REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA

FOR THE YEAR ENDED
31 MARCH 2011

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

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PREFACE

This Report for the year ended 31 March 2011 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising Sales Tax, State Excise, Land Revenue, Taxes on Motor Vehicles, Stamp Duty and Registration Fees, Other Tax and Non-Tax Receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2010-11 as well as those noticed in earlier years, which could not be included in previous reports.

OVERVIEW

This Report contains 31 paragraphs including four Performance Audits relating to non/short levy of taxes, duties, interest and penalty, etc., involving ₹ 399.64 crore. Some of the major findings are mentioned below:

I. General

- The total receipts of the State during the year 2010-11 were ₹ 1,05,855.87 crore, of which the revenue raised by the State Government was ₹ 83,240.19 crore and receipts from the Government of India were ₹ 22,615.68 crore. The revenue raised constituted 79 *per cent* of the total net receipts of the State. The receipts from the Government of India included ₹ 11,419.79 crore on account of the State's share of divisible Union taxes which registered an increase of 38.45 *per cent* over the previous year and ₹ 11,195.89 crore received as grants-in-aid.

  (Paragraph 1.1.1)

- At the end of June 2011, 10,293 inspection report paragraphs involving ₹ 1,722.20 crore relating to 4,682 inspection reports issued upto 31 December 2010 remained outstanding.

  (Paragraph 1.2.1)

- 680 tax records of dealers for the period 2002-03 and 2004-05 to 2010-11, pertaining to the Sales Tax Department were not made available to us during those years. Of these in respect of 455 cases, tax involved was ₹ 98.62 crore and in the remaining 225 cases the tax effect was not available in the Departmental records.

  (Paragraph 1.2.3)

- During the period 2001-02 to 2009-10, the Department/Government accepted audit observations involving ₹ 3,451.40 crore, out of which an amount of ₹ 1,085.13 crore was recovered till 31 March 2011.

  (Paragraph 1.2.6)

- Test check of the records of 1,216 units of Sales Tax, Stamp Duty and Registration Fees, Land Revenue, Motor Vehicles Tax, State Excise, Forest Receipts and other tax and non-tax receipts conducted during 2010-11 revealed under assessments/short levy/loss of revenue amounting to ₹ 909.52 crore in 6,655 cases. During the course of the year, the Departments accepted under-assessments, short levy, etc., of ₹ 274.44 crore in 2,372 cases of which 334 cases involving ₹ 93.09 lakh were pointed out in 2010-11 and rest in earlier years. Of these, the Departments recovered ₹ 261.79 crore during 2010-11.

  (Paragraph 1.5.1)

II. VAT/Sales tax

A Performance Audit on **"Cross verification of Declaration forms used in Inter-State Trade"** revealed as under:

- We noticed that though the Department cancelled 20,542 Declaration forms during the period 2005-06 to 2009-10, these cancelled forms were not forwarded to the Record Section for cancellations and for notifying in the official Gazette, to prevent their misuse**.**

  (Paragraph 2.2.8.4)

- We observed that the Department did not keep a sample of the colour, design and format of the forms prevailing in different States for comparison in order to identify the fake or forged Declaration forms.

(Paragraph 2.2.8.6)

- Internal audit of stationery branch, central repository wing and cross verification cell was not conducted.

(Paragraph 2.2.8.7)

- We noticed that inter-State sales valued at ₹ 354.20 lakh were allowed at the concessional rate on invalid 'C' forms furnished by the purchasing dealers which did not contain the details of registration number and date. Assessments were finalised belatedly either without Declaration forms or on the basis of duplicate forms. Branch transfers were allowed by the Assessing Officers on 'F' forms which did not indicate goods received by the transferee in nine cases and in three cases irregular acceptance of 'F' forms pertaining to more than one calendar month resulted in non levy of tax of ₹ 4.15 crore.

(Paragraphs 2.2.9.2, 2.2.9.3 and 2.2.9.4)

- Cross verification of transactions of goods sold/purchased and stocks transferred in and out of the State on 'C' and 'F' forms, respectively revealed issuance of fake forms, variation in nature of commodity, variation in name of the dealers etc., excess accountal/suppression of sales/purchase turnover involving potential tax revenue of ₹ 6.94 crore in respect of 516 Declaration forms.

(Paragraph 2.2.10)

Compliance Audit

- Non-verification of claim of 'set-off ' while accepting the return of one dealer resulted in excess grant of set-off of ₹ 12.94 lakh. At our instance the Department raised demand of ₹ 35.08 lakh inclusive of interest and penalty leviable.

(Paragraph 2.4.1)

- Irregular grant of exemption from payment of tax against form 'H' relating to , sales made in the course of export, resulted in underassessment of tax amounting to ₹ 49.78 lakh

(Paragraph 2.4.3.1 & 2.4.3.2)

- Incorrect grant of 'set-off ' under the provisions of Bombay Sales Tax Rules in assessments of three dealers resulted in underassessment of tax of ₹ 65.97 lakh.

(Paragraph 2.4.4.1 to 2.4.4.3)

III. Stamp duty and Registration fees

- Undervaluation of property in seven instruments registered in Mumbai/Thane registering offices resulted in short levy of stamp duty of ₹ 2.82 crore.

(Paragraph 3.3.1)

- Failure to adopt the value of movable assets in one instrument of conveyance resulted in undervaluation of property and consequent short levy of stamp duty of ₹ 1.04 crore.

(Paragraph 3.3.2)

- Misclassification of instrument led to short levy of stamp duty of ₹ 68.16 lakh.

(Paragraph 3.3.3)

IV. Land Revenue

A Performance Audit on **"Sale/Allotment of land and levy and collection of conversion charges"** revealed as under:

- Database of land available in the State was neither maintained at Government level nor in the Collectorates and thereby the Government did not keep track of cases relating to breach of conditions of allotment of land, cases where lease period have expired, change in use of land, and dereservations of land etc

(Paragraph 4.2.8)

- There were irregularities in allotment of land for housing purposes to public representatives/land allotted in violation of conditions regarding income limits/to applicants already owning properties in Mumbai.

(Paragraph 4.2.9)

- Land for educational purposes continued to be allotted in Mumbai on basis of Government Resolutions which were 18 to 35 years old, at throwaway prices thereby jeopardising the revenue interests of the Government, though educational activities are no longer only philanthropic in nature. One such case was where the R&FD cancelled the transfer of land to BMC, Mumbai and allotted the land (March 2008) to Arpan Foundation at a meagre amount of ₹ 0.90 lakh as against the market value of ₹ 6.53 crore (as per Ready Reckoner of 2008), for setting up a school on American school pattern.

(Paragraphs 4.2.10.1 and 4.2.10.2)

- Land was allotted in Nashik to Mumbai Education Trust (MET) on occupancy right basis for Medical and Engineering College of which one Shri Samir Bhujbal was a trustee for ₹ 9.08 lakh, as against market value of the land of ₹ 9.39 crore (as per Ready Reckoner of 2008), by dereserving land belonging to the State PWD and meant for mining purposes. Further, the entire land admeasuring 91,300 sq.mtr. allotted in November 2003/January 2009 was still lying unutilised as of July 2011.

(Paragraph 4.2.10.3)

- The Collector, Pune did not resume land of five acres allotted to Gyaneshwari Trust Pune, for running an English-Marathi medium school though the land whose market value was ₹ 11 crore in 2007, was not utilised for the said purpose since its allotment in November 2008

(Paragraph 4.2.10.4)

- Land allotted in Andheri, Mumbai on concessional lease rent basis for a period of 30 years to a public trust "Sindhudurg Shikshan Prasarak Mandal", Kankavli, Sindhudurg for educational purposes/community centre, was misutilised for commercial banquet hall purposes. The Collector, Mumbai had no system in place to detect such violations for resumption of Government land.

(Paragraph 4.2.11)

- The Vasant Dada Patil Pratishthan undertook construction activity which was in violation of the terms and conditions under which land was allotted, but no action was taken by the Department to resume the land to the Government and also to recover the premium of ₹ 17.30 crore from the Pratishthan, though four years have elapsed after the breach of conditions came to the notice of the BMC, thereby conferring undue benefits to the allottee.

(Paragraph 4.2.12)

- Though several allottees in Pune/Nashik/Thane had not utilised lands allotted to them by the Government, for five to 54 years, since allotment, these lands were not resumed by the Government for breach of conditions. The cost of these lands allotted for residential/educational/recreational purposes aggregated to ₹ 93.46 crore as per current market value.

(Paragraph 4.2.13)

- The Government/BMC had irregularly granted redevelopment rights of land to Simplex Mills Mumbai and Jakhubhai Lalji Dal Mill Co. Ltd, instead of resuming the land, though the lease of their land had expired in 1983/1992 and had not been renewed.

(Paragraph 4.2.14)

- Huge tracts of land comprising 532.78 hectares granted to the Maharashtra Industries Development Corporation (MIDC) in various districts were lying idle since four to 22 years from their allotment. Similarly, 446.86 hectares of land granted to other five State Corporations were lying unutilised for various periods ranging from five to 36 years, in absence of a periodic review of utilisation of land

(Paragraph 4.2.15)

- Ownership of land originally allotted to Malti Vasant Heart Trust (Nitu Mandke and family) for a hospital at Andheri, Mumbai was changed by agreements with the Reliance Dhirubhai Ambani Group of Industries, a corporate Group, without prior approval of the Government. The Trust was liable to pay unearned income of ₹ 174.88 crore, which was not recovered by the Government in absence of an

independent mechanism to enquire timely, about changes in ownerships of original allotments of land.

We also noticed 18 cases of changes in ownership of land in Mumbai, where the Department had not recovered unearned income of ₹ 37.94 crore.

