POAs under Article 44(ee)(ii) of the Schedule to the RS Act resulted in non-levy of SD and RF of ₹ 12.48 lakh⁵⁰ on the market value of ₹ 3.67 crore⁵¹ of the properties.</p>	The Government replied that the SR had been instructed for recovery.

5.3.15 Procurement, Sale and accounting of Stamps

Procurement, sale and accounting of stamp, is regulated under Rajasthan Treasury Rules, 2012 and Rajasthan Stamps Disposal Rules, 1962. Additional Inspector General (AIG) of Stamps is *ex-officio* Superintendent of Stamps in the office of IGRS. Treasury Headquarters, Ajmer is nominated as Nodal Treasury in Rajasthan for receipt of stamps from the printing press Nasik Road, their custody and issue to other treasuries. There are 41 Treasuries in Rajasthan, out of which 34 Treasuries deals in procurement, storage, sale and issue of stamps.

5.3.15.1 Inaccurate accounting of receipt, issue and stock of Stamps

Rule 245 of Rajasthan Treasury Rules provides that each treasury officer shall prepare monthly plus minus memoranda of stamps and send it to AIG under the provisions of Rajasthan Stamps Disposal Rules.

Reconciliation of balances of stamps shown in the accounts of treasury Ajmer for the year 2013-14 to 2016-17 varied from the balances shown in accounts of IGRS, as detailed below:

(Amount in ₹)

Year	Balances	Judicial		Non-judicial	
		Treasury Ajmer	IGRS	Treasury Ajmer	IGRS
2013-14	Opening	89,04,51,410	90,36,54,745	14,16,94,69,952	14,28,18,82,372
	Closing	1,09,35,40,920	1,09,68,53,050	17,98,19,79,814	18,06,34,14,514
2014-15	Opening	1,09,35,40,920	1,09,68,53,050	17,98,19,79,814	18,06,34,14,514
	Closing	1,02,45,63,350	1,02,81,51,300	19,89,54,53,837	19,95,16,82,447
2015-16	Opening	1,02,45,63,350	1,02,81,51,300	19,89,54,53,837	19,95,16,82,447
	Closing	2,05,13,89,240	2,05,39,43,795	42,01,05,79,972	42,06,01,00,572
2016-17	Opening	2,05,13,89,240	2,05,39,43,795	42,01,05,79,972	42,06,01,00,572
	Closing	1,77,34,97,025	1,77,52,31,905	32,80,59,35,664	32,85,16,91,306

As the accounts of IGRS did not reconcile with accounts of treasury Ajmer, the correct position of judicial and non-judicial stamps could not be ascertained in Audit.

During exit conference the IGRS stated that modified statement regarding procurement, sale and accounting of stamp papers has been prepared and would be sent to Audit shortly. Thereafter, the Department provided

⁴⁹ ₹ 1,100: ₹ 500 + ₹ 500 + ₹ 100.

⁵⁰ ₹ 12.48 lakh: SD of ₹ 7.34 lakh, surcharge of ₹ 1.47 lakh and RF of ₹ 3.67 lakh.

⁵¹ ₹ 3.67 crore: 1,79,089.44 (16,644 square metre X 10.76) square feet X 205 per square feet as per DLC rates.

(October 2018) the reconciled statement, however, difference in the balances for the year 2013-14 could not be reconciled by the Department.

Further, the Government replied that balances of three sub-treasuries were not included in the balances of treasury Ajmer while in the plus-minus memorandum of IGRS, it was shown including the balances of these sub-treasuries.

There is a need for regular reconciliation of the balances of stock of stamps.

5.3.15.2 Mechanism to prevent use of forged stamps

The judicial and non-judicial stamps are printed containing specific series of numbers. Adequate provisions to prevent use of forged stamps have not been developed by the Department. The 'E-Panjiyan' has not been made compatible to identify use of forged stamps as serial numbers of stamps are not linked with it.

News was published on 4 June 2018 in newspaper, *Dainik Bhaskar* in Rajasthan, that three persons were arrested for selling forged stamps worth ₹ 3.60 lakh. In order to analyse the issue, information regarding security features introduced to identify forged stamps, guideline and instructions issued to SRs to prevent use of forged stamps at the time of registration of documents and instructions to DIGs for action to be taken on detection of use of forged stamps was called for (July 2018) from IGRS.

The Government replied that all DIGs are instructed (9 August 2018) to examine stamps properly before registration of instruments. In the matter of use of forged stamps an enquiry was conducted by DIG Jaipur-I. As per report of enquiry, forged stamps worth ₹ 1.39 lakh were found to be sold instead ₹ 3.60 lakh and the stamp vendor arrested was not appointed by the Department, stock registers of stamp vendors are being checked. During Exit Conference, the Secretary (Finance) agreed to look into the feasibility to link the series and serial number of all the stamp papers with 'E-Panjiyan' system for preventing possible use of forged stamps.

Further, the Government replied that instructions have been issued to the Departmental Authorities to take preventive measures against the use of forged stamps. Further, it was also stated that action for linking of series and serial number of stamps with the 'E-Panjiyan' would be taken soon.

5.3.15.3 Inspection of treasuries by AIG (Stamps)

Rule 13 of Rajasthan Stamps Disposal Rules provides that Superintendent of Stamps shall inspect the records and registers required to be kept in local stamps depot at regular interval of not exceeding one year. It was noticed that 10 treasuries⁵² were not inspected even once and nine treasuries⁵³ were inspected only once during 2012-13 to 2016-17. Information about inspection of five treasuries⁵⁴ was not available with the Department. Remaining ten treasuries were inspected more than one times during 2012-13 to 2016-17.

The Government replied that in order to ensure timely inspection of treasuries, a proposal has been sent to Finance Department to delegate inspection powers to all DIGs.

⁵² Alwar, Baran, Barmer, Bharatpur, Bundi, Churu, Dausa, Dholpur, Jaisalmer and Kota.

⁵³ Bhilwara, Bikaner, Chittorgarh, Dungarpur, Hanumangarh, Jaipur, Jalore, Sriganganagar and Tonk.

⁵⁴ Jhalawar, Jhunjhunu, Karauli, Sawai Madhopur and Sikar.

5.3.16 Monitoring and Inspection

5.3.16.1 Inadequate manpower

Scrutiny of information relating to manpower available in Stamps and Registration Department revealed that 92 posts (81 *per cent*) out of 114 sanctioned posts of fulltime SRs and 675 posts (53 *per cent*) out of 1,271 of subordinate staff's posts (Clerk Grade I & II, Information Assistant, Inspector Land Record and Class IV) were vacant as on May 2018.

The Government replied that Revenue Board has been requested for appointment of SRs and 308 sub ordinate staff have been appointed, out of these 259 have been posted on their duties.

5.3.16.2 Inspection of SR offices

Rule 12 of Rajasthan Registration Rules (Volume-II) provides that each DIG (Stamps) must inspect every SR office in his jurisdiction at least once a year.

Information regarding inspections of SR offices conducted by DIGs (Stamps) during the year 2012-13 to 2016-17 was called for from the selected DIGs (Stamps). The details of inspections conducted are given in the table below:

Sl. No.	Name of DIG office	Total number of SRs under jurisdiction	Inspections to be conducted	Inspections carried out	Shortfall	Percentage of Shortfall
1	Jodhpur	8	40	14	26	65
2	Bikaner	11	50	44	6	12
3	Udaipur	27	118	57	61	52
4	Alwar-I	27 (24 SR offices upto 2014-15 and 3 from 2015-16 to 2016-17)	87	70	17	20
5	Alwar-II	24 (From 2015-16 to 2016-17)	48	47	1	2
6	Kota	47	235	106	129	55
7	Jaipur-I	6	30	20	10	33
8	Jaipur-II	41	147	57	90	61
9	Jaipur-III	34	170	64	106	62

Source: Information provided by selected DIGs (Stamps).

This shows that inspections of SR offices are not being conducted as per norms as shortfall in inspections was upto 65 *per cent*.

