

Chapter I
Revenue Sector

Chapter-I

Revenue Sector

1.1 Introduction

1.1.1 Trend of revenue receipts

1.1.1.1 The tax and non-tax revenue raised by the Government of National Capital Territory of Delhi (GNCTD) during the year 2015-16, 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 the corresponding figures for the preceding four years are mentioned in **Table-1.1** below.

Table-1.1: Trend of revenue receipts

(₹ in crore)						
Sl.No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
1.	Revenue raised by the State Government					
	Tax revenue	19,971.67	23,431.52	25,918.69	26,603.90	30,225.16
	Non-tax revenue	460.87	626.93	659.14	632.55	515.40
	Total	20,432.54	24,058.45	26,577.83	27,236.45	30,740.56
2.	Receipts from the Government of India					
	Grants-in-aid	1,960.64	1,502.52	1,402.86	2,348.14	4,258.29
3.	Total revenue receipts of the State Government (1 and 2)	22,393.18	25,560.97	27,980.69	29,584.59	34,998.85
4.	Percentage of 1 to 3	91	94	95	92	88

Source: Finance Accounts

The revenue raised by the NCT of Delhi (₹ 30,740.56 crore) during the year 2015-16 was 88 *per cent* of the total revenue receipts. The balance 12 *per cent* of the receipts during 2015-16 was Grants-in-aid from the Government of India.

1.1.1.2 The details of tax revenue raised during the period 2011-12 to 2015-16 are given in **Table-1.2**.

Table-1.2: Details of Tax Revenue raised

(₹ in crore)													
Sl. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16	
		BE ¹	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE for 2015-16	Actual of 2015-16 over 2014-15
1	Taxes on sales, trade etc.	14,000.00	13,750.95	16,500.00	15,803.68	18,200.00	17,925.71	19,000.00	18,289.31	21,000.00	20,245.82	(-)3.59	(+)10.70
2	State Excise	2,400.00	2,533.72	3,000.00	2,869.74	3,200.00	3,151.63	3,550.00	3,422.39	4,500.00	4,237.69	(-)5.83	(+)23.82
3	Stamp Duty	2,399.97	2240.25	3,799.97	3,098.06	3,799.98	2,969.07	2,938.15	2,779.88	3,449.98	3,433.60	(-)0.47	(+)23.52
4	Motor Vehicles Tax	950.00	1,049.19	1,370.00	1,240.18	1,400.00	1,409.27	1,600.00	1,558.83	1,700.00	1,607.01	(-)5.47	(+)3.09
5	Others	378.00	397.54	487.00	419.84	475.00	463.00	520.00	491.70	720.00	700.53	(-)2.70	(+)42.47
6	Land Revenue	0.03	0.01	0.03	0.01	0.02	0.01	61.85	61.79	0.02	0.51	(+)2450.00	(-)99.17
Total		20,128.00	19,971.66	25,157.00	23,431.51	27,075.00	25,918.69	27,670.00	26,603.90	31,370.00	30,225.16		

Source: Finance Accounts

¹ Budget Estimates

Actual receipts for the year 2015-16 under the Head State Excise and Motor Vehicles Tax decreased by 5.83 and 5.47 *per cent* respectively over the Budget Estimates (BE). The actual receipts for the year 2015-16 under the Head ‘Taxes on Sales, Trade etc.’ increased by 10.70 *per cent* from ₹ 18,289.31 crore to ₹ 20,245.82 crore while Land Revenue decreased by 99.17 *per cent* from ₹ 61.79 crore to ₹ 0.51 crore over the previous year.

The Transport Department stated that decrease in revenue collection was due to ban on registration of diesel vehicles of more than 2000 CC.

1.1.1.3 The details of the non-tax revenue raised during the period 2011-12 to 2015-16 are indicated in **Table-1.3** below.

Table-1.3: Details of Non-tax Revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE for 2015-16	Actual of 2015-16 over 2014-15
1	Interest receipts	369.81	174.14	473.54	340.03	754.50	379.35	604.00	350.52	173.16	82.53	(-)52.34	(-)76.45
2	Medical and Public Health	41.00	47.56	44.24	54.32	65.00	63.05	73.00	58.20	129.23	125.88	(-)2.59	(+)116.29
3	Public Works	20.00	26.15	23.10	25.55	20.00	18.59	17.50	14.74	19.00	18.47	(-)2.79	(+)25.31
4	Power	15.00	12.12	14.00	9.93	22.01	18.46	24.01	16.38	32.01	42.06	(+)31.40	(+)156.78
5	Other administrative services	78.00	92.93	91.00	95.60	115.00	91.04	112.17	98.91	106.18	89.43	(-)15.78	(-)9.58
6	Other Non-tax receipts	116.66	107.97	123.66	101.50	111.42	88.65	133.32	93.79	109.42	157.03	(+)43.51	(+) 67.43
Total		640.47	460.87	769.54	626.93	1,087.93	659.14	964.00	632.54	569.00	515.40		

Source: Finance Accounts

The actual receipts under the Heads of Interest receipts and other administrative services for the year 2015-16 decreased by 52.34 *per cent* and 15.78 *per cent* respectively over BE. The actual receipts under the Heads of Medical and Public Health and Power for the year 2015-16 increased by 116.29 *per cent* and 156.78 *per cent* respectively while the Head of Interest receipts decreased by 76.45 *per cent* over the previous year.