(Paragraph 4.2.16)

- Unjustified reduction of ready reckoner rates of two villages alone in Thane District, resulted in loss of revenue of ₹ 63.57 crore.

(Paragraph 4.2.17)

- Non-renewal of lease agreements and delay in fixation of lease rent on part of the Government resulted in non-realisation of lease rent of ₹ 17.60 crore.

(Paragraph 4.2.18)

- Non-mentioning of mandatory conditions of time frame to commence activities, in contraventions of Rules resulted in non-resumption of land and undue benefits to the allottee on land allotted in Mumbai Suburban, for a dental college to Manjara Educational Trust

(Paragraph 4.2.19)

- Non-consideration of market value resulted in short recovery of occupancy price of ₹ 2.04 crore, in one case of a co-operative housing society in Mumbai and in two cases in Pune for land allotted for educational purposes

(Paragraph 4.2.20)

- Non-finalisation of annual lease rent on land allotted to the Piramals (HUF) at Worli, Mumbai, resulted in non-recovery of revenue of ₹ 3.75 crore.

(Paragraph 4.2.23)

- Irregular sale, non-taking physical possession of surplus lands and absence of monitoring mechanism was noticed in respect of surplus land falling under the Urban Land Ceiling and Regulation Act.

(Paragraphs 4.2.25.1 to 4.2.25.3)

- Though there was breach of conditions, land allotted to President, Nagpur Zilla Congress Committee was not resumed by Nagpur Improvement Trust after cancellation of the allotment in April 2005.

(Paragraph 4.2.26)

Compliance Audit

"Development of Hill Station at Lavasa, Pune"

- Hill-station type areas in Pune District were identified without any expert study or survey and Lavasa Corporation Ltd, the project proponent (developer) was selected without any transparency. The project was driven by private interests rather than public interest.

  The State Government's policy decision in November 1996 to develop townships in hill-station type areas with participation of the private sector, was implemented without wide publicity/inviting Expressions of Interest, resulting in only one project namely the Lavasa, being sanctioned in June 2001 in Pune district. Though the policy is now more than a decade old no other hill stations have been developed with private participation in other parts of the State resulting in skewed rather than balanced development in the State.

  (Paragraph 4.3.7)

- Grant of Special Planning Authority (SPA) status to Lavasa Corporation Ltd. (LCL), the project developer was the very first of its kind without a precedent in the State and instead of closely monitoring all aspects of the project implementation Government abdicated monitoring of the project resulting in extension of undue favours/benefits to the developer.

  (Paragraph 4.3.9)

- The Special Planning Authority (SPA) approved plans and layouts of Lavasa Corporation(LCL) which were not in conformity with the Maharashtra Regional Town Planning Act, 1966 (MRTP Act, 1966) and Development Control Regulations by permitting an increase of 67.33 ha in the layout of the area to 681.27 ha. for construction activities which was also inclusive of the non-submergent land admeasuring 12.368 ha. taken on lease from MKVDC; falling within a distance of 500 mtr from the HFL(high flood level) of Warasgaon Lake and dam for irrigation project constructed on Mose river. The Director of Town Planning, Pune also did not monitor these irregular modifications though he was a member of the Committee, thereby facilitating crucial changes in violation of the rules and procedures prescribed for ecological safety.

  (Paragraph 4.3.10)

- The State Government gave environmental clearance to the project without referring the project to the GoI, by stipulating that, no development was to be made in area beyond a height of 1,000 mtrs and above since development beyond 1,000 mtrs required clearance from the Ministry of Environment and Forests (MoEF). The developer exceeded these limits and non-compliance of Environment (Protection) Act, 1986/non-monitoring of the works by the Environment Department resulted in stoppage of work (October 2008, June 2009 and November 2010).

  (Paragraph 4.3.11)

- The Maharashtra Krishna Valley Development Corporation Ltd. (MKVDC) irregularly leased land in its possession admeasuring 141.15 ha. (128.78 ha. of submergent area and 12.368 ha. of non-submergent area) in Mulshi Taluka to LCL in August 2002 at a nominal lease rent of ₹ 2.75 lakh per annum, which they had acquired for irrigation purposes.

  Permission given to LCL for construction of *bandharas* on Mose river valley was not only irregular but has adversely reduced water availability to Pune City and adjoining areas at the cost of public interest.

  (Paragraphs 4.3.12.1 and 4.3.12.2)

- LCL leased the land to private parties on long-term basis for 999 years of which the Government had no knowledge. An inquiry as to whether LCL purchased tribal land without prior permission is being conducted by the Collector, Pune.

  (Paragraphs 4.3.13 and 4.3.14)

- Lavasa Project being purely a commercial venture designed to reap rich dividends for itself from the appreciation of land prices, and the proposed activities of the project catering to the elite, we are of the opinion that the grant of exemptions and concessions from payment of stamp duty and registration fees and *nazrana* fees are unwarranted and devoid of subservience of any public interest. The concessions availed were ₹ 4.36 crore towards stamp duty and registration fees and ₹ 3.71 crore on account of *nazrana* fees.

  (Paragraph 4.3.16)

- Breach of provisions of the Bombay Tenancy and Agricultural Land Act 1948 and Maharashtra Agriculture Land (Ceiling on Holdings) Act, 1961, in 120 purchase transactions of *watan* and ceiling lands by LCL , which were in the knowledge of the Collector, Pune, resulted in irregular acquisition of land and non-realisation of *nazarana* fees amounting to ₹ 36.43 crore.

  (Paragraphs 4.3.17.1 and 4.3.17.2)

V. Taxes on Motor Vehicles

A Performance Audit on **"Computerisation in the Motor Vehicle Department"** revealed as under:

- VAHAN was implemented in 40 out of 46 RTO offices, since its inception in December 2006. Non-creation of State Register for Driving Licence and non-capturing of legacy data, the ultimate objective of creation of a State register and national database for registered vehicles/driving license was not fully achieved. Enforcement Module for prosecution cases was also not operationalised.

  (Paragraph 5.2.6 and 5.2.12)

- Instead of allotting registration numbers to vehicles serially the RTO officials skipped the serials through manual intervention. This resulted

in non-recovery of fees applicable to reservation of jumping numbers having possible revenue loss of ₹ 30.97 lakh.

(Paragraph 5.2.7.1)

- Incorrect categorisation of vehicles owned by companies as of individuals and imported vehicles as domestic, resulted in possible short levy of tax of ₹ 57.93 lakh.

(Paragraph 5.2.7.2)

- Delay in allotting registration numbers, though Departmental procedures were completed, resulted in allotment of numbers as per applicant's choice, without recovery of fees applicable for choice numbers involving possible revenue loss of ₹ 8.66 crore involving 39,611 vehicles.

(Paragraph 5.2.7.6)

- Sixteen vehicles were registered twice under Regional Transport Office (RTO), Pune as well as Dy. RTO, Pimpri-Chinchwad, since interconnectivity between the offices was not established.

(Paragraph 5.2.8.4)

- Issue of unauthenticated 'bogus' smart cards in respect of 65,171 Vehicle Registration Certificates and 3,34,806 driving licences in all the nine test checked offices defeated the objectives to issue secure smart card based licences and registration certificates.

(Paragraph 5.2.9.1 and 5.2.15.1)

- Lacunae in the Vahan system enabling the user to make use of the option to alter the component of interest amount resulted in possible non-levy of interest of ₹ 50.90 lakh.

(Paragraph 5.2.9.3)

- Despite contracting out on build-own-operate-transfer (BOOT) basis for issue of 'Smart Cards' for registrations/licences, we saw that only 8 *per cent* and 14 *per cent* smart card based registration certificates and driving licences respectively, were issued within the time frame for such services.

(Paragraph 5.2.10.1 and 5.2.16.2)

- Our analysis of 32,73,980 licence records on Sarathi system in Mumbai Region revealed that 5,378 persons bearing same name, father/husband's name and DOB have been issued 10,756 licences and 28 persons have been issued 92 licences. In six offices in the Nagpur Region 764 licenses were issued to 382 persons.

(Paragraph 5.2.14.1)

- Absence of guidelines in respect of job and responsibility for various stages of work flow and weak enforcement of safeguards in the system exposed the system to the risk of unauthorised access. At RTO, Andheri 79,464 unauthenticated driving licences were issued and 70 *per cent* of licenses issued in nine offices of Mumbai Region were with approvals of clerical staff instead of the RTOs concerned. Due to the deficient controls, absence of supervision checks and non-

operationalisation of MIS system available in Sarathi, resulted in the issue of unauthenticated licences.

(Paragraphs 5.2.15.3 and 5.2.15.4)

VI State Excise

A Performance Audit on **"Levy and Collection of State Excise Duty, Fees, Fines, etc."** revealed as under:

- In comparison to other bigger States like Andhra Pradesh, Tamil Nadu and Karnataka, the State's excise revenue collection were the lowest despite highest population. The per capita realisation of revenue from State excise duty was the lowest in the State though liquor consumption was highest when compared with these States, wherein Corporations had been established for regulating and canalising the supply of liquor.

(Paragraph 6.2.7)

- Internal Audit Control was inadequate and also ineffective as there were short falls in inspections, non-submission of returns and huge pendency in clearance of observations made by the Divisional Deputy Commissioners.

(Paragraph 6.2.8)

- There was shortage of staff in Class II and Class III positions coupled with unequal deployment of staff, depending upon the type of licence and turnover. For instance, in Seagram Ltd., Nashik, which had three licences for manufacture of rectified spirit and the unit's revenue contribution was ₹ 329 crore, it had nine excise officials posted while United Breweries Ltd Unit I at Nashik district with similar licences and comparable revenue contribution of ₹ 358 crore had just two officials and partial supervision by a Dy. Commissioner.