The Government replied that inspections could not be conducted as per norms due to vacant posts of DIGs and the norms of inspections are being revised.

5.3.16.3 Internal Audit Wing

The Department has an Internal Audit Wing (IAW) under the charge of the Financial Advisor. There are six Internal Audit Parties. Planning for Internal Audit of units is made on the basis of importance and revenue realisation. The position of the Internal Audit conducted and units remaining unaudited during 2012-13 to 2016-17 was as under:

Year	Total units due for audit	Total number of units audited	Unaudited units	Shortfall (<i>per cent</i>)
2012-13	369	183	186	50
2013-14	369	117	252	68
2014-15	523	16	507	97
2015-16	523	125	398	76
2016-17	527	82	445	84

Source: Information provided by IGRS

The table above shows that arrear of units for audit varied from 50 to 97 per cent during 2012-13 to 2016-17. The Department stated that arrears were due to shortage of manpower as only four audit parties during 2013-14 and two audit parties during 2015-16 and 2016-17 were available against the sanctioned six audit parties. The Department stated that neither any guideline was framed nor any manual for the working of IAW was prescribed. The Internal Audit did not conduct inspection of any of the Public offices during 2012-13 to 2016-17.

The Government replied that guidelines have been issued and action plan has been prepared for conducting Internal Audit in time. SRs and DIGs are authorised for inspection of Public offices and inspections are being done by them.

5.3.16.4 Compliance of internal inspection reports

The Department had not prescribed the procedure and returns to monitor the cases pointed out in internal inspection reports (IIRs) of IAW. On being asked for the status reports in this regard, the IGRS stated that no records were maintained or compiled at the Headquarter level in respect of recoveries pointed out in cases of IIRs.

On being asked, year wise position of paras and amount involved therein, the IGRS provided the information after collected from DIGs is as under:

(₹ in crore)

Year	Observations raised during the year		Up to date position of clearance of paras		Outstanding paras (as on July 2018)	
	Paras	Amount	Paras	Amount	Paras	Amount
Outstanding before 2012-13	--	--	--	--	5,424	56.10
2012-13	1,407	18.94	724	0.76	683	18.17
2013-14	925	15.99	473	0.78	452	15.21
2014-15	208	2.48	123	0.81	85	1.67
2015-16	1,056	9.47	548	1.14	508	8.33
2016-17	730	11.56	276	5.30	454	6.26
Total	4,326	58.44	2,144	8.79	7,606	105.74

Source: Information provided by IGRS

It is seen from the table above that ₹ 8.79 crore was only realised in 2,144 cases out of total ₹ 58.44 crore in 4,326 cases raised during 2012-17. Amount recovered consists 15 per cent of total recoveries pointed out by IAW, while 50 per cent cases were settled. This indicates that cases involving heavy amount were pending for settlement. Information regarding year wise position of recovery and action taken for speedy settlement of 7,606 cases involving amount of ₹ 105.74 crore outstanding up to 2016-17 was called for and the same is awaited (February 2019).

The Government replied that due to huge number of pending cases, the record is not being maintained at Headquarters level. Further, it was also intimated that a committee has been constituted at each DIG level and instructions have been issued for timely compliance of outstanding paragraphs.

It is recommended that the Department may consider maintaining electronic database that would ensure compliance and proper monitoring of Internal Inspection Reports (IIRs) at Headquarters level.

5.3.16.5 Cases pending for adjudication and their monitoring

According to Rule 64 to 66 of the RS Rules, cases of under stamped/unstamped instruments chargeable with duty and where the value of the instruments is not correctly determined for levy of stamp duty are referred to Collector (Stamps) for adjudication by Registering Authorities. Collector (Stamps) issued notices to the persons liable to pay duty on these documents, on receipt of reference, Collector (Stamps) shall issue concerned party a notice to show cause and produce the original instrument within 21 days. After expiry of 21 days Collector (Stamp) shall summarily examine the matter and pass an order to collect the difference in the amount of SD along with penalty, if any and complete the summary enquiries within a period of three months.

We observed that 4,332 cases were pending for adjudication in 18 circles⁵⁵ involving SD and RF of ₹ 253.36 crore as on 31st March 2017. The year wise details of disposal of adjudicated cases during the years 2012-13 to 2016-17 are as under:

(₹ in crore)

Year	Opening balance		Addition during the year		Clearance during the year		Pending at the end of the year	
	Number of cases	Amount involved	Number of cases	Amount involved	Number of cases	Amount involve	Number of cases	Amount involved
2012-13	5,091	138.64	8,002	60.47	7,343	27.91	5,750	171.20
2013-14	5,750	171.20	5,378	77.12	4,288	46.43	6,840	201.89
2014-15	6,840	201.89	6,094	191.80	6,863	184.78	6,071	208.91
2015-16	6,071	208.91	5,272	106.53	6,525	101.50	4,818	213.94
2016-17	4,818	213.94	5,189	134.29	5,675	94.87	4,332	253.36

Source: Information provided by IGRS

It was noticed that 2,833 cases were pending beyond the prescribed time limit of three months involving SD and RF of ₹ 219.25 crore as on 31 March 2017. The age wise pendency of adjudicated cases is as under:

(₹ in crore)

Sl. No.	Period of Pendency	Number of cases	Amount involved
1	More than three months and up to one year	778	102.64
2	More than one year and up to three years	1,580	66.70
3	More than three years and up to five years	263	32.88
4	More than five years	212	17.03
Total		2,833	219.25

Source: Information provided by IGRS

It was also observed that IGRS had not maintained the complete information *i.e.* number of cases, amount involved *etc.* at Headquarters level so as to monitor timely disposal of adjudication cases. The above information was provided to Audit after compilation of data received from DIGs (Stamps). The Department had not prescribed any returns for monitoring of pending adjudication cases.

The Government replied that all DIGs have been instructed time to time for deciding cases in prescribed time frame. A DIG module has been prepared in 'E-Panjyan' system in this regard and is being monitored. Further, it was also intimated that out of 2,833 cases (₹ 219.25 crore), 1,127 cases (₹ 91.10 crore) were pending (October 2018) for disposal.

⁵⁵ DIG Ajmer-I, II, Alwar-I, II, Banswara, Barmer, Bharatpur, Bhilwara, Bikaner, Hanumangarh, Jaipur-I, II, III, Jodhpur, Kota, Pali, Sikar and Udaipur.

5.3.17 Conclusion and Recommendations

Stamp duty and Registration Fee is an important component of tax revenue for the State. Audit revealed that system of fixation of DLC rates was not working properly; *khasra* numbers were not listed in the IT system and there was lack of enforcement of the prescribed monitoring system in the Department for transactions carried out by Public offices. Several cases of evasion of Stamp Duty and Registration Fee through undervaluation of properties, non-presentation of documents in the office of the registering authority and short payment of stamp duty due to misinterpretation of rules, inadequate implementation of provisions of Act and incorrect application of DLC rates were noticed. The persons-in-charge of Public offices did not fulfil their obligation regarding instruments presented in their offices. The internal control of the Department is weak as evidenced by non-maintenance of consolidated information at the level of IGRS, shortfall in the number of inspections required to be conducted, poor compliance of objections pointed out by IAW and non-compilation of records for the stamps *etc.* The time limit prescribed for disposal of the cases under adjudication was not adhered and there was no mechanism available with IGRS to monitor the delays in this process which resulted in huge pendency of cases. Inadequate deployment of human resources adversely affected the efficient working of the Department.