The detailed reasons for variations were not furnished by the respective Departments (November 2016).

1.1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 under some principal heads of revenue amounted to ₹ 24,517.22 crore of which ₹ 14,312.14 crore was outstanding for more than five years as detailed in the **Table-1.4**.

Table-1.4: Arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2016	Amount outstanding for more than five years as on 31 March 2016	Remarks
1.	Taxes on sales, trade etc.	24,244.89	14,312.14	Reasons for arrear of revenue not furnished by the department.
2.	State Excise, Entertainment and Luxury	272.33	0.00	Pending in Courts
Total		24,517.22	14,312.14	

1.1.3 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 Department of Trade and Taxes and Department of State Excise, Entertainment and Luxury, are given in **Table-1.5** below.

Table-1.5: Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes on sales, trade etc.	57	4,15,554	4,15,611	4,15,611	0	100
State excise, Entertainment and Luxury	1,461	18	1,479	7	1,472	0.47

Source: Department of Trade & Taxes, State Excise, Entertainment & Luxury

The percentage of disposal of assessment cases was as low as 0.47 *per cent* in respect of Department of State Excise, Entertainment and Luxury Tax.

1.1.4 Evasion of tax detected by the department

During 2015-16, the Enforcement Branch (Department of Trade and Taxes) detected 361 cases on search and raised a demand of ₹ 169.49 crore and Department of Excise, Entertainment & Luxury Tax detected 18 cases and raised a demand of ₹ 166.28 crore in eight cases.

1.1.5 Details of pendency of refund cases

The number of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending

at the end of 2015-16 as reported by Department of Trade and Taxes are given in **Table 1.6** below.

Table-1.6: Details of pendency of refund cases

(₹ in crore)

Sl. No.	Particulars	Sales Tax/VAT		Entertainment Tax		Stamp & Registration	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	3,876	139.15	Nil	Nil	Not furnished	Not furnished
2	Claims received during the year	4,163	157.07	24	0.73	743	30.49
3	Total claims	8,039	296.22	24	0.73	743	30.49
4	Refunds made during the year	7,299	253.91	06	0.13	Not furnished	26.04
5	Percentage of refunds to the total claims	90.79	85.72	25	17.81	Not furnished	85.41
6	Balance outstanding at the end of year	740	42.31	18	0.60	Not furnished	4.45

Section 42 of Delhi Value Added Tax Act (DVAT Act) provides for payment of interest at an annual rate notified by government, if the excess amount is not refunded to the dealer within 60 days from the date of the order. Not refunding the claims within the stipulated period may attract the payment of interest.

1.1.6 Response of the Government/Departments to Audit

The Accountant General (Audit), Delhi (AG) conducts periodical inspection of the departments to test check transactions and verify maintenance of accounts and other records as prescribed in the rules and procedures. These inspections are followed up through Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance to the AG within four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

The summarised position of the Inspection Reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2016 are tabulated in the **Table-1.7**.

Table-1.7: Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance during the year		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2006-07	424	4,250	1,253.72	64	880	320.51	265	2,548	543.25	223	2,582	1,030.98
2.	2007-08	223	2,582	1,030.98	62	1329	1,077.42	79	1,266	349.89	206	2,645	1,758.51
3.	2008-09	206	2,645	1,758.51	89	2265	1,748.24	6	429	413.39	289	4,481	3,093.36
4.	2009-10	289	4,481	3,093.36	108	2972	2,900.71	11	301	218.47	386	7,152	5,775.60
5.	2010-11	386	7,152	5,775.60	54	2009	1,831.89	85	564	434.09	355	8,597	7,173.40
6.	2011-12	355	8,597	7,173.40	96	2204	3,079.27	24	657	394.02	427	10,144	9,858.65
7.	2012-13	427	10,144	9,858.65	104	1610	1,209.64	62	520	571.99	469	11,234	10,496.31
8.	2013-14	469	11,234	10,496.31	92	790	1,099.45	3	83	-	558	11,941	11,595.76
9.	2014-15	558	11,941	11,595.76	76	506	159.57	15	159	7.40	619	12,288	11,747.93
10.	2015-16	619	12,288	11,747.93	80	458	52.23	09	129	4.12	690	12,617	11,796.04

The number of pending paras increased from 4,250 involving an amount of ₹ 1,253.72 crore in 2006-07 to 12,617 involving money value of ₹ 11,796.04 crore at the end of the year 2015-16 which indicates that the Department did not take adequate steps to settle the outstanding paragraphs.

1.1.6.1 Departmental Audit Committee Meetings

The Government set up Audit Committees to monitor and expedite the progress of settlement of audit paragraphs in the IRs. However, no Audit Committee meeting was held by the Departments of Trade and Taxes, State Excise, Entertainment and Luxury Tax, Transport & Revenue during the year 2015-16. It is recommended that the Government may hold periodical meetings and take concrete steps to clear outstanding paragraphs.

1.1.6.2 Non-production of records to Audit for scrutiny

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

The Department of Trade and Taxes did not provide 8,813 assessment files/cases out of 11,202 files/cases (79 per cent) requisitioned during the year 2015-16. Consequently, the revenue involved in these cases could not be ascertained.