(Paragraph 6.2.9)

- The efficacy of functioning of flying Squads for State Excise related offences was adversely impacted with 72.77 *per cent* of cases registered against unidentified offenders. In 10 districts the confiscated goods valued at ₹ 27.35 crore were not auctioned off and in remaining 19 districts only an amount ₹ 52.11 lakh was realised from auction of confiscated goods valued at ₹ 71.28 crore.

(Paragraph 6.2.10)

- The Department had not adjudicated finally on offences relating to MRP violations on sale of country liquor resulting in loss of excise duty.

(Paragraph 6.2.11.1)

- In the case of Meher Distilleries Ltd. the lackadaisical attitude of the Government/Excise Department in stretching the issue of recovery for

almost eight years even after the High Court had decided the issue in favour of revenue, resulted in non-recovery of even the minimum revenue of ₹ 29.10 crore.

(Paragraph 6.2.12)

- Non-raising of demands for recovering differential amount of supervision charges of excise staff posted at 23 units, arising due to revision in pay had resulted in non-realisation of ₹ 1.46 crore for the period January 2006 to December 2009.

(Paragraph 6.2.13)

- Granting exemption in excise duty to wine manufacturers with the objective of popularising wine amongst consumers, did not serve its purpose in absence of any Departmental control on fixation of manufacturing cost/MRP of wine.

(Paragraph 6.2.14)

- Incorrect allowance of losses on beer bottles on removal from warehouses resulted in loss of revenue of ₹ 59.36 lakh for the period January 2008 to March 2011.

(Paragraph 6.2.15)

- The ban on issue of licences for retail trade of IMFL and CL (FL-II and CL-III), since 1973-74 though the State's population had doubled was unjustified as licences for sale of liquor to bars, clubs and beer shoppes were liberally granted to increase consumption of liquor. Further, 387 defunct licences were not put to use due to disputes etc. These policy issues affected Government revenue from excise duty in comparison to other large States.

(Paragraph 6.2.20)

VII. Other tax receipts

- Non/short recovery of entertainment duty from 445 cable operators resulted in non-realisation of ₹ 1.76 crore.

(Paragraph 7.3.1)

- Non-recovery of inspection fees from 134 consumers amounted to ₹ 30.26 lakh.

(Paragraph 7.6)

CHAPTER-I : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Maharashtra during the year 2010-11, the State's share of divisible Union taxes, grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

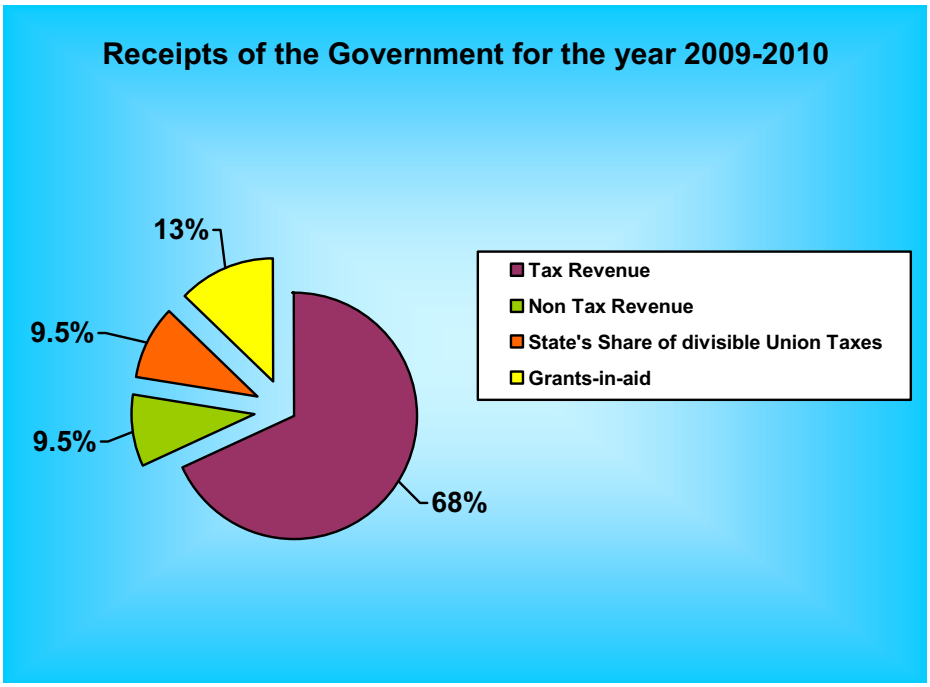
(₹ in crore)

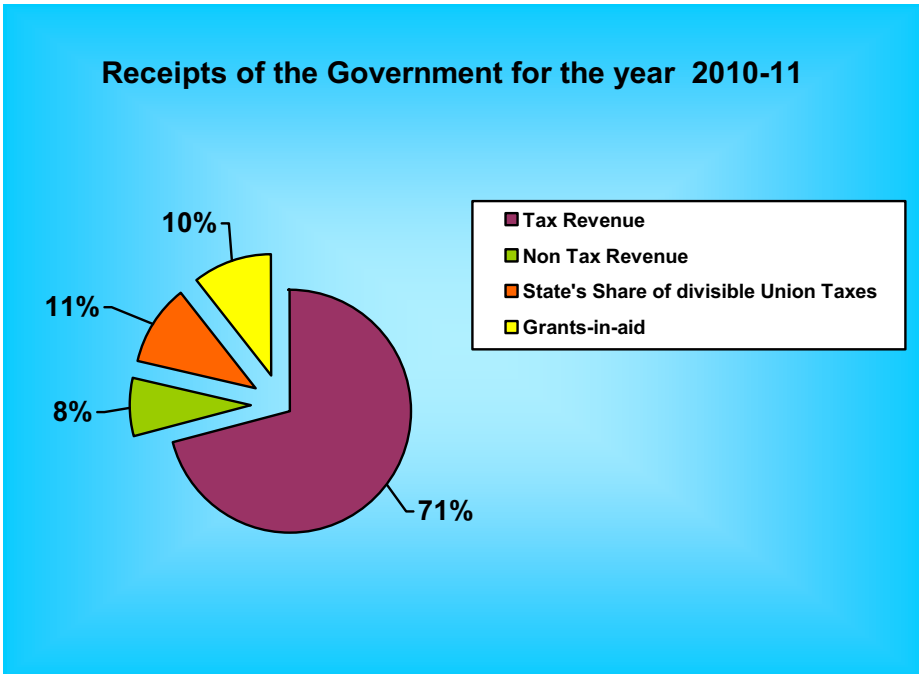
Sl. no.	Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
I.	**Revenue raised by the State Government**					
	• Tax revenue	40,099.24	47,528.41	52,029.94	59,106.33	75,027.09
	• Non-tax revenue[1]	6,706.50 (7,518.25)	16,935.25 (16,947.97)	9,750.77 (9,789.94)	8,263.97 (8,352.61)	8,213.10 (8,225.04)
	Total	**46,805.74 (47,617.49)**	**64,463.66 (64,476.38)**	**61,780.71 (61,819.88)**	**67, 370.30 (67,458.94)**	**83,240.19 (83,252.13)**
II.	**Receipts from the Government of India**					
	• State's share of divisible Union Taxes	6,022.76	7,597.22	8,018.41	8,248.12	11,419.79
	• Grants-in-aid	8,555.13	7,509.55	11,432.39	11,203.23	11,195.89
	Total	**14,577.89**	**15,106.77**	**19,450.80**	**19,451.35**	**22,615.68**
III.	**Total revenue receipts of the State Government**	**61,383.63 (62,195.38)**	**79,570.43 (79,583.15)**	**81,231.51 (81,270.68)**	**86,821.65 (86,910.29)**	**1,05,855.87 (1,05,867.82)**
IV.	**Percentage of I to III**	**76**	**81**	**76**	**78**	**79**

The above table indicates that during the year 2010-11, the revenue raised by the State Government was 79 *per cent* of the total net revenue receipts (₹ 1,05,855.87 crore) against 78 *per cent* in 2009-10. The balance 21 *per cent* of receipts during 2010-11 were received from the Government of India.

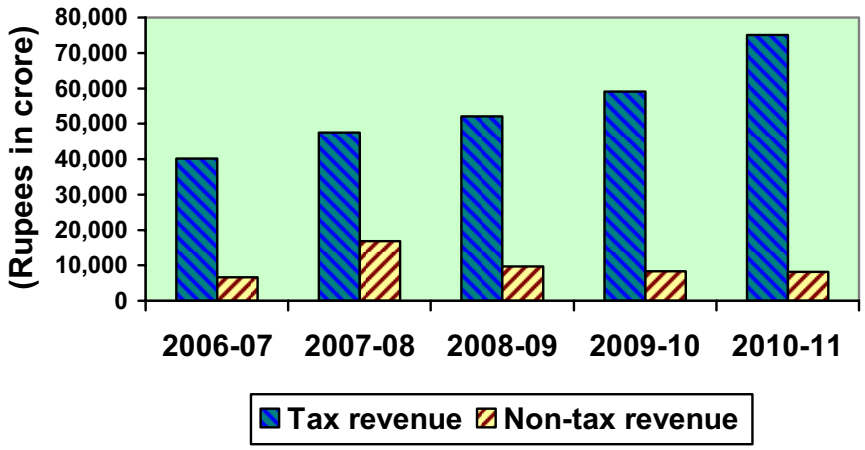
The comparative figures of sources of revenue for 2009-10 and 2010-11 and trend of growth of tax and non-tax revenue during the period 2006-07 to 2010-11 are shown below in the pie charts and the bar chart.