The Government may:

- *ensure the determination of DLC rates on the basis of proper price indices within the prescribed time limit and khasra numbers of agricultural lands situated on NH/SH/other major roads and prime locations are listed in the DLC rates;*
- *ensure strict compliance of the provision of the Act and rules by the Departmental authorities;*
- *ensure effective inspections of public offices according to norms and the Public offices should be directed to comply with the registration rules prescribed;*
- *strengthen the internal control and Internal Audit mechanism to ensure proper inspections of its field offices; and*
- *deploy adequate staff to enable smooth and efficient working of the Department.*

CHAPTER-VI
STATE EXCISE

CHAPTER-VI : STATE EXCISE

6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head of the State Excise Department (Department) at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven zones which are headed by the Additional Excise Commissioners (AECs). District Excise Officers (DEOs) and Excise Inspectors working under the control of the AECs of the respective zones are deputed to monitor and regulate levy/collection of excise duties and other levies.

6.2 Internal audit

The Department has an Internal Audit Wing under the charge of Financial Advisor. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit is as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remained unaudited	Percentage of units remaining unaudited
2013-14	7	41	48	42	6	13
2014-15	6	41	47	47	0	0
2015-16	0	41	41	37	4	10
2016-17	4	41	45	40	5	12
2017-18	5	44	49	12	37	75

Source: Furnished by the concerned Department.

It would be seen from the above that 37 units selected for internal audit had remained unaudited during 2017-18.

Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1994-95 to 2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
Paragraphs	102	78	85	175	212	20	672

Source: Furnished by the concerned Department.

It was noticed that 672 paragraphs were outstanding at the end of 2017-18 of which 102 paragraphs were outstanding for more than five years. The huge pendency of paragraphs defeated the very purpose of internal audit.

The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

6.3 Results of audit

There are 110 auditable units in the State Excise Department out of these audit selected 30 units for audit during the year 2017-18. Scrutiny of the records of these units including those of retail licensees (3,357 licensees) disclosed 4,828 cases of non/short realisation of excise duty and license fee, special vend fee, interest on delayed payment and loss of excise duty on account of excess wastages of spirit/liquor/beer and other irregularities involving ₹ 14.38 crore (2,823 licensees approximate 84 per cent of the licensees audited). These cases are illustrative only, based on audit of the records of these selected units. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. The substantial proportion of errors, omissions and other related issues (approximate 84 per cent of sampled cases) noticed in audit indicated that the Government needed to improve the internal control system including strengthening of internal audit so that occurrences/recurrence of the lapses can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non/short realisation of excise duty and licence fees.	3,654	12.15
2	Non/short realisation of special vends fees on IMFL/beer.	479	1.52
3	Loss of excise duty on account of excess wastage of spirit/liquor/beer.	313	0.36
4	Non-recovery of interest on delayed payment.	37	0.21
5	Other irregularities		
	(i) Revenue	343	0.14
	(ii) Expenditure	02	0.00
Total		4,828	14.38

The Department accepted deficiencies in 3,859 cases involving ₹ 13.43 crore, of which 3,189 cases involving ₹ 11.62 crore had been pointed out in audit during 2017-18 and the rest in earlier years. The Department recovered ₹ 2.37 crore in 742 cases of which 75 cases involving ₹ 0.66 crore had been pointed out in audit during the year 2017-18 and the rest in earlier years.

The Department recovered an amount of ₹ 1.95 crore in three cases after issue of draft paragraphs by Audit. These paragraphs have not been discussed in the Report.

Few illustrative cases involving ₹ 4.80 crore are discussed in the succeeding paragraphs.

6.4 Non-levy of difference amount of excise duty on closing stock of Liquor and Beer

Excise duty on Indian Made Foreign Liquor (IMFL) and Beer is to be levied according to the provisions of Section 28 of the Rajasthan Excise (RE) Act, 1950. The State Government notified (1 April 2014) rates of excise duty on liquor and beer. Thereafter, the rates were revised with effect from 1 April 2016. EC directed (24 February 2016) the DEOs to recover difference amount of excise duty and fees for the closing stock of liquor and beer as on 31 March 2016 in view of the impending revision in April 2016.

Scrutiny of the data collected from the Department revealed that 737 retail-on licensees under the jurisdiction of 32 DEOs had closing balance of liquor/beer as on 31 March 2016. Difference of excise duty amounting to ₹ 2.98 crore should have been levied on the closing stock. However, the difference amount was neither demanded by the concerned DEOs nor the licensees deposited it suo-moto. We also observed that there was no follow up on the directions issued by the Additional EC regarding submission of compliance report. This resulted in non-levy of difference of excise duty amounting to ₹ 2.98 crore.

The matter was reported to the Government (December 2017 and May 2018). The Government replied (July 2018) that amount of ₹ 0.33 crore has been recovered and directions have been issued to all DEOs for recovery of the remaining amount. Further, progress is awaited (February 2019).

6.5 Short recovery of fee for composite shops of peripheral area

According to the Rajasthan Excise and Temperance Policy (Policy) 2014-15, 2015-16 and 2016-17, settlement of country liquor shops was made on exclusive privilege amount (EPA¹) by inviting applications. For inviting district wise applications for grant of licenses of country liquor shops during 2015-16 and 2016-17, the notices incorporating number of proposed country liquor shops/groups in the district with its EPA, composite fees, earnest money and application fees were circulated by the concerned DEOs. This information was also made available on the Department's website. Licences for shops were granted through the lottery system. The selected applicants were liable to pay the EPA and composite fees as per the category of shop for which they had applied. In the rural areas, each shop was known by the name of *Gram Panchayat*.

According to the Policy *ibid*, country liquor shops of rural area were classified in different categories. The country liquor shops of villages located within five kilometre radius from the municipal area were categorised as '*composite shops of peripheral area*'. The villages of such peripheral areas were further categorised as 'A' and 'B'. The villages, in which country liquor shops had been operated as composite shops from 2005-06 to the previous year of allotment of the shop or villages situated on State/National Highways or villages whose peripheries were adjoining the periphery of concerned municipality, were classified in category 'A' and the rest in category 'B'. Composite fee for shops of category 'A' for the year 2015-16 and 2016-17

¹ EPA: The amount to be charged by the Excise Department from country liquor groups/shops for exclusive right to trade in liquor in the specified area is called EPA.

was to be fixed as equal to five *per cent* and six *per cent*, respectively of annualised billing amount of Rajasthan State Beverage Corporation Limited (RSBCL) during previous year or annual license fee prescribed for an IMFL shop situated in concerned municipal area, whichever was higher. The composite fee for category 'B' shops for the year 2015-16 and 2016-17 was to be fixed as equal to five *per cent* and six *per cent*, respectively of annualised billing amount of RSBCL during previous year or 50 *per cent* of annual licence fee prescribed for an IMFL shop of concerned municipal area or ₹ 50,000, whichever was higher.

During test check of records of seven DEOs² for the years 2015-16 and 2016-17, it was noticed that 18 country liquor shops/groups were categorised as shops of peripheral area by the Department. Scrutiny of licence fee files and relevant records disclosed that while issuing notices for inviting applications for allotment of 12 country liquor shops/groups³ of peripheral area, the concerned DEOs proposed lesser amount of composite fees than the correct amount of composite fee to be levied. For the rest of the six country liquor shops/groups⁴, the concerned DEOs disclosed correct composite fee but later recovered lesser amount. The DEO Kota categorised three⁵ of these shops in category 'B' of the peripheral area instead of category 'A' despite the fact that the villages under which these categorised shops fell, were situated on the State/National Highways.

Thus, the concerned DEOs recovered only ₹ 0.96 crore as composite fees for 18 composite shops/groups of peripheral areas from the licensees instead of the correct amount of ₹ 2.29 crore. This resulted in short realisation of revenue amounting to ₹ 1.33 crore.

The matter was reported to the Government (August 2017 and May 2018). The Government replied (August 2018) that ₹ 3.20 lakh had been recovered and directions have been issued to the concerned DEOs for recovery of the remaining amount. Further, progress is awaited (February 2019).