1.1.6.3 Follow up on Audit Reports – summarized position

The Public Accounts Committee (PAC) stipulates that after presentation of the Report of the CAG of India in the Legislative Assembly, Departments shall initiate action on the audit paragraphs and the Action Taken Notes (ATNs) thereon should

be submitted by the Government within four months of tabling the Report, for consideration of the Committee. However, ATNs on the Reports were delayed in respect of 33 paragraphs and six Performance Audits (PAs) included in the Reports of the CAG of India on the Revenue Sector of the GNCTD for the years ended 31 March 2011, 2012, 2013, 2014 and 2015, placed before the State Legislature Assembly between March 2012 to June 2016. The ATNs from the concerned Departments were received late with an average delay of six months in respect of each of these Audit Reports. ATNs in respect of 18 paragraphs and three PAs from the departments had not been received in respect of the Audit Reports for the year ended 31 March 2011, 2012, 2013, 2014 and 2015 as mentioned in the **Table-1.8** below.

Table-1.8: Details of paragraphs and performance audits and the ATNs

Sl. No.	Year of Report ending 31 March	Number of Paragraphs and Performance Audits printed in Report	Number of Paragraphs and Performance Audits for which ATNs were awaited
1	2011	12+3 (PA)	10+1(PA)
2	2012	16+1 (PA)	3+0(PA)
3	2013	2+1 (PA)	2+1(PA)
4	2014	3+0 (PA)	3+0(PA)
5	2015	0+1 (PA)	0+1(PA)
Total		33+6 (PA)	18+3(PA)

PAC did not discuss paragraphs pertaining to the Audit Reports (Revenue Sector) for the period 2010-11 to 2014-15.

1.1.7 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table-1.9** below.

Table-1.9: Position of paragraphs included, accepted and amount recovered
(₹ in crore)

Year of Audit Report	Number of Paragraphs included	Money value of the Paragraphs	Number of Paragraphs accepted	Money value accepted	Amount recovered during the year 2015-16	Cumulative position of recovery of accepted cases as of 31 March 2016	Percentage of recovery
2005-06	20	177.85	13	18.44	-	0.06	0.33
2006-07	16	254.93	13	209.06	-	0.27	0.13
2007-08	11	945.52	7	28.17	-	0.18	0.64
2008-09	15	1,729.62	7	109.00	-	0.14	0.13
2009-10	18	1,764.20	5	49.36	-	0.39	0.79
2010-11	15	1,479.98	4	58.00	-	0.06	0.10
2011-12	17	2,363.11	1	19.14	-	1.23	6.43
2012-13	3	536.00	3	70.16	-	00	0.00
2013-14	3	98.39	3	20.83	-	00	0.00
2014-15	1	1.34	1	1.34	0.02	0.02	1.49
Total	119	9,350.94	57	583.50	0.02	2.35	0.40

It is evident from the above table that the progress of recovery, even in accepted cases was negligible. The reports for the year 2005-06 to 2014-15 contained audit findings involving ₹ 9,350.94 crore, out of which audit observations with revenue implication of ₹ 583.50 crore were accepted by the Department. However, only an amount of ₹ 2.35 crore (0.40 per cent) was recovered by the Department.

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

1.1.8 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of a risk analysis which takes into account matters highlighted in the budget speech, white paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings, audit coverage and its impact during the past five years.

During the year 2015-16, there were 153 auditable units of which 80 units were planned and audited.

1.1.9 Results of audit

1.1.9.1 Position of local audits conducted during the year

Test check of the records of 80 units of the Department of Trade and Taxes, State Excise, Transport and Revenue conducted during the year 2015-16 revealed under assessment/short levy/loss of revenue and other irregularities involving ₹ 164.17 crore in 459 paragraphs as categorized in **Table-1.10**.

Table-1.10: Category-wise Audit observations

(₹ in crore)			
Sl.No.	Categories	No. of paras	Amount
Sales Tax/Value Added Tax			
1	System for collection of Arrears of Revenue	1	116.76
2	Non-recovery of demand and consequential loss of interest	3	3.47
3	Irregular allowance of concessional rate of tax	2	1.54
4	Other irregularities	237	36.44
Total		243	158.21
Motor Vehicle Tax			
1	Miscellaneous irregularities	72	-
Total		72	-
Stamp Duty and Registration Fee and State Excise, Entertainment & luxury tax			
1	Short levy of stamp duty and registration fees due to consideration of incorrect category of locality	2	0.36
2	Other Irregularities	142	5.60
Total		144	5.96
Grand Total		459	164.17

During the course of the year, audit pointed out instances of short/non levy of revenue amounting to ₹ 164.17 crore out of which the concerned Departments accepted under assessment and other deficiencies of ₹ 7.02 crore and recovered an amount of ₹ one lakh which were pointed out in audit during 2015-16.

1.1.10 Coverage of the Revenue Chapter

This chapter contains four paragraphs involving financial effect of ₹ 122.97 crore. The Departments have accepted audit observations involving ₹ 7.02 crore out of which ₹ one lakh had been recovered. The paragraphs were forwarded to the Government, their reply was awaited (November 2016).