[1] Figures in brackets indicate gross receipts, the details of which are available in Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Maharashtra for the year 2010-11. The figures above those in brackets are lower because of netting of expenditure on prize winning tickets from Lottery receipts.


Receipts of the Government for the year 2009-2010
13%
9.5%
9.5%
68%
Tax Revenue
Non Tax Revenue
State's Share of divisible Union Taxes
Grants-in-aid


Receipts of the Government for the year 2010-11
10%
11%
8%
71%
Tax Revenue
Non Tax Revenue
State's Share of divisible Union Taxes
Grants-in-aid

Growth of tax and non-tax revenue from 2006-07 to 2010-11



As can be seen from the bar chart the tax revenue of the State increased by 87 *per cent* in 2010-11 as compared to 2006-07 and by 27 *per cent* when compared with the previous year. The non-tax revenue decreased by 52 *per cent* in 2010-11 as compared to the previous high in 2007-08.

1.1.2 The following table presents the details of tax revenue raised during the period 2006-07 to 2010-11:

(₹ in crore)

Sl. no	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Sales tax/VAT						
	• State sales tax, VAT etc.	21,583.06	24,368.22	27,805.30	30,170.70	38,934.47	(+) 29.04
	• Central sales tax	2,547.66	2,384.58	2,875.23	2,505.32	3,548.25	(+) 41.63
2.	State excise	3,300.70	3,963.05	4,433.76	5,056.63	5,961.85	(+) 17.90
3.	Stamp Duty and Registration fees	6,415.72	8,549.57	8,287.63	10,773.65	13,515.99	(+) 25.45
4.	Taxes and Duties on Electricity	1,577.19	2,687.87	2,394.86	3,289.32	4,730.26	(+) 43.81
5.	Taxes on Vehicles	1,841.06	2,143.11	2,220.22	2,682.30	3,532.90	(+) 31.71
6.	Taxes on Goods and Passengers	224.48	388.27	891.95	976.60	599.88	(-) 38.57
7.	Other taxes on Income and expenditure- Taxes on Professions, Trades, Callings and Employments	1,246.72	1,488.26	1,561.17	1,612.35	1,686.20	(+) 4.58

Sl. no	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
8.	Other Taxes and Duties on Commodities and Services	878.31	1,043.17	1,013.58	1,325.39	1,422.31	(+) 7.31
9.	Land Revenue	484.17	512.22	546.22	714.04	1,094.98	(+) 53.35
10.	Service Tax	0.17	0.09	0.02	0.03	0.00	
	Total	**40,099.24**	**47,528.41**	**52,029.94**	**59,106.33**	**75,027.09**	

The reasons for significant variation in the receipts in 2010-11 from that of 2009-10 in respect of principal heads of revenue as furnished by the departments are as under:

Sales Tax, VAT etc and Central Sales Tax: The increase was on account of better administrative control exercised by the Sales Tax Department, introduction of e-payment and improvement in defaulter follow-up.

The following Departments did not inform (September 2011) the reasons for variation, despite being requested (April 2011). However, the reasons for variations analysed by us from the Finance Accounts are as follows (figures in brackets indicate percentage of increase/decrease from the previous year's collections):

State Excise: The increase was mainly due to increase in collections of State excise duty on the sale of country fermented liquors (11 *per cent*), malt liquor (92 *per cent*), foreign liquors and spirits (59 *per cent*), commercial and denatured spirits and medicated wines (45 *per cent*) and receipts under services and service fees (287 *per cent*).

Stamp duty and registration fees: The increase was mainly due to increase in sale of non- judicial stamps (17 *per cent*), increase in receipts on account of duty on impressing of documents (37 *per cent*) and increase in receipts on account of registration fees (19 *per cent*).

Taxes and duties on electricity: The increase was mainly due to increase in receipts under taxes on consumption and sale of electricity (43 *per cent*) and Fees under the Indian Electricity Rules, 1956 (115 *per cent*).

Taxes on vehicles: The increase was mainly due to increase in receipts under Indian Motor Vehicles Act (30 *per cent*) and State Motor Vehicles Taxation Acts (32 *per cent*).

Land Revenue: The increase was due to increase in receipts on account of sale of Government Estates (191 *per cent*) and receipts under the head "other receipts" (102 *per cent*).

Taxes on goods and passengers: The decrease was found to be due to decrease in receipts under the sub-head "Tax on entry of goods into Local Areas" (39 *per cent*).

1.1.3 The following table presents the details of the non-tax revenue raised during the period from 2006-07 to 2010-11:

(₹ in crore)

Sl. no.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease(-) in 2010-11 over 2009-10
1.	Interest Receipts	2,503.92	1,170.17	1,016.67	1,342.00	1,421.70	(+)5.94
2.	Dairy Development	611.87	453.60	471.01	487.30	341.64	(-)29.89
3.	Other non-tax receipts	696.03	953.87	1,200.60	1,681.01	1,296.23	(-)22.89
4.	Forestry and Wild life	121.37	195.73	259.76	226.48	238.87	(+)5.47
5.	Non-ferrous mining and Metallurgical Industries	819.44	1,091.19	1,215.67	1,466.73	1,841.19	(+)25.53
6.	Miscellaneous General Services[2]	801.64	11,509.38	3,913.08	979.89	622.28	(-)36.49
7.	Power	133.83	344.07	413.28	456.61	485.42	(+)6.31
8.	Major and Medium Irrigation	444.93	626.41	631.77	812.58	729.54	(-)10.22
9.	Medical and Public Health	159.20	170.69	131.22	234.30	173.04	(-)26.15
10.	Co-operation	64.46	67.72	87.78	97.28	77.88	(-)19.94
11.	Public Works	154.09	101.91	154.77	162.31	166.38	(+)2.51
12.	Police	101.84	140.20	137.27	163.45	191.99	(+)17.47
13	Other Administrative Services	93.88	110.31	117.89	154.03	626.94	(+)307.02
Total		**6,706.50**	**16,935.25**	**9,750.77**	**8,263.97**	**8,213.10**	

The reasons for variations in the receipts for 2010-11 from that of 2009-10, in respect of principal heads of revenue though called for (April 2011) from concerned departments were not furnished (September 2011). However, some of the significant variations in the receipts during 2010-11 over those of the previous year as analysed by us from the Finance Accounts were as follows:

Non-ferrous, mining and metallurgical industries: The increase was mainly due to increase under the sub head "mineral concession fees, rents and royalties" (30 *per cent*) and "other receipts" (45 *per cent*).

[2] Includes net lottery receipts after adjustment of prize money paid.

Police: The increase was mainly due to increase in receipts under the head "receipts of State Headquarters Police" (44 *per cent*) and "other receipts" (67 *per cent*).

Other Administrative Services: The increase was mainly due to increase in receipts under the detailed head "Other receipts" of the sub head "60 – Other Services" (1551 *per cent*)

Dairy Development: The decrease was mainly due to less receipt from various Government Milk Schemes.

Miscellaneous General Services: The decrease was mainly due to decrease in receipts under the head "unclaimed deposits" (70 *per cent*) and "other receipts" (99 *per cent*).

1.2 Response of the Departments/Government to audit observations

The offices of the Principal Accountant General (Audit)-I, Mumbai and the Accountant General (Audit)-II, Nagpur (AsG) arrange to conduct periodical inspections of the various offices of the Government Departments to test check transactions of the tax and non-tax receipts and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. After inspections by field parties inspection reports (IRs) are issued to the heads of offices, with copies of the same to the next higher authorities. The Government of Maharashtra, Finance Department's circular dated 10 July 1967 provides for response by the executive to the IRs issued by the offices of the AsG, within one month, after ensuring action in compliance to the observations made during audit inspections. Serious irregularities are also brought to the notice of the heads of departments by the offices of the AsG. Half yearly reports are sent to the secretaries of the concerned departments in respect of the pending IRs to facilitate the monitoring of audit observations.

1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

Scrutiny of the inspection reports issued upto 31 December 2010 revealed that 10,293 observations relating to 4,682 IRs involving ₹ 1,722.20 crore, remained outstanding at the end of June 2011 as mentioned below, along with the corresponding figures for the preceding two years.

	30 June 2009	30 June 2010	30 June 2011
Number of outstanding IRs	4,672	4,681	4,682
Number of outstanding audit observations	10,101	9,811	10,293
Amount involved (₹ in crore)	1,154.08	1,419.02	1,722.20

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2011 and the amounts involved are mentioned below:

Sl. no.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1	Home	State Excise	125	206	9.16
2	Home	Taxes on vehicles	215	790	24.15
3	Revenue and Forest	Land Revenue	1,195	2,398	603.67
4	Revenue and Forest	Entertainments Duty	282	485	11.66
5	Revenue and Forest	Forestry and Wild Life	149	245	47.37
6	Revenue and Forest	Education Cess and Employment Guarantee Cess	86	143	40.42
7	Revenue and Forest	Stamps and registration fees	1,053	2,403	297.45
8	Finance	Taxes on Sales, trades etc.	1,274	3,212	176.30
9	Finance	Taxes on profession etc.	80	112	1.19
10	Industry, Energy and Labour	Electricity duty	75	126	502.21
11	Urban Development	Residential Premises Tax	52	61	0.90
12	Urban Development	Repair Cess	9	13	2.64
13	Home, Irrigation, Public Works, Revenue and Forest Department	Other non tax receipts	87	99	5.08
	Total		**4,682**	**10,293**	**1,722.20**

In respect of the above observations, even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received in respect of 1,800 observations relating to 603 IRs, issued upto December 2010 involving revenue of ₹ 104.16 crore. Huge pendency of the IRs due to non-receipt of the replies is indicative of the fact that the Heads of Offices and Heads of the Departments had failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AsG in the IRs.