6.6 Loss of revenue due to delay in sanction of bar licences

According to Rule 3(2) and 3(3) of the Rajasthan Excise (Grant of Restaurant Bar Licences) Rules, 2004, every application for a Restaurant Bar licence shall be properly signed and shall be accompanied by the initial and minimum special vend fee due for the year or part thereof. Further, as per Rule 3(5) of the Rules *ibid*, before forwarding the application to the EC through Additional Commissioner concerned for final orders, case shall be put up before a Committee, constituted by the State Government in this behalf. The EC will grant licence on recommendations of the Committee. The EC issued circulars (9 April 2010 and 29 April 2015) for the applicants prescribing check-lists to be submitted along with application forms. The EC also directed the DEOs that the application for bar licences should be disposed of within 30 days. In case complete information as required in the check-list was not furnished by

² DEOs: Ajmer, Alwar, Jaipur city, Kota, Sikar, Sriganganagar and Udaipur.

³ Bubani, Bujhada, Changedi, Dewas, Dumada, Mataur, Nai, Nandla, Raisinghnagar, Shrikaranpur, Shyosinghpura and Takhalsar.

⁴ Godlyahedi, Hiriyakhedi, Khimach, Manasgaon, Manda and Budhkhan.

⁵ Budhkhan, Godlyahedi and Hiriyakhedi.

any applicant, his application was liable to be rejected at initial stage by the concerned DEO.

During test check of files of bar licences issued during 2015-16 and 2016-17 in EC office, Udaipur, it was noticed that licences were issued after the prescribed time limit of 30 days. It was also noticed that the Department failed to issue the restaurant bar licences within the same year in three cases of 2014-15 and two applications for 2015-16. The reasons for such delay were not found on record. Due to the delay, the Department issued licenses in these cases in the next year and hence could not collect the prescribed fees in the previous year. Thus the delay resulted in loss of revenue of ₹ 33.50 lakh as detailed below:

S. No.	Name of licensee	Category of Hotel	Licence Number	Date of application Year for which applied	Date of licence sanctioned Year for which sanctioned	Time taken (in days)	Revenue loss (₹ in lakh)
1	Hotel Sanchal Fort and Resort, Barmer.	General Category Other District Headquarter	07/2015-16	26.11.2014 2014-15	25.6.2015 2015-16	211	6.00
2	Hotel Sai Laxmi Palace, Transport Nagar, Sirohi.	General Category Other District Headquarter	31/2015-16	18.6.2014 2014-15	15.1.2016 2015-16	576	6.00
3	Chaudhary Restaurant, Chidawa	Other Municipality of Jhunjhunu	41/2016-17	18.4.2014 2014-15	15.3.2017 2016-17	1,060	8.50
4	Matsya Foods & Beverages, Alwar	Other District Headquarter, Alwar	09/2016-17	20.6.2015 2015-16	20.5.2016 2016-17	333	5.00
5	Punjab Da Puttar, Jaipur	Jaipur Headquarter	13/2016-17	2.7.2015 2015-16	15.7.2016 2016-17	377	8.00
Total							33.50

The matter was reported to the Government (July 2017 and May 2018). The Government replied (August 2018) that in one case⁶, District Collector, Barmer did not nominate his representative and in another case⁷ inspection could not be done due to vacant post of AEC, Jodhpur Zone. Regarding remaining cases⁸ the Department accepted facts and stated that applications were forwarded to higher authorities without fulfilling the essential requirements as per check list at initial stage.

The reply reflects lack of monitoring in these cases as the first case was required to be finalised in accordance with the instruction of the circular issued (April 2010) by the EC which clearly stipulates that if the committee members do not appear for inspection even after being invited twice, their consent would be deemed to be accepted. In the second case, inspection should have been conducted by the officer holding the charge of AEC, Jodhpur zone at any given point of time. To avoid such situations in future a proper system of monitoring, receipt and disposal of applications submitted in Excise offices should be instituted. The system should enable the authorities to observe timeliness in issue of licenses so as to protect leakage of potential revenue.

⁶ Hotel Sanchal Fort and Resort Private Limited, Mahabar Barmer.

⁷ Hotel Sai Laxmi Place, Sirohi.

⁸ Chaudhary Restaurnat, Chidawa, Matsya Foods and Beverages, Alwar, Punjab Da Puttar, Jaipur.

6.7 Non-levy of fee for retail licence

According to sub rule (1) of Rule 69 of the Rajasthan Excise Rules, 1956, fee for retail licence (fee) at the rate of ₹ 2.00 per BL⁹ is leviable on sale of Beer to retail licensees.

Audit had noticed that the fee on Beer was neither deposited by the retailers of *M/s Canteen Store Departments (CSD)* nor demanded by the Department. The audit observations on the issue for the period 2011-12 to 2014-15 were printed as paragraph 6.5 of the Audit Report No. 7 (Government of Rajasthan) for the year ended 31 March 2016. The Department in response (August 2016) stated that the action for recovery from CSD was being initiated. The Department was aware of the issue in August 2016 and therefore as a prudent measure it should have directed the DEOs to initiate action for levy and collection of fee from the CSD for the period after March 2015 also.

However, during latest test check of records (between September 2017 and January 2018) it was observed that the Department initiated action for levy and collection of fee from CSD, only for the period upto March 2015. It did not make efforts for levy and collection of fee for the period after March 2015. During test check of records (between September 2017 and January 2018) pertaining to CSD under the jurisdiction of DEO, Bikaner and Jaipur City, it was noticed that CSD sold 7.73 lakh BL¹⁰ of Beer to its retail-off licensees (unit run canteens) in the State during April 2015 to February 2017. However, the prescribed fee was neither deposited by the retailers of CSD nor demanded by the Department. This resulted in non-levy/realisation of fee amounting to ₹ 15.46 lakh.

The matter was reported to the Government (October 2017 and June 2018). The Government replied (July 2018) that recovery of ₹ 0.93 lakh has been made and directions have been issued to concerned DEOs for recovery of remaining amount. Further, progress is awaited (February 2019).

⁹ BL means Bulk Litre, a litre with reference to the bulk or quantity of the contents equivalent to 0.219 gallons.

¹⁰ 7.73 lakh BL: DEO Bikaner: 4.58 lakh BL and DEO Jaipur City: 3.15 lakh BL.

CHAPTER-VII

NON-TAX RECEIPTS

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Tax administration

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level, the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by seven Additional Directors, Mines (ADM) and six Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through nine circles headed by Superintending Mining Engineer (SME).

There are 49 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for assessment and collection of revenue besides prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing headed by ADM (Vigilance) for prevention of illegal excavation and despatch of minerals.

7.2 Internal audit

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner and that subordinate offices are maintaining various records and registers properly and accurately besides taking adequate safeguards against non-collection, short collection or evasion of revenue.

Scrutiny of records of the DMG, Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit, the Departmental authorities were not aware of the areas of the weakness in the system which resulted in evasion or leakage of revenue. The matter is being pointed out continuously in the Comptroller and Auditor General's Audit Reports since 2011-12. However, only three out of 129 units were audited during the year 2017-18.

7.3 Results of audit

There were 137 auditable units¹ in the Departments of Mines, Geology and Petroleum. Out of these, audit selected 33² for audit wherein 13,872 cases³ of Mining Leases (ML), Royalty Collection Contracts (RCC)/Excess Royalty Collection Contracts (ERCC), cases of illegal mining/transportation of mineral, cases of recovery under Land Revenue Act, Short Term Permits (STP) existed. Out of these, audit selected 8,244 cases⁴ (approximate 59 *per cent*) wherein audit noticed 1,987 cases (approximate 24 *per cent* of sampled cases) involving

¹ Includes 35 implementing units.

² Includes eight implementing units.

³ 6,848 Mining Leases (ML); 13 Petroleum mining leases (PML); 79 Royalty Collection Contracts (RCC)/Excess Royalty Collection Contracts (ERCC); 2,994 cases of illegal mining/transportation of mineral; 534 cases of recovery under Rajasthan Land Revenue Act, 1956; 3,400 Short Term Permits and four Petroleum Exploration Licences (PEL).

⁴ 2,106 ML; 13 PML; 79 RCC/ERCC; 2,482 cases of illegal mining/transportation of mineral; 437 cases of recovery under Rajasthan Land Revenue Act, 1956; 3,123 STPs and four PEL.