1.2 System for collection of arrears of revenue

The amount of arrears in Department of Trade and Taxes increased by 31 per cent from ₹ 15,249.16 crore at the start of 2012-13 to ₹ 20,039.34 crore at the end of 2014-15. The recovery process in Department of Trade and Taxes and Department of Excise, Entertainment and Luxury Tax was not initiated in pending demand cases, implying inherent system deficiencies and weak internal checks. Improper reflection of payments and system designing flaws resulted in non-recovery of demands. Refund of ₹ 80.53 lakh was allowed in Value Added Tax, though the registrations of the dealers were cancelled. The Demand and Collection Register was not properly maintained in Department of Excise, Entertainment and Luxury Tax to watch the payment and arrears of revenue.

1.2.1 Introduction

The major source of revenue of the Government of NCT of Delhi is levy and collection of tax on sale of goods and liquor, entertainment programmes and luxuries provided in hotels. The Department of Trade and Taxes (DTT) is responsible for collection of Value Added Tax (VAT) for local sale and Central Sales Tax (CST) for interstate sale. The Department of Excise, Entertainment and Luxury Tax (DEELT) is responsible for collection of State excise, taxes on cinema shows, entertainment programmes, cable and DTH services, hotels, banquet halls, gym/spa owners, bets and stakes placed on horse races. During the year 2014-15, these two Departments contributed 84 per cent of the total tax revenue collected by the government with VAT having a share of 69 per cent and DEELT 15 per cent.

The regular tax and additional demand not paid by the assesseees constitute arrears of revenue. In DTT, any demand which remains unpaid, shall be recoverable as arrears of land revenue (ALR) under the DVAT Act. In DEELT, any unpaid amount shall be recoverable as ALR under Delhi Excise Act, whereas the Delhi Entertainments and Betting Tax (DEBT) Act and the Delhi Tax on Luxuries (DTL) Act provides for recovery of pending dues as ALR.

An audit was conducted of the Departments of Trade & Taxes (DTT) and Excise, Entertainment and Luxury Tax (DEELT) during April 2016 to August 2016 to assess the effectiveness of the system of collection of arrears in the departments. In DTT, audit selected 10,990 cases, assessed during 2012-13 to 2014-15 with revenue implication of ₹ 9,612.18 crore, using the criteria of demand of more than ₹ 10 lakh. In Luxury Tax branch, audit selected 734 cases, where demand was above ₹ 10,000, involving revenue implication of ₹ 36.86 crore, assessed during 2012-13 to 2014-15, while in case of Excise, Entertainment and Betting Tax branch, the entire data available in the system and records made available was audited.

1.2.1.1 Trend of arrears

The year wise details of consolidated arrears of revenue for the period 2012-13 to 2014-15 were not furnished to audit by DEELT. However, in DTT, the amount of arrears indicates an increasing trend from 2012-13 to 2013-14, though it decreased marginally in 2014-15. The year-wise details of arrears of revenue are given in **Table 1.2.1** below.

Table 1.2.1: Trend of arrears of VAT and CST

(₹ in crore)

Year	Opening Balance	Additions during the year	Recovery made/reduced during the year	Closing Balance
2012-13	15,249.16	2,700.00	1,727.86	16,221.30
2013-14	16,221.30	6,605.08	1,029.28	21,797.10
2014-15	21,797.10	8,260.75	10,018.51	20,039.34

Source: Department of Trade & Taxes

Audit findings

(i) Value Added Tax (VAT)

1.2.2 Non-initiating of recovery process against the defaulting dealers

Section 43(3) of DVAT Act provides that any amount of tax, interest or penalty, composition money or other amount due under this Act which remains unpaid, shall be recoverable as arrears of land revenue. Further, Section 43(6) provides that the Commissioner may serve a 'recovery certificate' upon the dealer specifying the amount of such tax, interest or penalty, composition money or other amount due from him. Section 74(1) of DVAT Act provides that any person who is dissatisfied with an assessment, or any other order or decision made under this Act, may make an objection against such assessment, or order or decision, as the case may be, to the Commissioner. Under Section 74(4), such objection can be filed within two months of the date of service of the assessment, or order or decision, as the case may be. Test check of 68 demand cases of Ward-63 with revenue implication of ₹ 17.66 crore revealed that the concerned dealers neither paid the demand nor filed objections against the assessment orders within the stipulated

time. Therefore, the recovery proceedings were not initiated by the Department against the defaulting dealers, resulting in non-realisation of revenue of ₹ 17.66 crore.

1.2.3 Lack of data authenticity

Section 36 of DVAT Act, Rule 31 of DVAT Rules and Rule 10C of CST (Delhi) Rules stipulates payment of tax, interest, penalty or any other amount due under the DVAT and CST Act. The dealer has the option to make the payment through challans or in electronic form against the demand raised. The computerised DVAT system has been designed to reflect all such payments, including regular payment of VAT, CST made by a dealer, in his 'Dealer Profile' report. In Demand Collection Register (DCR), the amount paid is reflected against the demand amount and the 'Reconciliation' module of the system also reflects the payments. Audit observed the following.

(i) Test check of 190 cases revealed that in 99 cases, demand of ₹ 36.06 crore was shown as paid by the dealers in DCR Report and 'Reconciliation' module while they were not reflected in the 'Dealer Profile' of the assesseees for the particular year. Further, scrutiny of Reconciliation module revealed that the date of payment by the dealer predates date of demand notice, which is not possible.