It is recommended that the Government take suitable steps to evolve a mechanism for prompt and appropriate response to audit observations. The Government may also consider fixing responsibility for failure to reply to the IRs/paragraphs as per the prescribed time schedule as well as for not taking appropriate and time bound action to recover losses/ outstanding demands.

1.2.2 Departmental Audit Committee Meetings

The Government had set up Audit Committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings (ACM) held during the year 2010-11 and the paragraph settled are mentioned below:

(₹ in crore)

Admini-strative Department	Head of revenue	Number of meetings held	Number of paras discussed	Number of paras settled	Amount
Revenue and Forest	Land Revenue	1	227	99	25.76
	Entertainments Duty	1	144	30	0.43
	Stamps and Registration Fees	1	433	208	86.55
Finance	Taxes on sales, trade etc.	11	1,717	704	6.76
	Taxes on professions etc.	1	99	25	0.20
Total		**15**	**2,620**	**1,066**	**119.70**

As can be seen from the above, as against 2,620 paras discussed, 1,066 paras (41 *per cent)* were settled in the meetings, indicating that the Departments were not adequately prepared with full and final compliance in respect of the audit observations made in the local audit reports. Further in case of Land Revenue and Stamps and Registration Fees only one meeting was held for each head of revenue even though the pendency of cases were quite high in those departments. As 10,293 audit observations were outstanding at the end of June 2011, it indicates that the machinery created for this purpose was not put to use effectively.

The Government may take proactive action to send replies in advance so that more number of paras could be settled in the ACM. Special efforts may also be made to comply to the old outstanding paras.

1.2.3 Non-production of records to Audit for scrutiny

The programme of local audit of Sales Tax/VAT receipts Offices is drawn up in advance and intimations are issued, usually much before the commencement of audit to the Department to enable them to keep the relevant records ready for audit scrutiny.

Upto 2010-11, 680 tax records of dealers whose returns were examined/ accepted by the Sales Tax Department, for the audit periods 2002-03 and 2004-05 to 2010-11, were not made available to audit during those years. Out of this, in respect of 455 cases, tax involved was ₹ 98.62 crore and in the remaining 225 cases the tax effect was not available in the departmental records during audit. Of the 680 cases, 232 cases pertained to 38 units in which examination/acceptance of returns of major dealers are dealt with. Year wise break up of such cases are given below:

(₹ in crore)

Name of Office	Year in which it was to be audited	Number of assessment cases not audited	Number of cases in which revenue involved could not be ascertained	Number of cases in which revenue involved could be ascertained	Revenue involved
Sales Tax Department	2002-03	16	11	5	0.05
	2004-05	2	1	1	0.95
	2005-06	1	1	0	0
	2006-07	37	4	33	3.97
	2007-08	49	4	45	13.06
	2008-09	96	29	67	3.41
	2009-10	195	71	124	53.69
	2010-11	284	104	180	23.49
	Total	**680**	**225**	**455**	**98.62**

Though these units are audited annually, 128 out of 680 tax records involving revenue of ₹ 8.43 crore though requisitioned during the audits of these units in subsequent years were not made available to audit (position of outstanding audit observations as on 30 August 2011).

The Government/Department may ensure that the tax records are made available to audit during the audit period itself so that any under assessment/short recovery of tax involved in these cases could be pointed out by audit for timely action.

1.2.4 Response of the Departments to draft audit paragraphs

The Finance Department had issued directions to all the Departments in July 1967 to send their responses to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs were forwarded by Audit to the secretaries of the concerned Departments through demi-official letters, drawing their attention to the audit findings and requesting them to send their response within the prescribed time. The fact of non-receipt of replies from the Government was invariably indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs (clubbed into 32 paragraphs) included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2011 were forwarded to the Secretaries of the respective Departments between April 2011 and October 2011 through demi-official letters. Replies to most of the paragraphs (clubbed into 32 paragraphs) have not been received. Such paragraphs have been included in this report.

1.2.5 Follow-up on Audit Reports - summarised position

According to the instructions issued by the Finance Department, all the Departments were required to furnish explanatory memoranda, vetted by Audit, to the Maharashtra Legislative Secretariat, in respect of paragraphs included in the Audit Reports, within one month of their being laid on the table of the House.

A review of the outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) which were still to be discussed by the Public Accounts Committee (PAC), disclosed that as on 30 September 2011, the Departments had not submitted remedial explanatory memoranda on 52 paragraphs for the years from 1997-98 to 2008-09 (excluding 1999-00)[3] as detailed below:

[3] 1999-00 – Explanatory memoranda were received and the Audit Report discussed.

Sl. No.	Name of the Department	1997-98	1998-99	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	Total
1	Home	--	--	--	--	--	--	--	--	--	4	1	5
2	Revenue and Forests	3	1	--	2	--	2	2	1	5	4	4	24
3	Urban Development	--	--	1	2	1	--	--	--	--	--	--	4
4	Finance	--	--	--	--	--	--	--	--	2	1	1	4
5	Water Resources	--	--	--	--	--	--	--	--	--	--	1	1
6	Industries, Energy and Labour	--	--	--	1	--	--	--	--	1	--	3	5
7	Relief and Rehabilitation	--	--	--	1	--	--	--	--	--	--	6	7
8	Co-operation and Textiles	--	--	--	--	--	1	--	--	1	--	--	2
Total		**3**	**1**	**1**	**6**	**1**	**3**	**2**	**1**	**9**	**9**	**16**	**52**

With a view to ensure accountability of the executive in respect of all the issues dealt with in the Audit Reports, the PAC lays down in each case, the period within which action taken notes (ATNs) on its recommendations should be sent.

The PAC discussed 248 selected paragraphs pertaining to the Audit Reports for the years from 1986-87 to 2005-06 and its recommendations on 104 paragraphs were incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, 14th and 18th Reports (1996-97), 21st Report (1997-98), 5th Report (2000-01), 12th Report (2002-03), 5th Report (2006-07), 6th Report (2007-08), 5th Report (2010-11) and 6th Report (2010-11). However, ATNs have not been received in respect of 68 recommendations of the PAC from the Departments concerned as mentioned in the following table:

Year	Name of the department							Total
	Home	Revenue and Forests	Finance	Industries, Energy and Labour	Relief and Rehabilitation	Medical Education and Drugs	Co-operation and Textiles	
1986-87	--	1	--	--	--	--	--	1
1987-88	--	--	1	--	--	--	--	1
1988-89	--	--	1	--	--	--	--	1
1989-90	1	4	2	--	--	--	--	7
1990-91	7	2	4	--	--	--	--	13
1991-92	1	--	--	1	1	--	--	3
1992-93	1	1	1	1	--	--	--	4
1993-94	3	2	--	--	--	--	--	5
1995-96	--	1	--	--	--	--	--	1
1996-97	--	--	--	--	1	--	--	1
1997-98	--	3	1	--	--	--	--	4
1998-99	--	4	1	--	--	--	--	5
2003-04	--	3	7	--	--	2	2	14
2004-05	1	2	4	1	-	-	-	8
Total	**14**	**23**	**22**	**3**	**2**	**2**	**2**	**68**

1.2.6 Compliance to the earlier Audit Reports

During the period from 2001-02 to 2009-10, the Government/Departments accepted audit observations involving ₹ 3,451.40 crore, out of which an amount of ₹ 1,085.13 crore had been recovered till 31 March 2011 as mentioned below:

(₹ in crore)

Year of Audit Report	Total money value	Accepted/recoverable money value	Recovery made
2001-02 to 2005-06	5,627.07	1,910.95	836.49
2006-07	854.63	495.92	9.27
2007-08	818.90	167.44	54.11
2008-09	3,246.16	857.72	182.77
2009-10	59.67	19.37	2.49
Total	**10,606.43**	**3,451.40**	**1,085.13**

Despite the matter being taken up with the concerned secretaries a number of times, the position relating to recovery of dues as pointed out by audit, remains highly unsatisfactory.

The Government may institute a mechanism to monitor the position of recoveries pointed out in the audit reports and take effective steps to recover the amounts early.

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

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last 10 years in respect of one Department is evaluated and included in each Audit Report.

The succeeding paragraphs 1.3.1 and 1.3.2 discuss the performance of the Relief and Rehabilitation Department to deal with the cases detected in the course of local audit conducted during the period from 2003-04 to 2009-2010.

1.3.1 Position of Inspection Reports

The summarised position of Inspection Reports issued during the last seven years, paragraphs included in these reports and their status as on 31 March 2011 are tabulated below:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2003-04	1,241	2,407	98.81	263	720	32.03	373	944	11.50	1,131	2,183	119.34
2004-05	1,131	2,183	119.34	201	515	33.28	167	611	4.64	1,165	2,087	147.98
2005-06	1,165	2,087	147.98	274	889	119.74	262	677	17.77	1,177	2,299	249.95
2006-07	1,177	2,299	249.95	255	614	64.02	231	1,172	44.08	1,201	1,741	269.89
2007-08	1,201	1,741	269.89	223	363	47.30	153	598	33.73	1,271	1,506	283.46
2008-09	1,271	1,506	283.46	202	479	94.00	111	401	20.54	1,362	1,584	356.92
2009-10	1,362	1,584	356.92	226	558	35.41	60	272	7.01	1,528	1,870	385.32

The Department may make effective use of the machinery created for settling outstanding audit observations.

In order to obtain speedy compliance to the outstanding para statement of such paras are forwarded to the concerned Departments of the Government in January and July every year. The outstanding paras are also pursued through periodic references to the concerned offices and also through field parties which visit these offices for audit in the subsequent years. Further, apart from the ACMs regular meetings are also held with heads of offices for discussion of issues wherein the Departmental views do not concur with the audit observation.