₹ 605.81 crore of non-recovery/short recovery of cost of unauthorised excavated minerals, dead rent and royalty, Environment Management Fund, non-levy of penalty/interest, non-forfeiture of security deposit. These cases are illustrative and are based on a test-check carried out by us. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. The substantial proportion of errors, omissions and other related issues (approximate 24 per cent) noticed in audit indicated that the Government needed to improve the internal control system including strengthening of internal audit so that occurrence/ recurrence of such lapses can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. no.	Category	Number of cases	Amount
1	Paragraph on 'Audit of collection of District Mineral Foundation Trust Fund'	1	194.60
2	Non-recovery/short recovery of cost of unauthorised excavated minerals	110	230.53
3	Non-recovery/short recovery of dead rent and royalty	135	13.63
4	Non-levy of penalty/interest	203	5.45
5	Non-forfeiture of security deposit	57	11.87
6	Non-recovery/short recovery of Environment Management Fund	18	0.20
7	Other irregularities	Revenue	1,437
		Expenditure	26
Total		1,987	605.81

During the year 2017-18, the Department accepted short realisation of revenue of ₹ 21.16 crore in 2,081 cases, of which 973 cases involving ₹ 9.72 crore were pointed out in audit during the year 2017-18 and rest in earlier years. The Department recovered ₹ 9.72 crore in 1,080 cases, out of which 44 cases involving ₹ 0.39 crore were of current year and the rest were of earlier years.

On being pointed out by Audit, the Department accepted and recovered the entire amount of ₹ 1.02 crore in four cases. These cases have not been discussed in the Report.

A paragraph on 'Audit of Collection of District Mineral Foundation Trust Fund' involving ₹ 194.60 crore and a few illustrative cases involving ₹ 0.84 crore are discussed in the succeeding paragraphs.

7.4 Audit of Collection of District Mineral Foundation Trust Fund

7.4.1 Introduction

The Ministry of Law and Justice (Legislative Department) Government of India had amended (27 March 2015) the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act). Section 9B of the Act *ibid* provides for the establishment of a trust to be called the District Mineral Foundation (DMF) that would function as a non-profit body to work for the interest and benefit of persons and areas affected by mining related operations. The Act broadly outlines an amount that mining lease holders are required to pay to the DMF annually with regard to the major minerals. Accordingly, Government of India notified (17 September 2015) under the MMDR Act, the amount⁵ to be paid to DMF by the concession holders for major minerals.

Further, Section 15 of the MMDR Act empowered the State Government to make rules for regulating the functions of the DMF and to prescribe contribution amount of payment by the concession holders for minor minerals. Pursuant to this the Government of Rajasthan (GoR) notified (31 May 2016) the District Mineral Foundation Trust (DMFT) Rules, 2016 effective retrospectively from 12 January 2015. Rule 13(5) of the DMFT Rules provides that the concerned Mining Engineer (ME)/Assistant Mining Engineer (AME) shall be responsible for collection, reconciliation and cross verification of contribution to the DMFT Fund.

The total collection towards DMFT Funds from the concession holders/Royalty Collection Contractors/Excess Royalty Collection Contractors in 33 districts of the State was ₹ 1,592.53 crore as on 31 March 2018. Department intimated (April 2018) that an amount of ₹ 119.18 crore (7.48 per cent) has been incurred by the DMFTs.

7.4.2 Audit Scope and Methodology

To assess whether the collection, reconciliation and cross-verification of funds was done as per rules by Mines Department, Audit selected 11 offices⁶ out of 49 ME/AME offices. The records pertaining to the period from September 2015 to 31 March 2018 were scrutinised during April 2018 to June 2018. In addition, records maintained by the Principal Secretary, Mines and Petroleum, Jaipur and Director, Mines and Geology, Udaipur (DMG) were also examined for ensuring timely framing of Rules and execution thereof.

⁵ 30 per cent of the royalty paid in respect of mining leases granted before 12 January 2015 and 10 per cent of the royalty paid in respect of mining leases or prospecting license cum mining leases granted on or after 12 January 2015.

⁶ AME: Rishabhdeo, Salumber and Sawar; ME: Ajmer, Amet, Beawer, Bhilwara, Bijoliya, Rajsamand-I, Rajsamand-II and Udaipur.

Audit selected 50 per cent of major mineral⁷ leases, 10 per cent of minor mineral⁸ leases, Short Term Permits⁹ (STP), Brick Earth Permits¹⁰ (BEP) each and all¹¹ the Royalty Collection Contract (RCC)¹²/Excess Royalty Collection Contract (ERCC)¹³ awarded in selected ME/ AME offices for detailed scrutiny.

The matter was pointed out to the Department and reported to the Government (July 2018); Government forwarded its reply in February 2019.

Audit findings

7.4.3 Deficiencies in implementation of DMFT Rules

7.4.3.1 Delay in promulgation of the DMFT Rules, 2016

The Ministry of Law and Justice (Legislative Department) Government of India had amended (27 March 2015) the MMDR Act effective from 12 January 2015. Further, the Government of India made the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015 effective from 12 January 2015 and prescribed (17 September 2015) the amount of contribution to be made to DMF by the lease holders.

Scrutiny of records maintained by the Principal Secretary, Mines and Petroleum revealed that the process of framing of Rules by GoR suffered from avoidable procedural delays at various stages. It notified (31 May 2016) the DMFT Rules, 2016 retrospectively with effect from 12 January 2015 after a delay of eight months from the date of notification (17 September 2015) issued by the Government of India. Further, in exercise of powers conferred by the MMDR Act and the DMFT Rules, the State Government established (9 June 2016) DMF Trusts in all 33 districts of the State.

The Hon'ble High Court of Rajasthan, Jodhpur ordered (18 December 2017) that State Government notification 31 May 2016, created and quantified liability of contribution to DMF in respect of minor mineral, therefore, the concession holders in respect of minor minerals cannot be held liable to pay the contribution to DMF prior to the date of issue of the notification. This resulted in non-collection of contribution towards Trust Fund worth ₹ 147.33 crore on despatches of minor minerals in the State from 12 January 2015 to 30 May 2016.

On being pointed out the Principal Secretary, Mines and Petroleum accepted the facts.

⁷ Major minerals include minerals such as copper, lead, gypsum, limestone (cement grade), vermiculite, wollastonite, zinc, etc. Out of 47 leases in selected offices 32 were selected for scrutiny.

⁸ Minor minerals include building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, etc. Out of 5,119 leases in selected offices 554 were selected for scrutiny.

⁹ Short term permit means a permit granted for excavation and removal of a specified quantity of a mineral within a specified period and from a specified area under Minor Mineral Rules. Out of 286 STPs in selected offices 136 were selected for scrutiny.

¹⁰ Brick Earth Permit means a permit granted for excavation of brick earth for making bricks. Out of 94 BEPs in selected offices 42 were selected for scrutiny.

¹¹ All 52 RCC/ERCC in selected offices were selected for scrutiny.

¹² 'Royalty collection contract' means a contract to collect royalty with or without permit fees and any other charges on behalf of the Government for specified mineral despatched by the quarry licensee or permit holder, from the area specified in the contract.

¹³ 'Excess Royalty Collection Contract' means a contract to collect royalty in excess of annual dead rent and any other charges as may be specified in the contract, on behalf of the Government for specified mineral despatched by the mining lessee, from the area specified in the contract.

7.4.3.2 Separate accounting sub-head not opened for collection of Trust Fund

According to Rule 13(2) of the DMFT Rules, the payment towards Trust Fund shall be collected in advance along with royalty under a separate sub-head through e-payment and deposited in the account of Trust and if any difference amount is accrued at the time of assessment of royalty, the same shall be deposited in the account of Trust immediately. A separate sub-head is essential to depict the contribution received from the lease holders in the budget document to ensure transparency and in the interest of the stakeholders. Further, it is also helpful to monitor the contribution received on the real time basis by Government.