(ii) Scrutiny of records relating to refund adjustment in DVAT system revealed that in 86 cases, demand of ₹ 64.99 crore was raised during 2012-13 to 2014-15 and were adjusted against the refunds claimed by the dealers and shown accordingly in DCR Report of the system. However, audit verification revealed that in 54 out of 86 cases, demand of ₹ 57.98 crore was adjusted against refunds of equal amount while refund was not available to any of the dealers as per the individual 'Dealer Profile'.

Thus, lack of data authenticity coupled with inadequate monitoring, cross checking and reconciliation of details in arrear cases with revenue implication of ₹ 94.04 crore may potentially result in loss of revenue.

1.2.4 Injudicious release of refunds to the cancelled dealers without determining tax liabilities

Section 38(2) of DVAT Act, 2004 stipulates that 'before making any refund, the Commissioner shall first apply such excess towards the recovery of any other amount due under this Act, or under the CST Act, 1956'.

Test check of selected cases revealed that refund of ₹ 80.53 lakh was allowed (April 2011 to April 2014) in 39 cases though the registration of the dealers had been cancelled between November 2009 and April 2013. Thereafter, assessment of these dealers was conducted during the year 2014-15 and total demand of ₹ 1.89 crore was raised, which remained unpaid (October 2016). Audit observed

that refund had been allowed without ensuring that all dues have been paid. This resulted in revenue loss of ₹ 1.89 crore.

1.2.5 Non-recovery of interest on delayed payment of demands

Section 42(2) of DVAT Act stipulates that ‘when a person is in default in making payment of any tax, penalty or other amount due under this Act, he shall be liable to pay simple interest at an annual rate of 15 *per cent*, from the date of such default till the date of payment.

Analysis of the “Payment Module” of DVAT system revealed that in three² demand cases, the dealers deposited the amount after the expiry of due date with delay ranging between 35 days to over three years but the department did not impose interest of ₹ 73.26 lakh on account of such delay.

On being pointed out, the Department replied (September 2016) that recovery of ₹ 0.92 lakh has been made in one case.

1.2.6 Under-utilisation of Recovery Branch

The DTT in its circular dated 29 August 2007 allocated the following works to Recovery Branch (RB): (i) to deal with the recovery cases prior to assessment year 1992-93, (ii) setting up of targets for all wards at the beginning of each financial year, (iii) to compile weekly and monthly ward-wise recovery report, (iv) to inform the liquidator appointed by various courts about the dues of the department after obtaining information from all the zones of the department, and (v) to deal with the court cases related to Recovery Branch.

Audit noted the following-

(i) Recovery Branch had neither set up targets for the wards at the beginning of each financial year nor compiled weekly and monthly ward wise recovery report. Further, RB does not have access to the database of the dealers against whom demands are pending and cases where the dealers have filed objections against the assessment orders passed by the Assessing Authorities; and

(ii) RB is only handling dealers having individual demand of more than ₹ 10 crore, which pertains to only 160 dealers out of total of 3.19 lakh dealers as on 31 January 2015. In respect of the cases having demand amount of less than ₹ 10 crore, the ward officers and zonal in-charge are competent to take action against the defaulting dealers.

Thus, the Recovery Branch was not fully performing the functions for which it was setup. This resulted in ineffective monitoring of pending demand cases and non-initiation of recovery proceedings against defaulting dealers.

² (i)TIN- 07310197454, (ii) TIN- 07550236704, (iii) TIN- 07570184216.

(ii) Department of Excise, Entertainment and Luxury Tax

Excise Supply Chain Information Management System (ESCIMS) was introduced in December, 2013, for streamlining the revenue collection process for excise, luxury and entertainment tax collection and reconciliation, submission of excise, luxury and entertainment tax returns as well as inbuilt facilities for registration and tracking of grievances. The complete database for the year 2012-13 and 2013-14 was not made available to audit, however, analysis of the database for the year 2014-15 and scrutiny of records furnished to audit revealed the following:

Excise Branch

1.2.7 Non-recovery of outstanding dues from the defaulters

Section 29(1) of the Delhi Excise Act, 2009 provides that all excise revenue, payable to the Government under this Act, may be recovered from the person liable to pay the same or his legal successor or from his surety or his agent as if they were the arrears of land revenue (ALR). Further, any violation of the terms and conditions of grant of license attracts penalty.

Audit noted that in 38 cases of penalty and miscellaneous payment orders issued during 2014-15, the licensees had not paid the outstanding dues of ₹ 12.91 lakh. However, no action was taken by the Department to recover the same under the Section 29 of the Delhi Excise Act, even after the lapse of more than one year. The Department stated (October 2016) that recovery notices have now been issued to concerned licensee for pending payments.

Entertainment and Betting Tax Branch

1.2.8 Non-imposition of penalty for failure to file returns

The Delhi Entertainment and Betting Tax Act, 1996 (DEBT Act) provides that proprietors of entertainment should pay their dues as per timelines and submit their returns. The tax/return is required to be furnished monthly by hotel/restaurant with cable/ Direct to Home (DTH) connection; Multi Service Operator (MSO)/DTH operators; cable TV operators and weekly for cinema halls; video games parlours and amusement parks/fun parks. Section 33 of DEBT Act stipulates imposition of penalty not exceeding two thousand rupees per default for any failure to comply with the provisions of this Act.