1.3.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the department and the amount recovered are mentioned below:

(₹ 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	Cumulative position of recovery of accepted cases
2000-01	4	32.74	2	0.39	0.00	0.04
2001-02	5	5.31	5	1.80	0.00	0.00
2002-03	4	0.87	4	0.62	0.00	0.11
2003-04	7	0.51	3	0.47	0.00	0.00
2004-05	6	3.31	6	3.31	0.00	3.03
2005-06	8	59.93	5	1.65	0.00	0.00
2006-07	16	136.92	13	37.95	0.00	5.75
2007-08	4	25.83	2	0.68	0.00	0.11
2008-09	6	3.39	5	2.75	0.00	0.00
2009-10	6	4.97	6	4.97	0.00	0.03
Total	**66**	**273.78**	**51**	**54.59**	**0.00**	**9.07**

As seen from the above table, out of 66 paras involving ₹ 273.78 crore, 51 paras involving ₹ 54.59 crore, were accepted by the Department, whereas the amount recovered in respect of these paragraphs was only ₹ 9.07 crore (September 2011).

Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority basis.

1.4 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 risk analysis which inter-alia include critical issues in Government revenues and tax administration *i.e.* budget speech, white paper on state finances, reports of the Finance Commission (state and central), recommendations of the taxation reforms committee; statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years, etc.

During the year 2010-11, out of the audit universe comprising of 2,892 auditable units, 1,223 units were planned for audit and 1,216 units were actually audited which is 42 *per cent* of the total auditable units. The details are shown in the **Annexure I.**

Besides the compliance audit mentioned above, four Performance Audits were also taken up to examine the efficacy of the tax administration and compliance issues.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

Test check of the records of 1,216 units of Sales Tax, Stamp Duty and Registration Fees, Land Revenue, Motor Vehicles Tax, State Excise, Forest Receipts and other tax and non-tax receipts conducted during 2010-11 revealed under assessments/short levy/loss of revenue amounting to ₹ 909.52 crore in 6,655 cases. During the course of the year, the Departments accepted under-assessments, short levy etc., of ₹ 274.44 crore in 2,372 cases of which 334 cases involving ₹ 93.09 lakh were pointed out in 2010-11 and rest in earlier years. Of these, the Departments recovered ₹ 261.79 crore during 2010-11.

1.5.2 This Report

This Report contains 31 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) relating to short/non-levy of tax, duty and interest, penalty etc., and four Performance Audits on

- **"Cross verification of declaration forms used in Inter-State trade",**
- **"Sale/allotment of land and levy and collection of conversion charges",**
- **"Computerisation in the Motor Vehicles Department",**
- **"Levy and collection of excise duty, Licence fee, fines etc." and**

a compliance Audit on "Development of Hill Station at Lavasa, Pune" involving financial effect of ₹ 386.37 crore and audit observations involving financial effect of ₹ 13.27 crore (total financial effect ₹ 399.64 crore). The Departments/Government have accepted audit observations involving ₹ 84.81 crore, out of which ₹ 63.68 lakh has been recovered. These are discussed in succeeding Chapters II to VII.

CHAPTER II: SALES TAX

2.1 Introduction

2.1.1 Tax revenue administration

Levy and collection of receipts under the Sales Tax are regulated by the Maharashtra Value Added Tax (MVAT) Act, 2002 and MVAT Rules, 2005, read with notifications issued by the Government from time to time as well as circular instructions issued by the Sales Tax Department. The Act, Rules and instructions are implemented by the Commissioner of Sales Tax under the overall control of the Principal Secretary to the Government in Finance Department, assisted by the Zonal Additional Commissioners of Sales Tax, Joint Commissioners of Sales Tax in respect of functional branches and Deputy Commissioners of Sales Tax and other officers at divisional level. The Sales Tax receipts mainly comprise of tax on sales, trade, etc. The Sales Tax Department is also in the process of completing the pending assessment under the erstwhile Bombay Sales Tax Act and allied Acts.

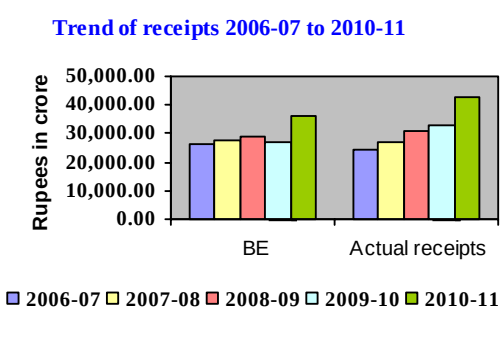
2.1.2 Trend of receipts

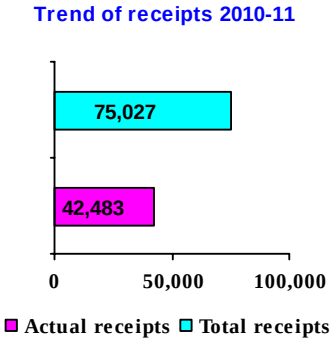
Actual receipts from Sales tax, Value Added Tax (VAT), etc., during the years 2006-07 to 2010-11 alongwith the total tax receipts during the same period is exhibited in the following table and graphs:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	26,314.51	24,130.72	(-) 2,183.79	(-) 8.30	40,099.24	60.18
2007-08	27,465.00	26,752.80	(-) 712.20	(-) 2.59	47,528.41	56.29
2008-09	29,039.00	30,680.53	(+) 1,641.53	(+) 5.65	52,029.94	58.97
2009-10	27,006.00	32,676.02	(+) 5,670.02	(+) 21.00	59,106.33	55.28
2010-11	35,986.18	42,482.72	(+) 6,496.54	(+) 18.05	75,027.09	56.62

As can be seen from the above table, the revenue collection under VAT increased by 76 *per cent* in 2010-11 as compared to 2006-07.





The variation between the budget estimates and actual receipts for the year 2010-11 was 18 *per cent* which indicates that the budget estimates were not realistic.

2.1.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 in respect of Sales Tax/VAT as furnished by the Department amounted to ₹ 36,328.09 crore, of which ₹ 3,260.69 crore had been outstanding for more than five years, as mentioned in the following table:

(₹ in crore)

Sl. no.	Head of revenue	Amount outstanding as on 31 March 2011	Amount outstanding for more than five years as on 31 March 2011	Remarks
1.	Sales Tax, etc.	36,328.09	3,260.69	Stay orders were granted by the appellate authorities for ₹ 22,062.42 crore; recovery proceedings for ₹ 3,214.67 crore were not initiated as the time limit was not over and the remaining amount was in different stages of recovery.

2.1.4 Arrears in assessment

The following table shows the details of assessment cases pending for the years 2008-09, 2009-10 and 2010-11 as furnished by the Sales Tax Department:

Year	Opening balance	New cases due for assess-ment	Total assess-ments due	Disposal			Balance at the end of the year	Percentage of column 8 to 4
				Cases not to be assessed[1]	Cases disposed off	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Sales tax								
2008-09	5,37,115	91,024	6,28,139	3,04,881	1,39,266	4,44,147	1,83,992	29
2009-10	1,83,992	1,20,248	3,04,240	91,524	1,29,990	2,21,514	82,726	27
2010-11	82,726	45,935	1,28,661	24,743	80,877	1,05,620	23,041	18
Motor Spirit Tax								
2008-09	6,776	102	6,878	2,384	152	2,536	4,342	63
2009-10	4,342	86	4,428	1,037	142	1,179	3,249	73
2010-11	3,249	77	3,326	1,998	199	2,197	1,129	34
Purchase Tax on sugarcane								
2008-09	644	313	957	9	67	76	881	92
2009-10	881	144	1,025	51	57	108	917	89
2010-11	917	75	992	115	179	294	698	70
Entry Tax								
2008-09	53	96	149	34	50	84	65	44
2009-10	65	308	373	36	259	295	78	21
2010-11	78	175	253	10	193	203	50	20
Lease Tax								
2008-09	4,754	407	5,161	477	448	925	4,236	82
2009-10	4,236	363	4,599	1,015	448	1,463	3,136	68
2010-11	3,136	284	3,420	1,596	600	2,196	1,224	36

[1] These cases were not to be assessed according to the Government Resolution dated 5 January 2007.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Luxury tax								
2008-09	6,143	3,547	9,690	1,455	2,040	3,495	6,195	64
2009-10	6,195	2,113	8,308	1,168	2,397	3,565	4,743	57
2010-11	4,743	1,730	6,473	1,030	2,125	3,155	3,318	51
Tax on works contracts								
2008-09	1,41,215	4,814	1,46,029	17,159	6,362	23,521	1,22,508	84
2009-10	1,22,508	13,311	1,35,819	31,833	15,707	47,540	88,279	65
2010-11	88,279	10,424	98,703	41,568	21,238	62,806	35,897	36
Total								
2008-09	**6,96,700**	**1,00,303**	**7,97,003**	**3,26,399**	**1,48,385**	**4,74,784**	**3,22,219**	**40**
2009-10	**3,22,219**	**1,36,573**	**4,58,792**	**1,26,664**	**1,49,000**	**2,75,664**	**1,83,128**	**40**
2010-11	**1,83,128**	**58,700**	**2,41,828**	**71,060**	**1,05,411**	**1,76,471**	**65,357**	**27**

Though six years have passed since the introduction of VAT, 65,357 assessments pertaining to erstwhile Bombay Sales Tax Act and allied Acts are still pending. Immediate steps may be taken to complete these assessments within a definite time frame so that the recovery of dues does not get difficult with the passage of time.