It was noticed that the DMG requested (4 June 2016) the Principal Secretary, Mines and Petroleum, Jaipur to take necessary action in consultation with the Finance Department to open a sub-head for depositing the amount of contribution towards the DMFT Fund. The Finance Department in turn informed the Mines Department that it requested (6 May 2016) the Accountant General (Accounts and Entitlement) for opening a separate sub-head for depositing contribution towards National Mineral Exploration Trust (NMET) but the reply from the Accountant General was awaited. Procedure that may be suggested by Accountant General (Accounts and Entitlement) regarding NMET would be adopted for collection of contribution towards DMFT also. The Department collected the contribution towards Trust Fund through a centralised current bank account (11 August 2016) in a nationalised bank at Udaipur along with a non-interest bearing Personal Deposit (PD) account (August 2016) in treasury, Udaipur in the name of DMG. Thereafter in April 2017, it was decided that the contribution towards Trust Fund will be deposited in the non-interest bearing personal deposit (PD) account opened in the name of DMFT established in each district.

Audit observed that the collection of contribution towards NMET was being deposited in a separate sub-head from August 2017, however, no proposal was sent by the Finance Department to the Accountant General (Accounts and Entitlement) for opening of a separate sub-head for DMFT Fund.

The DMG, Udaipur consolidates the information regarding amount received in PD accounts to get the complete picture of DMFT Funds collected. If a separate sub-head was opened (even if under public accounts) State Government would be aware of the collection figures on real time basis.

7.4.3.3 Non-reconciliation of contribution amount with the Trust Fund

Rule 13(5) of the DMFT Rules provides that the ME/AME concerned shall be responsible for collection, reconciliation and cross verification of contribution to the DMFT and shall deposit the same in Trust account opened in any scheduled bank as decided by the Trust. They shall send periodic information to Financial Advisor/Nodal officer for proper accounting of receipts and disbursements.

Audit observed that the contribution towards Trust Fund was initially deposited by the lease holders either with the concerned ME/AME offices or directly in the centralised current bank account opened in the name of DMG in a

nationalised bank at Udaipur branch. This amount was being transferred by the DMG to the PD account opened in treasury at Udaipur.

Audit further observed that in selected ME/AME offices reconciliation of collection of contribution was not carried out with the funds deposited in the centralised current bank account. An amount of ₹ 498.17 crore was lying in the non-interest bearing PD account of the DMG as on 31 March 2018. This amount was not transferred to the concerned DMFT and the concerned districts could not use the amount.

The reasons for not disbursing the available funds and information regarding reconciliation of the disbursed funds to the DMFTs from PD account of the DMG were called for (April 2018 and October 2018), the reply is awaited (February 2019).

7.4.4 Contribution towards District Mineral Foundation Trust Fund

7.4.4.1 Non-maintenance of Demand and Collection Register for DMFT Fund

It was necessary for ME/AME offices to maintain a separate Demand and Collection Register (DCR) for DMFT Fund to ensure its proper collection, reconciliation and verification. During test check of records, it was noticed that separate registers were not maintained in eight ME/AME offices¹⁴. Scrutiny of the assessment files of leases, contract files of ERCC and Temporary Working Permission (TWP) files disclosed that in 130 cases DMFT contribution of ₹ 4.78 crore was recoverable during 31 May 2016 to 31 March 2018.

In absence of demand and collection register it could not be ensured whether ₹ 4.78 crore were paid to the DMFT Fund.

Government replied that online demand register was maintained for royalty, however, it has not replied regarding non-maintaining a separate demand and collection register for DMFT Fund or how to integrate it with the existing online register.

7.4.4.2 Lacuna in Online Management System for collection of Trust Fund

According to Rule 73 of RMMC Rules, 2017, it is mandatory for the lessee to obtain *e-rawanna*¹⁵ generated through online system. Further, Rule 13(2) of the DMFT Rules stipulates that the payment towards Trust Fund shall be collected in advance along with royalty under a separate sub-head through e-payment.

During test check of records, it was noticed that the Department was collecting royalty amount in advance (October 2017) at the time of generation of *e-rawanna*, however, provision was not made in Departmental Online Management System (OMS-IT system) to collect the DMFT amount simultaneously with royalty.

¹⁴ AME: Rishabhdeo and Salumber; ME: Ajmer, Amet, Bhilwara, Bijoliya, Rajsamand-I and Rajsamand-II.

¹⁵ As per Rule 2(1)(xlili) of RMMC Rules, 2017 *e-rawanna* is an electronically generated challan from the Departmental web portal for despatch, consumption or processing of mineral or overburden from a specified area granted under any mineral concession or permit.

Government replied that OMS-IT system is being updated for online collection of DMFT Fund amount.

7.4.4.3 Short payment of contribution towards DMFT Fund

According to notification dated 17 September 2015 issued by Ministry of Mines, Government of India the amount of contribution in respect of major mineral to be made to DMFT would be 30 *per cent* of the royalty paid in respect of mining leases granted before 12 January 2015 and 10 *per cent* of royalty paid in respect of mining leases or prospecting licence-cum mining leases granted on or after 12 January 2015. Further, as per Rule 13 of DMFT Rules in case of minor mineral the amount of contribution to be made would be 10 *per cent* of royalty paid. Furthermore, if any difference amount is accrued at the time of assessment of royalty, contribution towards Trust Fund shall be deposited in the account of Trust Fund immediately.

Scrutiny of records revealed that six MEs/AME did not ensure correct payment of contribution towards DMFT Fund by the lease holders, Excess Royalty Collection Contractors and from owners of the Brick Earth kiln as detailed below:

(₹ in crore)						
Sl. No.	ME/AME offices	Category of contributors (Number)	Period of contribution	Amount to be paid	Amount paid	Amount short paid (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	5 ME offices ¹⁶	Major mineral lease holders (11)	17 September 2015 to 31 March 2018	944.43	752.28	192.15
2.	5 ME/AME offices ¹⁷	Minor mineral lease holders (34)	31 May 2016 to 31 March 2018	0.28	0.20	0.08
3.	2 ME/AME offices ¹⁸	Excess royalty collection contractors (3)	18 July 2016 to 31 March 2018	5.87	3.77	2.10
4.	2 ME/AME offices ¹⁹	Brick earth permit holders (80)	31 May 2016 to 31 March 2018	0.11	0.01	0.10
Total				950.69	756.26	194.43

The above table shows that MEs/AME did not ensure correct payment of contribution towards DMFT Fund which resulted in short payment of contribution of ₹ 194.43 crore towards DMFT Fund.

Government replied that ₹ 62.43 lakh has been recovered in eight cases (major mineral-one case, minor mineral-three cases, excess royalty collection contractor-one case and brick earth permits- three cases). Replies in remaining cases were awaited.

Non-recovery of Trust Fund for the minerals excavated by quarry licence holders

As per Rule 3(1)(xix) of RMMC Rules, 1986 read with Rule 2(1)(xlii) of RMMC Rules, 2017 'Quarry Licence' means a licence granted for minor minerals wherein a licensee is required to pay fixed annual licence fee exclusive

¹⁶ ME: Ajmer, Beawar, Bhilwara, Rajsamand-II and Udaipur.

¹⁷ ME: Ajmer, Amet, Beawar and Udaipur and AME: Sawar.

¹⁸ ME: Rajsamand-II and AME: Sawar.

¹⁹ ME: Bhilwara and AME: Sawar.

of royalty. Royalty of mineral excavated from quarry licenced areas is collected either through royalty collection contractor or through alternative arrangement such as establishing Departmental check post. Further, a quarry licence holder is not required to submit mineral production returns to concerned ME/AME office. ME/AME office is also not obligated to finalise assessment of royalty.

According to Rule 68(1) of the RMMC Rules, 1986 read with Rule 60(1) of RMMC Rules, 2017, if the ME/AME considers it necessary to do so, with a view to prevent or check the evasion of royalty at any place, he may direct for setting up of check post or erection of a barrier at such place by an order in writing.