Audit noted that during the period 2014-15, there were 751 assesses³ of Entertainment Tax who had defaulted in filing the return for varying periods. However, the department took no action to impose penalty as stipulated in the Act. At the maximum rate provided in the Act for not filing return, the amount of penalty works out to ₹ 1.75 crore under Section 33 of DEBT Act was also payable.

³ 604 hotels/restaurants with cable/DTH connection, 21 MSO/ DTH operators, 58 cable TV operators, 45 cinema halls, 11 amusement parks/fun parks and 12 video games parlours.

Luxury Tax Branch

1.2.9 Non-assessment of assesses who failed to file return and pay tax

Section 12(1) of Delhi Tax on Luxuries Act, 1996, (DTL Act), provides that every registered proprietor shall furnish returns for such period, by such dates, and to such authority, as may be prescribed : provided that, the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such proprietor from furnishing such returns or permit any such proprietor: (a) to furnish them for such different period; or (b) to furnish a consolidated return relating to all or any of the places of business of the proprietor in the National Capital Territory of Delhi for such period, or for such different periods, to such authority, as he may direct. Section 13(1) provides that the amount of tax due from a proprietor liable to pay tax shall be assessed separately for each year during which he is liable; provided that, the Commissioner may, subject to such conditions as may be prescribed, assess the tax due from any proprietor during a part of a year.

Audit noted the following:

(a) During 2014-15, there were 606 assesses of Luxury Tax who had not filed the returns/paid the tax. Further scrutiny revealed that 539 assesses had defaulted in filing their returns while 67 assesses defaulted in paying their full tax. However the department did not levy penalty under Section 16 of the DTL Act which is equal to the tax due. In the absence of data on the returns and tax due, audit could not calculate the tax liability of these defaulters and penalty likely to be imposed. The Department stated (October 2016) that notices are being sent to the defaulters who failed to file return/pay tax within the stipulated time period for producing documents on the basis of which assessments would be done.

(b) As per the Demand Collection Register (DCR), demand of ₹ 8.42 crore was pending even after a lapse of one to four years in 244 cases though it was to be deposited within the date specified in the demand notice which is normally 30 days. However, no action had been taken under Section 18(5)/Section 21 of the DTL Act, 1996 to recover the same. The Department stated (October 2016) that recovery proceedings have been initiated against the defaulters and recovery certificates have been issued in 85 cases. The process of issuing recovery certificates in rest of the cases is going on.

(c) Section 16(2) of the DTL Act envisages that a person is liable to pay simple interest at the rate of two *per cent* of the tax for each month if he fails to make the payment within the stipulated time. In 191 cases, the assessee deposited the demand of tax with delay ranging between one day to over three years. However, the department had not levied any interest for delayed deposit. This resulted in non-levy of interest of ₹ 6.47 lakh.

(d) In nine cases, the assessment was complete (between April 2012 and March 2015) creating additional demand of ₹ 98.90 lakh against which the assesses had paid only ₹ 43.31 lakh. This resulted in short realisation of ₹ 55.59 lakh. In addition, interest was also leviable. The Department stated (October 2016) that the recovery proceedings have been initiated and recovery certificates are being issued.

(e) As per the Section 13(5) of DTL Act, all remand cases are to be re-assessed by the Assessing Authorities (AA) within one year from the date of receipt of order of the Appellate Authority. Audit noted the following-

(i) 123 cases involving ₹ 22.08 crore were remanded back to the AA during April 2011 to August 2015 for re-assessment. Of this, 32 cases involving amount of ₹ 3.04 crore were not available. In the absence of files relating to remand back cases, audit could not ascertain the status of re-assessment. The Department stated (October 2016) that in cases which were remanded back by the appellate authority for re-assessment, the files of five cases involving ₹ 2.62 lakh have been located and found that re-assessment orders have been issued. Efforts are being made to locate other files also.

(ii) In 35 cases involving ₹ 47.64 lakh, demand letters were issued on the basis of re-assessment between February 2012 and February 2016 after being remanded back by the Appellate Authority. However, the assesses are yet to pay the demand amount though the date specified in the demand notice has lapsed and the cases were not sent to Collector for recovery as land revenue as required under section 18(5) of the DTL Act. The Department stated (October 2016) that recovery proceedings had been initiated and recovery certificates issued.

(iii) The Appellate Authority had dismissed appeals filed by assesses in 18 cases during April 2013 to September 2015 and upheld demand of ₹ 74.36 lakh created by the AAs. However, payment of only ₹ 6.97 lakh in respect of six cases has been received and luxury tax of ₹ 67.39 lakh in respect of remaining 12 cases was outstanding. The department had not taken any action to refer the cases for recovery as land revenue. The Department stated (October 2016) that recovery proceedings had been initiated and recovery certificates issued.

1.2.10 Ineffective system of monitoring of arrears

(a) Non-maintenance of records to watch the arrears

For monitoring of arrears, centralised up-to-date database showing assessee-wise detail of outstanding amount in the beginning of year, addition, recovery during the year and outstanding amount at the end of the year is required to be maintained. Audit noted that there is no system of maintaining a consolidated database of arrears to watch position of arrears of revenue. The Commissioner, DEELT stated (May 2016) that w.e.f. December 2013, a new computerised system has been

introduced and the data relating to arrears of revenue has been migrated from old system, but it could not be integrated completely in new system so far.