2.1.4.1 Returns filed under VAT

The pendency of cases under the Business Audit, Refund and Refund Audit and Large Taxpayers Units branches of the Sales Tax Department is shown in the following tables:

Business Audit

Period	Cases selected	Cases closed	Cases pending	Percentage of column 4 to 2
1	2	3	4	5
2009-10	38,059	13,774	24,285	63.81
2010-11	41,144	13,330	27,814	67.60

As seen from the above table 63.81 and 67.60 *per cent* of the cases allotted for business audit branch during the years 2009-10 and 2010-11 were pending completion. The Department attributed the pendency to diversion of manpower for implementation of various e-services introduced during the period.

Refund and Refund Audit

(₹ in crore)

Period	Cases selected	Cases closed	Cases pending	Amount	Percentage of column 4 to 2
1	2	3	4	5	6
2009-10	34,868	11,161	23,707	2,024.22	67.99
2010-11	37,095	5,534	31,561	2,957.12	85.08

As seen from the above table 67.99 and 85.08 *per cent* of the cases allotted for refund and refund audit branch during the years 2009-10 and 2010-11 were pending completions. The Department attributed the delay in granting refunds to pendency in confirmation of payment of tax into the treasury by the vendors of the claimant dealers. Since refund of tax results from claim of set-off, such cross check is essential and this takes time.

Large Taxpayers Unit

Period	Cases selected	Cases closed	Cases pending	Percentage of column 4 to 2
1	2	3	4	5
2009-10	5,358	1,122	4,236	79.06
2010-11	6,409	948	5,461	85.21

As seen from the above table 79.06 and 85.21 *per cent* of the cases allotted to LTU Branch during the years 2009-10 and 2010-11 were pending completion.

The Department may draw up an Action Plan to complete the business audit cases and expedite the pending refund cases as well as set benchmarks and time frames for sanctioning of refunds.

2.1.5 Assessee Profile

During the year 2010-11 the position regarding number of dealers and the dealers who failed to file returns in time and action taken by the Department was as under:

No of dealers	No of defaulters	Action Taken			Pending Action	Penalty levied
		Show cause notice[2] issued	Unilateral Assessment Order passed	Prose-cution lodged		No. of cases
5,67,061	93,344	45,289	10,178	21	-	2,73,172

2.1.6 Cost of collection

The gross collection in respect of Value Added Tax, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2008-09, 2009-10 and 2010-11 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the year 2007-08 to 2009-10 are given in the following table:

(₹ in crore)

Sl. no.	Head of revenue	Year	Gross collection[3]	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year preceding the year shown in column 3
1	2	3	4	5	6	7
1	Sales tax/ VAT	2008-09	30,680.53	216.38	0.71	0.83
		2009-10	32,676.02	283.65	0.87	0.88
		2010-11	42,482.72	298.08	0.70	0.96

As seen from the above, the cost of collection in the State of Maharashtra, during the periods 2008-09 to 2010-11 is less as compared to the all India average for the corresponding preceding years.

2.1.7 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessments of Sales Tax, Entry Tax and Luxury Tax for the year

[2] Depending upon the periodicity of returns, namely: monthly, quarterly or six monthly.
[3] Figures as per the Finance Accounts.

2010-11 and the corresponding figures for the preceding two years as furnished by the Department is as mentioned in the following table:

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection (col 3 + col 4 – col 6)	Percen-tage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales tax/ VAT, etc.	2008-09	32,234.87	248.10	--	2,057.84	30,425.13	106
	2009-10	34,438.67	660.30	--	2,616.14	32,482.83	106
	2010-11	41,572.13	88.93[4]	--	3,190.30	38,470.76	108
Entry tax	2008-09	5.04	0.20	--	Nil	5.24	96
	2009-10	6.65	2.66	--	Nil	9.31	71
	2010-11	12.77	0.44	--	Nil	13.21	97
Luxury tax	2008-09	261.48	1.18	--	Nil	262.66	100
	2009-10	211.41	3.27	--	Nil	214.68	98
	2010-11	267.86	1.07	--	Nil	268.93	100

The above table shows that collection of revenue at the pre-assessment stage in respect of Sales Tax/VAT ranged between 106 and 108 *per cent* during 2008-09 to 2010-11. This indicates that the VAT collection is mainly through voluntary compliance. During the period 2008-09 to 2010-11, the amount collected at the pre-assessment stage was more than the amount due to the Government resulting in refunds aggregating ₹ 3190.30 crore. The revenue collected after regular assessment was quite low.

2.1.8 Impact of Audit Reports

Revenue impact

During the last five years, 2005-06 to 2009-10, we had pointed out cases of underassessments/non/short levy/loss of revenue of Sales Tax, etc., interest and other irregularities with revenue implication of ₹ 1,885.18 crore in 1,028 cases. Of these, the Department had accepted audit observations in 436 cases involving ₹ 519.19 crore and had recovered ₹ 1.91 crore in 103 cases. The details are shown in the following table:

(₹ in crore)

Year	Amount objected		Amount accepted		Amount recovered	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	171	19.60	110	11.90	60	1.35
2006-07	83	8.97	83	8.97	28	0.52
2007-08	187	41.74	167	9.21	15	0.04
2008-09	577	1,814.22	66	488.46	-	-
2009-10	10	0.65	10	0.65	-	-
Total	**1,028**	**1,885.18**	**436**	**519.19**	**103**	**1.91**

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority.

[4] Figure includes penalties for delay in payment of sales tax, etc. bifurcation of which was not made available.

2.1.9 Results of audit

We reported underassessment/short levy/loss of revenue and potential tax revenue, etc., amounting to ₹ 60.67 crore in 571 cases as shown below on the basis of test check of the records of the Sales Tax Department conducted during the year 2010-11:

(₹ in crore)

Sl. no.	Category	No. of cases	Amount
1.	**Cross verification of Declaration forms used in Inter-State Trade (A Performance Audit)**	1	11.32
2.	Non/short levy of tax	237	22.95
3.	Incorrect grant of set off	108	6.97
4.	Non/short levy of interest/penalty	88	1.50
5.	Non-forfeiture of excess collection of tax	11	0.33
6.	Other irregularities	126	17.60
Total		**571**	**60.67**

In response to our observations made in the local audit reports during the year 2010-11 as well as during earlier years, the Department accepted underassessments/other deficiencies involving ₹ 3.72 crore in 180 cases. Out of this, 25 cases involving ₹ 0.17 crore were pointed out during 2010-11 and the rest during earlier years. During the year 2010-11, the Department recovered ₹ 1.20 crore in 108 cases out of which ₹ 17,961 in 4 cases were pointed out during 2010-11 and the rest in earlier years.

A performance audit on "**Cross verification of Declaration forms used in Inter-State trade**" with total financial effect of ₹ 11.32 crore and a few audit observations involving ₹ 2.92 crore are mentioned in the succeeding paragraphs.

2.2 Performance Audit on "Cross verification of Declaration forms used in inter-State trade"

The Central Sales Tax (CST) Act, 1956 and the rules framed there under provide for concessional rate of tax in respect of inter-State sales of goods and exemption from tax in respect of branch transfers and export sales. These concessions/exemptions are subject to furnishing of Declarations in the prescribed forms viz. 'C' and 'F', etc**.** Failure to furnish the Declarations or submission of defective or incomplete Declaration forms will make the transactions liable to tax as applicable to sale in the appropriate State.

We conducted cross verification of Declaration forms used in inter-State trade to check the genuineness of these Declarations. All the information collected was verified with the Commercial/Sales Tax Departments (STD) of other States and we found various irregularities as mentioned below:

Highlights

We noticed that though the Department cancelled 20,542 Declaration forms during the period 2005-06 to 2009-10, these cancelled forms were not forwarded to the Record Section for cancellations and for notifying in the official Gazette, to prevent their misuse**.**

(Paragraph 2.2.8.4)

We observed that the Department did not keep a sample of the colour, design and format of the forms prevailing in different States for comparison in order to identify the fake or forged Declaration forms.

(Paragraph 2.2.8.6)

Internal audit of stationery branch, central repository wing and cross verification cell was not conducted.

(Paragraph 2.2.8.7)

We noticed that inter-State sales valued at ₹ 354.20 lakh were allowed at the concessional rate on invalid 'C' forms furnished by the purchasing dealers which did not contain the details of registration number and date. Assessments were finalised belatedly either without Declaration forms or on the basis of duplicate forms. Branch transfers were allowed by the Assessing Officers on 'F' forms which did not indicate goods received by the transferee in nine cases and in three cases irregular acceptance of 'F' forms pertaining to more than one calendar month resulted in non levy of tax of ₹ 4.15 crore.

(Paragraphs 2.2.9.2, 2.2.9.3 and 2.2.9.4)

Cross verification of transactions of goods sold/purchased and stocks transferred in and out of the State on 'C' and 'F' forms, respectively revealed issuance of fake forms, variation in nature of commodity, variation in name of the dealers etc., excess accountal/suppression of sales/purchase turnover involving potential tax revenue of ₹ 6.94 crore in respect of 516 Declaration forms.

(Paragraph 2.2.10)

2.2.1 Introduction

Under the CST Act, 1956, registered dealers are eligible to certain concessions and exemptions of tax on inter-State transactions on submission of prescribed Declarations in Forms 'C' and 'F'. The State Governments grant these incentives to dealers for furtherance of trade and commerce, on production of these Declaration forms. It is the responsibility of the STD to ensure proper accountal of Declaration forms and to take adequate safeguards against misutilisation of Declaration forms/certificates on which tax relief is allowed involving large amount of revenue to the State exchequer. The statutory forms issued by the STD in respect of inter-State transactions are as under:

Form 'C'

Under the provisions of the CST Act, every dealer, who in the course of inter-State trade, sells to a registered dealer, goods specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rate of four *per cent* (three *per cent* with effect from 01 April 2007 and two *per cent* with effect from 01 June 2008) of such turnover provided such sales are supported by Declarations in form 'C'.