The ME Beawar had 84 quarry licences in its jurisdiction situated in the villages Ber, Fatekheda, Lavaya and Birathia Khurd/Kalan, *tehsil* Raipur district Pali of mineral phyllite schist/ballast/*Khanda*.

It was noticed that a RCC was executed (July 2015) for collection of royalty of the mineral excavated from the quarry licenced areas. As the DMFT Fund on minor minerals was made effective from 31 May 2016, the condition for collection of DMFT Fund was not part of the contract. The ME directed the contractor (June 2016) to execute a supplementary agreement for collection of DMFT Fund amount. But the contractor did not execute the supplementary contract and got stay from Rajasthan High Court, Jaipur for enhancement of contract amount in view of DMFT Rules. This was not vacated till the expiry of the contract period (31 March 2017). A new RCC was executed on 14 July 2017 for collection of royalty and DMFT Fund. Since the ME could not execute supplementary contract for collection of DMFT Fund from the quarry licence holders, the ME was required to collect the DMFT Fund through alternate arrangements such as establishing check post. However, no arrangements were made for collection of the DMFT Fund through check posts for the period from 31 May 2016 to 13 July 2017. Non-collection of the DMFT Fund resulted in loss to the Trust.

As the quarry holders were not required to submit returns of the despatch of mineral to the ME office, hence, the ME could not assess the mineral despatched from a particular quarry. Therefore, Audit could not calculate the amount of DMFT recoverable from the quarry licence holders.

For calculation of loss to the Trust Fund Audit requested (May 2018) the ME office to provide figures²⁰ of mineral despatched from the quarry areas as to be submitted by the Royalty Collection contractor; reply was awaited (February 2019).

Government has not furnished any reason for non-collection of DMFT Fund through establishing check post in its reply (February 2019).

²⁰ As per Rule 37-A(xiii) of RMMC Rules, 1986 read with Rule 44(13) of RMMC Rules, 2017 the Royalty Collection Contractor was required to submit the details of the mineral despatched from the contract area. However, these details did not contain quarry wise information.

7.4.4.4 Non-recovery of interest on delayed payment of Trust Fund

Rule 77 of the RMMC Rules, 2017 (Effective from 1 March 2017) provides that simple interest at the rate of 18 *per cent* shall be charged from the due date on all dues in respect of the contribution towards DMFT.

It was observed in five ME/AME offices²¹ that during March 2017 to March 2018 in seven cases, Royalty Collection Contractor/Excess Royalty Collection contractors deposited contribution towards Trust Fund belatedly for different intervals between one day and 253 days but the concerned ME/AME did not raise the demand²² aggregating ₹ 17.03 lakh for the interest payable on delayed payment of monthly instalments.

Government replied that an amount of ₹ 4.92 lakh has been recovered and action is being taken for the remaining amount.

7.4.4.5 Non-transfer of sharing contribution towards Trust Fund

Rule 13(4) of the DMFT Rules stipulates that where a mining lease falls in more than one district, the contribution towards DMFT shall be deposited in the account which is operated by the ME/AME in whose office the assessment of royalty is made. However, the total amount so received shall be proportionally allocated on the basis of area falling under each district.

(i) It was noticed in ME Udaipur that a mining lease number 1/1995 having total area 49.48 hectares was effective under the jurisdiction of ME Sirohi. Out of total lease area measuring 49.48 hectares, an area measuring 22.065 hectares was situated in *tehsil* Kotra district Udaipur. As per information furnished by the lease holder an amount of ₹ 59.81 lakh was deposited in the centralised current bank account between 1 June 2016 and 30 April 2017 by the lease holder. However, the Department did not allocate the proportionate amount of ₹ 26.67 lakh to DMFT Udaipur. ME Udaipur also did not initiate action to transfer the proportionate amount to DMFT Udaipur.

Government replied that action is being taken for transfer of DMFT contribution.

(ii) It was noticed in ME Beawar office that ME issued (September 2017 and January 2018) nine Short Term Permits (STP) to a firm for lifting 1.96 lakh MT ordinary earth from the area near village Railmagra, *tehsil* Raipur district Pali and 1.50 lakh MT overburden (Masonry stone) from the area near Village Khejadla, Kayabhila *tehsil* Raipur district Pali for construction of Western Dedicated Freight Corridor Rewari- Iqbalgarh Section. The firm deposited ₹ 3.58 lakh in eight STP cases in the PD account of DMFT Ajmer instead of PD account of DMFT Pali as the mineral was lifted from district Pali. Further, in one case, the firm deposited ₹ 1.15 lakh in the PD account of District Collector, Ajmer instead of the PD account of DMFT Pali. As such, the contribution towards Trust Fund amounting to ₹ 4.73 lakh was required to be transferred to the DMFT Pali.

Government replied that letter has been written to DMFT Ajmer for transferring ₹ 4.73 lakh in the account of DMFT Pali.

²¹ ME: Amet, Bijoliya, Rajsamand-I, Rajsamand-II and AME: Salumber.

²² Ranged between ₹ 0.01 lakh and ₹ 2.58 lakh.

7.4.5 Conclusion and Recommendations

The State Government framed the DMFT Rules, 2016 belatedly and did not open a separate sub-head for its accounting as per Rule. There was no provision in the IT system for depositing the Trust Fund alongwith the payment of royalty. The Department did not recover full contribution towards DMFT Fund as well as interest on delayed payment from mineral concession holders, Royalty Collection Contractor/Excess Royalty Collection Contractors and brick earth permit holders.

- *The Government may open a separate sub-head to collect Trust Fund for proper monitoring and expedite efforts to disburse ₹ 498.17 crore to the concerned DMFT after reconciliation.*
- *The Government may consider inserting an option for collection of DMFT Fund in advance along with payment of royalty in their online system and direct all ME/AME offices to maintain lease/RCC/ERCC wise Demand and Collection Register.*

7.5 Non-raising of demand for interest

Contract for collection of excess royalty²³ is awarded under Rule 32(1) of RMMC Rules, 1986 read with Rule 36(2) of RMMC Rules, 2017. Further, as per Rule 33D(1) of RMMC Rules, 1986 read with Rule 42(1) of RMMC Rules, 2017 yearly contract amount shall be recovered in equal monthly/quarterly instalments.

Furthermore, according to Rule 33D(2) of RMMC Rules, 1986 read with Rule 44(17) of RMMC Rules, 2017 the monthly/quarterly instalments due under annual contract shall be paid in advance before the due date. Interest shall be payable at the rate of 15/18 *per cent* per annum²⁴ from the due date on unpaid amount. The Government may recover these dues as arrears of Land Revenue.

During scrutiny of records of the AME Kotputli and ME Bhilwara, it was noticed that three Excess Royalty Collection Contractors²⁵, did not deposit the monthly instalments of the contract amount on due dates. The ME/AME, however, failed to raise the demand for interest against the contractors for the lapse. This resulted in non-recovery of interest amount of ₹ 60.33 lakh.

The matter was pointed out to the Department and reported to the Government (May 2018 and March 2018). The Government replied that a demand has been raised and recovery has been proposed under the Rajasthan Land Revenue Act, 1956. Further progress is awaited (February 2019).

²³ Royalty to be paid by the lease holder in excess of annual dead rent is called excess royalty.

²⁴ Rate of interest 15 *per cent* per annum (up to 28 February 2017) and 18 *per cent* per annum thereafter as per RMMC Rules, 1986 and RMMC Rules, 2017 respectively.

²⁵ The first contract was for collection of excess royalty for the period from 5 May 2015 to 31 March 2017 on limestone and marble despatched from the sanctioned leased areas situated in the revenue area of *tehsil* Kotputli district Jaipur, the second contract was for collection of excess royalty for the period from 1 April 2016 to 31 March 2018 on masonry stone despatched from the sanctioned leased areas situated in the revenue area of *tehsil* Virat Nagar, district Jaipur and the third contract was for collection of excess royalty for the period from 1 April 2016 to 31 March 2018 on *granite* despatched from the sanctioned leased areas situated in the revenue area of *tehsils* Asind, Badnor, Bhilwara, Kareda, Mandal and Raipur district Bhilwara.