The Department stated (October 2016) that in Luxury Tax branch, a system has been developed to watch demand, collection and revenue of an assessee with effect from the current financial year and in respect of Entertainment Tax branch, a register regarding demand and collection has been prepared on the basis of available records with effect from April 2011.

(b) Maintenance of Demand and Collection Register

Audit noted that Excise, Entertainment and Betting Tax branches did not maintain the DCR to watch the arrears due from the defaulters. In the DCR for 2012-13 and 2013-14 of Luxury Tax branch, demand was not entered for 17 cases involving ₹ 114.97 lakh while in the DCR for 2014-15, the date of service of assessment order, due date of payment, payment made and actual date of payment were not found entered in almost all cases. In absence of this, Audit could not ascertain total dues recoverable from the assesses.

The Department stated (October 2016) that in respect of Luxury Tax branch, the online system of DCR to monitor demands and payments of the assesses has been implemented with effect from 01 April 2016 and updating of data base for DCR of previous years (2011-12 to 2015-16) has been undertaken. In respect of Entertainment Tax, it was stated that a register regarding demand and collection has been prepared on the basis of available records. Further, Restaurant branch (State Excise) intimated (October 2016) that it is working to monitor the penalty/miscellaneous payment imposed on the licensee more efficiently in future.

1.2.11 Excise Supply Chain Information Management System (ESCIMS)

The computerised ESCIMS was introduced by the DEELT with the objective of digitization and streamlining the complete process of revenue collection. The system was intended to assist the Department in conducting assessment, keeping a track of revenue collection and dues recoverable from the assesses. However, analysis of the database of ESCIMS revealed system deficiencies as detailed below.

(a) The ESCIMS has a module for regular assessment as well as for assessment of defaulter licensees. The Luxury Tax and the Entertainment and Betting Tax branches did not utilise this module and continued with the manual system of assessment. The Department stated (October 2016) that in respect of Luxury Tax, assessment module is now functional and assessments in the current financial year are being done through online assessment module.

(b) Data analysis of DCR in respect of Luxury Tax revealed that input controls intended to ensure data integrity were absent in the application as:

- in 56 out of 252 assessment cases for the period 2012-13, where tax/ interest/penalty payable was above ₹ 10,000, the payment made by assesses against assessment was not shown in specifically designed “Luxury Tax Assessment Ledger”;
- dates of assessment orders and their serving to the assesses were not shown in the database in 237 and 36 cases pertaining to years 2012-13 and 2013-14 respectively;
- in 507 and 397 cases pertaining to years 2012-13 and 2013-14 respectively, the sum of tax, penalty and interest do not tally with the total dues reflected in the data;
- in 336 and 296 cases pertaining to years 2012-13 and 2013-14 respectively, the difference between total tax due and actual tax paid, does not tally with balance amount payable as shown in the data; and
- in a number of cases, the same tax period was repetitively shown against several payment transactions, having different dates.

The Department stated (October 2016) that the matter of streamlining the Luxury Tax Module of ESCIMS is being taken up with M/s Tata Consultancy Services (TCS) on the issues raised by the audit.

(c) Database for the period 2012-13 to 2014-15 in respect of Entertainment and Betting Tax Branch revealed that in most of the cases, the period for which the payment was made by the assesses was not mentioned due to which the authenticity of payments made could not be verified in audit. The Department stated (October 2016) that the system is not reflecting the data properly and efforts are being made to obtain the requisite information from the concerned licensees and in case of any mismatch/non-payment/delayed payment, action will be taken to recover the tax due along with interest and penalty.

(d) As per Schedule-III of the Master Service Agreement of ESCIMS between DEELT and TCS, there is a provision for six-monthly audit by the Project Director, during the Project Implementation Phase and thereafter during the Operation Management Phase. However, audit noted that no such audit was conducted. The Department stated (August 2016) that audit report could not be completed as National Institute for Smart Government-Project Monitoring Unit team left the department on account of completion of its tenure, however, the Department is taking appropriate action for auditing the ESCIMS project. It assured that the audit report will be furnished after the requisite audit process is completed.

1.2.12 Conclusion

Thus, non-enforcement of the provisions in the Acts for recovery of government revenues as arrears of land revenue resulted in increase in arrears from ₹ 15,249.16 crore at the start of 2012-13 to ₹ 20,039.34 crore at the end of

2014-15. In DTT, absence of a system of verification of payment data and refunds, coupled with flaws in system design led to incorrect depiction of adjustment of demands which are still outstanding. The DTT allowed refunds to the cancelled dealers without ascertaining their tax liabilities. The cancellation of registration and non-initiation of recovery process against these dealers further reduce the possibility of realisation of the outstanding dues. The scope of functioning of Recovery Branch was severely restricted as it did not have access to the complete database of all outstanding demand cases. In DEELT, the assessment of defaulters was not conducted to determine the tax liabilities in Entertainment and Luxury Tax Branch. Demand and Collection Registers had not been prepared by the Excise and Entertainment Tax Branches whereas in Luxury Tax Branch, it was not maintained properly which adversely affected the monitoring of the outstanding dues. There were system deficiencies in ESCIMS which resulted in non-achievement of desired level of effective tax administration.