7.6 Non/short recovery of compounding fee

According to Rule 48(1) of the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986, no person shall undertake any mining operations except permission granted under these Rules. Further, according to Section 23-A of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 read with proviso of Rule 48(3) of the Rules *ibid*, any officer/official authorised in this behalf may compound the offence committed in contravention of the Rule 48 (1), on payment of such sum as he may specify. The amount specified under the above proviso shall not be less than ₹ 5,000 and shall be in addition to the cost of mineral if recoverable. Furthermore, according to Rule 68(5) of the Rules *ibid*, if any officer authorised by the Department or by the Government has a reason to believe that royalty is likely to be evaded in respect of any mineral liable to assessment for royalty, such officer may require the owner or person in-charge of the vehicle to pay an amount equal to 10 times the amount of royalty payable on the mineral along with compounding fee.

The State Government *vide* circular dated 13 January 2011 prescribed the compounding fee for releasing the seized vehicle chargeable under Section 23-A of the Act *ibid* read with Rule 48(3) and 68(5) of the Rules *ibid* from the offenders involved in illegal mining and transportation of mineral:

Sl. No.	Name of equipment/vehicle/tools	Compounding fee for each item (in ₹)
1	Tractor trolley/compressor/drilling machine/ wire saw and other tools, <i>etc.</i>	25,000
2	Half body trucks/small dumpers/crane, <i>etc.</i>	50,000
3	Full body trucks/heavy duty dumpers/crusher/power hammer, <i>etc.</i>	1,00,000
4	Trolla/excavator/loader, <i>etc.</i>	2,00,000

The above amounts were to be charged in addition to the cost of the mineral excavated.

During scrutiny of *Panchanama* files maintained in the office of the AME Sawai Madhopur, it was noticed (March 2018) that in 45 cases, Departmental officials released vehicles which were involved in the illegal transportation of mineral either without charging (18 cases) or short charging (27 cases) the compounding fee in violation of the provisions mentioned above. This resulted in non-recovery/short recovery of compounding fee of ₹ 23.90 lakh.

The matter was pointed out to the Department and reported to the Government (May 2018). The Departments' reply forwarded by the Government stated (October 2018) that at the time of checking, the vehicles had valid *rawanna* and the cost of quantity of mineral in excess of the quantity permitted in *rawanna* was recovered along with compounding fee. As these vehicles had *rawannas*, the circular dated 13 January 2011 was not applicable in these cases.

In all the cases mentioned above, either the vehicles transported the minerals without *rawannas* or in excess of the quantity mentioned in the *rawannas* as such attracted the provisions of the circular *ibid* for release of the vehicles. Thus, reply of the Department was not in line with the circular dated 13 January 2011 wherein it was also stated "*Keeping in view that different officers are charging different compounding fee for similar cases, it is decided*

that compounding fee at the above rates may be charged in addition to the cost of the minerals from the offenders for releasing the seized vehicles/tools". The facts indicated that the Department was not following the instructions issued by the Government circular.

It would be in the interest of the revenue and prevention of illegal mining if the Government directs the Department to follow the instructions issued by it and compound the offences in accordance with the norms framed by it in the circular.

7.7 Lack of proper action against the mining lease holder for illegal excavation and despatch of mineral

According to Rule 18 (9)(c) of Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 a lessee or any other person shall not remove or despatch or utilise the minerals from the mines or quarry without *rawanna*²⁶ duly issued by concerned ME for particular mineral and area. Further, Rule 48(1) of the Rules *ibid* stipulated that no person shall undertake any mining operations except in accordance with the terms and conditions of the mining lease (ML) granted under these Rules. Moreover, Rule 48(5) of the Rules *ibid* stipulated that whenever any person, without a lawful authority or in contravention of the terms and conditions of the ML, raises and despatches any mineral, the ME/AME concerned may recover cost of such mineral calculated at 10 times the royalty payable at the prevalent rates.

During scrutiny (March 2018) of records of ME Bundi-I it was noticed that a site inspection was conducted (23 November 2015) by the Superintending Mining Engineer (SME), Kota; SME (Vigilance), Kota and ME Bundi-I as part of an enquiry regarding unauthorised excavation by the holder of ML number 33/2002 (*Mineral sandstone*). The officials, on the basis of site inspection, concluded that the excavation has not been done for the last three years in the ML area. However, it was seen that illegal excavation was carried out from an area other than the designated ML area. The ME issued (February 2016) a legal notice to the lessee for mis-utilisation of 196 *rawannas* issued during the previous three years for the despatch of illegally excavated mineral from an area other than the designated ML area. Site inspection of the lease was again conducted (30 August 2016) for verification of the reply furnished (March 2016) by the lessee in response to the legal notice. This inspection again confirmed the facts regarding illegal mining pits in an area other than the designated ML area and the inspection team also observed that *rawannas* were misused for despatch of mineral illegally excavated.

Audit observed that the Department, despite being aware that the lease holder indulged in illegal mining, issued (July 2016) notice only for non-deposit of outstanding dues and penalty for non-submission of the mining plan (₹ 0.38 lakh + ₹ 1.50 lakh). Further, it was also seen that though the Department cancelled the ML (24 November 2016) and took over the possession of the ML area but it neither calculated the quantity of mineral illegally excavated and despatched through the *rawannas* nor raised a demand in this regard.

²⁶ *Rawanna* means delivery challan for removal or despatch of mineral from mines.

The matter was pointed out to the Department and reported to the Government (May 2018). The Government intimated (September 2018) that recovery of ₹ 37.24 lakh for the cost of the mineral has been proposed under Rajasthan Land Revenue Act. The Department, however, has not furnished the assessment order regarding the demand raised though called for (February 2019).

Anadi Misra
(ANADI MISRA)

Accountant General

(Economic and Revenue Sector Audit), Rajasthan

JAIPUR
The 28 April 2019

Countersigned

Rajiv Mehrishi

(RAJIV MEHRISHI)

Comptroller and Auditor General of India

NEW DELHI
The 30 April 2019

APPENDIX

Appendix-I

(Refer paragraph 5.3.10; page 66)

Details of site inspections conducted by 30 SRs during 2012-13 to 2016-17

Sl. No.	Name of SR	Total number of instruments to be inspected	Inspection conducted	Short fall (in per cent)
1	Neemrana	3,946	3,946	0
2	Bhiwadi	12,583	12,583	0
3	Nokh	21	21	0
4	Bhinder	713	713	0
5	Udaipur-II	12,632	12,632	0
6	Deogarh	1,679	1,679	0
7	Deedwana	5,960	5,960	0
8	Bilara	2,237	2,237	0
9	Bap	1,453	1,453	0
10	Chirawa	1,398	1,398	0
11	Jaipur-VIII	8,419	8,419	0
12	Jaipur-II	22,162	22,162	0
13	Pallu	1,829	1,829	0
14	Bhadra	6,920	6,920	0
15	Hindumalkot	551	551	0
16	Sujargarh	5,554	5,554	0
17	Kolayat	5,975	5,975	0
18	Shri Dungargarh	1,376	1,376	0
19	Bansoor	2,472	2,472	0
20	Pisangan	987	987	0
21	Mojmabad	2,603	2,603	0
22	Jaipur-III	11,639	11,639	0
23	Mundwa	5,283	5,283	0
24	Dausa	2,038	2,038	0
25	Luni	6,090	6,090	0
26	Jodhpur-III	14,994	14,994	0
27	Jodhpur-I	19,440	19,440	0
28	Jaipur-VI	3,177	3,177	0
29	Jaipur-I	9,721	9,721	0
30	Kishargarh	4,405	4,405	0
	Total	1,78,257	1,78,257	0

Source: Information provided by the SRs.

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