1.3 Irregular allowance of concessional rate of Tax

Irregular allowance of concessional rate of tax on Forms 'C' by two assesseees resulted in short levy of tax of ₹ 0.58 crore. In addition, interest of ₹ 0.39 crore and penalty of ₹ 0.57 crore were also leviable.

As per Section 8(1) of the CST Act, 1956, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, shall be liable to pay tax at the rate of two *per-cent* of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, whichever is lower. Section 8(4) of the CST Act, 1956, provided that a dealer furnishes to the prescribed authority a declaration in Forms 'C' duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in the prescribed manner. Further, Section 86(15) of DVAT Act, 2004 stipulates that the dealer shall be liable to pay, by way of penalty, a sum of one lakh rupees or the amount of the tax deficiency, if any, whichever is greater. Interest shall also be payable under Section 42(2) of the DVAT Act for default in making the payment of any amount.

(i) Audit scrutiny of records of Ward-93 revealed that assessment of a dealer⁴ for the year 2011-12 was completed in September 2013 at turnover of ₹ 2.90 crore. This included inter-state sale of ₹ 2.66 crore against Forms 'C'. Audit scrutiny revealed that concessional sale of ₹ 1.46 crore was allowed on two Forms 'C' which were not in the name of the selling dealer. This resulted in irregular allowance of concessional sale of ₹ 1.46 crore involving tax effect of ₹ 4.39 lakh. In addition, interest of ₹ 2.69 lakh and penalty of ₹ 4.39 lakh were also leviable.

⁴ TIN 07660103996

(ii) Scrutiny of assessment records relating to Ward 201 revealed that a dealer⁵ filed returns for the assessment year 2011-12 declaring Gross Turnover of ₹ 43.19 crore including inter-state sale of ₹ 20.26 crore against Forms ‘C’. Out of ₹ 20.26 crore, the dealer claimed and was allowed (April 2014) concessional rate of tax on inter-state sale of ₹ 5.18 crore against six Forms ‘C’ received from registered dealers of the States of Manipur and Nagaland. These Forms were cross verified from the issuing states and it was found that excess inter-state sale of ₹ 2.44 crore (₹ 2.54 crore – ₹ 0.10 crore) was claimed by the assessee in respect of four Forms ‘C’ while the remaining two Forms involving sale of ₹ 2.64 crore were not issued to the purchasing dealer. This resulted in irregular allowance of concession of ₹ 0.53 crore. In addition, interest of ₹ 0.36 crore and penalty of ₹ 0.53 crore were also leviable.

On being pointed out, the department stated in September 2016/October 2016 that for (i) the action of re-assessment is under process and for (ii) the assessment of the dealer has been completed regarding evasion of tax in the year 2011-12 and a demand of ₹ 0.93 crore including interest of ₹ 40.03 lakh and penalty of ₹ 0.53 crore has been created against the dealer.

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

1.4 Non-recovery of demand and consequential loss of interest

The Department failed to recover demand of ₹ 2.84 crore from the dealers whose registration had been cancelled. It also resulted in loss of interest of ₹ 0.38 crore.

Section 22(9) of DVAT Act 2004, states that the cancellation of registration shall not affect the liability of any person to pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Act.

Audit scrutiny of the records of two wards⁶ for the years 2010-11 to 2013-14 revealed that the assessment of three dealers was completed under Sections 32 and 33 of the DVAT Act 2004 and Section 9(2)⁷ of the CST Act between February 2013 and June 2015 creating an additional demand of ₹ 2.84 crore (tax ₹ 0.81 crore; interest ₹ 0.32 crore and penalty ₹ 1.71 crore) though their registration had been cancelled by the department.

Further, it was noticed that the demand is still pending even after lapse of 15 months to four years which also resulted in loss of interest of ₹ 0.38 crore.

⁵ TIN 07280345153

⁶ Ward: 4 and 67.

⁷ The notice of assessment of penalty under section 9(2) of CST Act and liability to pay penalty under Section 86(9) of DVAT Act, 2004.

On being pointed out (June to August 2016), the Department in its reply stated that the recovery proceedings have been initiated against the above dealers and notices have been issued.

The matter was reported to the Government in August 2016; their reply was awaited (November 2016).

Department of Revenue

1.5 Short levy of stamp duty and registration fees

Incorrect categorisation of locality by the Sub-Registrar offices resulted in short levy of stamp duty and registration fee of ₹ 36.44 lakh.

GNCTD notified (December 2012) revised minimum circle rates for valuation of land and immovable properties. Localities in Delhi were categorised from 'A' to 'H' and minimum rates were prescribed for each category.

Test check of the records of two Sub-Registrar offices⁸, for the year 2014-15, revealed incorrect categorisation of localities by the registering authorities in 31 cases resulting in application of lower circle rates and consequent short levy of stamp duty and registration fee of ₹ 36.44 lakh.

On being pointed out, the Department provided (June 2016) the list of category of revenue villages as per circle rate notification which confirms incorrect consideration of category of locality undertaken by the department.

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

⁸ SR-I (Kashmere Gate), SR-IX (Kapashera).