Form 'F'

Under Section 6A(1) of the CST Act, 1956, no tax is payable by a dealer on movement of goods to other States which is not by way of sale but by reason of transfer of stock to other places of his business or to his agent or principal. For claiming exemption, the dealer should furnish to the assessing authority a Declaration in form 'F' duly filled in and signed by the Principal officer of the other place of business or his agent as the case may be alongwith evidence of despatch of the goods. Further, as per the CST (Registration and Turnover) Rules, 1957, a single Declaration in Form 'F' is required for transfer of goods effected during a period of one calendar month.

2.2.2 Organisational set up

The STD functions under the administrative control of the Principal Secretary, Finance Department at Government level. The Commissioner of Sales Tax, Maharashtra State, Mumbai is the head of the STD who is assisted by four Additional Commissioners in charge of each zone at Mumbai, Nagpur, Nashik and Pune, 13 Joint Commissioners[5] at the divisional level and Dy. Commissioners, Assistant Commissioners and Sales Tax Officers at different levels. The Dy Commissioner of Sales Tax (TINXSYS) heads the cell for cross verification.

2.2.3 Audit Objectives

We conducted the Performance Audit with a view to ascertain whether:

- there existed a foolproof system for custody and issue of Declaration forms;
- exemption/concession of tax granted by the assessing authorities was supported by the original Declaration forms;

[5] Amravati, Aurangabad, Dhule, Kolhapur, Mumbai, Nagpur, Nanded, Nashik, Palghar, Pune, Raigad, Solapur and Thane.

- there was a system of uploading the particulars of the forms in the TINXSYS website and the data available there was utilised for cross verifying the correctness of the forms;
- appropriate steps were taken for detection of fake, invalid and defective (without proper or insufficient details) forms; and
- there existed an effective and adequate internal control mechanism.

2.2.4 Audit Criteria

We adopted the following criteria in conducting the Performance Audit:-

- CST Act, 1956 and the rules made there under;
- CST (Registration and Turnover) Rules, 1957;
- CST (Bombay) Rules, 1957;
- Notifications issued by the Government of India and by Government of Maharashtra from time to time; and
- Manual of "Central Repository".

2.2.5 Methodology and scope of audit

We conducted Performance Audit on cross verification of Declaration Forms ('C' and 'F') relating to 79 units (51 BST units and 28 VAT units) falling under the jurisdiction of 10 divisions[6] between November 2010 and July 2011. We collected Declaration Forms on statistical sampling basis in respect of the assessments finalised/ completed during the periods from 2007-08 to 2009-10 and sent them for cross verification to the concerned Commercial Taxes Department of the States from which these were issued. Similarly we received Declaration Forms from other States and cross verified the same with the records of the purchasing dealers of Maharashtra that had issued the Declaration Forms as mentioned in the following table:-

Category of Forms	Received from other States for verification	Verified[7] and sent back to the concerned States	Sent[8] to other States for verification	Received from other States after verification
'C'	17,780	4,199	957	768
'F'	2,856	1,543	787	737
Total	20,636	5,742	1,744	1,505

6 Amravati, Aurangabad, Dhule, Kolhapur, Mumbai, Nagpur, Nashik, Raigad, Solapur and Thane.

7 Declaration Forms above ₹ 25 lakh were checked.

8 Declaration forms above ₹ 25 lakh were selected.

2.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of the STD for providing necessary information and records for audit. An Entry Conference for the Performance Audit was held in December 2010 and the executive was informed about selection of units and scope and methodology of audit. The Additional Commissioner of Sales Tax (Headquarters), Joint Commissioner of the divisions and Deputy Commissioners jointly explained the procedure relating to issue and utilisation of Declaration forms. The draft Performance Audit Report was forwarded to the Government and the Department in September 2011 and audit conclusions and recommendations were discussed in the Exit conference held in November 2011. The Commissioner of Sales Tax, Deputy Secretary, Finance Department and other senior officers from the Sales Tax Department attended the meeting. The replies given during the Exit conference and at other times have been appropriately included in the relevant paragraphs.

2.2.7 Trend of revenue under CST

The budget estimates (BEs), actuals and percentage increase/decrease of revenue for the periods 2006-07 to 2010-11 are given below:

(₹ in crore)

Year	Budget estimates*	Actuals*	Variation excess (+) shortfall (-)	Percentage of variation
2006-07	2,770.00	2,547.66	(-) 222.34	(-) 8.03
2007-08	2,075.00	2,384.58	(+) 309.58	(+) 14.92
2008-09	2,016.00	2,875.23	(+) 859.23	(+) 42.62
2009-10	1,210.00	2,505.32	(+) 1,295.32	(+) 107.05
2010-11	3,081.13	3,548.25	(+) 467.12	(+) 15.16

* The figures are adopted from Finance Accounts.

As would be seen from the above, the actual collection was more than the BEs except for the year 2006-07.The percentage of variation was the highest (107.05 *percent)* in 2009-10, indicating that the BEs were not prepared on realistic basis.

After this was pointed by us, the Department Stated that the budget estimates for the years 2007-08, 2008-09 and 2009-10 were less than the actuals of the corresponding preceding years 2006-07, 2007-08 and 2008-09 as the Central Government had reduced the rates of Central Sales tax from four *per cent* (2006-07) to three *per cent* (2007-08) and further reduced the rate in 2008-09 to two *per cent*.

In respect of the budget estimates for the year 2009-10, it was stated that the concessional rate of tax under the CST Act was scheduled to be reduced from two to one *per cent*, however, the same was not done. Further, financial melt down was observed in the month of January 2009 and the collection in February and March 2009 was expected to go down substantially.

However, the fact remains that there has been wide variation between the BEs and the Actuals during the last four years. Since BEs is an important part of

financial planning, it is desired that the BEs are prepared by the Department on scientific basis.

We recommend that the Department may consider taking steps for framing of BEs on scientific basis so that these are close to actuals.

Audit findings

System deficiencies

Rule 4 of the CST (Bombay) Rules, 1957 and Rule 12 of the CST (R&T) Rules, 1957, stipulate the process of custody, utilisation and maintenance of forms. Scrutiny of the records revealed the following:

2.2.8 Printing, custody and issue of Declaration forms

2.2.8.1 The Central Printing Press (CPP), Mumbai is the authorised agency for printing of Declaration forms used in the inter-State trade and commerce. All the forms are being checked and verified by the officials of the STD after printing. The procedure of printing was found satisfactory. The printed forms are received in the stationery branch from where it is sent to the Central Repositories concerned.

2.2.8.2 As per the circular instructions issued by the Department in January 2009, on receipt of online application from the dealer, an e-mail or SMS is required to be sent to the dealer within seven working days, regarding approval, rejection or holding the Declaration Forms. Once the application is approved the dealer should get Declaration Forms in another ten days by post or courier.

During test check of the 'Issue Register' maintained by the Sales Tax Officer of Central Repository, Mumbai, we noticed that between 1 and 11 October 2010, 330 Declaration forms were issued by the Central Repository with delays ranging from 14 to 235 days over and above the stipulated period of 17 days from the date of receipt of the applications. This indicated that the Department was not following its own instructions resulting in delay in rendering the timely services in relation to issue of Declaration forms.

2.2.8.3 Cross verification on TINXSYS

Tax Information Exchange System (TINXSYS) is a centralised exchange of all inter-State dealers spread across the various States and Union territories of India. TINXSYS is an exchange, authored by the Empowered Committee (EC) of State Finance Ministers as a repository of inter-State transactions taking place among various States and Union Territories. The website was designed to help the STD of various States and Union Territories to effectively monitor the inter-State trade.

TINXSYS can be used by any dealer to verify the counterpart inter-State dealer in any other State. Apart from dealer verification, STD officials use TINXSYS for verification of central statutory forms issued by other State STDs and submitted to them by the dealers in support of claim for concessions. TINXSYS also provides Management Information System (MIS) and Business Intelligence Reports to the STD to monitor inter-State trade

movements and enables the EC to monitor the trends in inter-State trade. It is essential for every State to send the information to the Finance Ministry for uploading in the website of TINXSYS for easy verification of forms by any user.

It was intimated that the Department was not sending the information of these statutory forms to the Finance Ministry; however, from February 2009 automatic updating facility to upload the data about dealers and CST Declaration on TINXSYS website has been set up by the Department.

As per a report extracted by us on 8 July,2011 from the TINXSYS, 3,065 records out of 5990 Declaration forms uploaded in the website showed "error Records" indicating that the information relating to these forms was incomplete. The details are mentioned in the following table:-

Category of forms	Extracted count as on	Total extracted records	Correct records	Error records	Percentage of error
'C' forms	23-6-2011	5,418	2,639	2,779	51
'F' forms	23-6-2011	572	286	286	50
Total		5,990	2,925	3,065	51

Thus it would be seen from the above that 51 *per cent* of the data of CST Declaration forms uploaded by the Department on the TINXSYS website was incomplete and as such the verification of Declaration under CST Act in these cases was not possible.

2.2.8.4 Non-observance of the procedure laid down in Manual in respect of cancellation of forms

Clause 4.10 and 4.11 of the Manual of "Central Repository" read with Rule 4(A) of the Central Sales Tax (Bombay) Rules, 1957, lays down that the un-issued Declaration Forms containing printing error or any other error will be cancelled and entry in this regard shall be made in register of "forms not issued and cancelled" by the officer and sent to the record section after approval from the officer concerned. It further provides that once Declaration forms are cancelled, these should be forwarded to the record section after getting approval of the officer concerned and should be notified in the official Gazette to prevent their misuse**.**

During scrutiny of the Registers relating to receipts, issue and cancellation in the Central Repository, Mumbai, we noticed that 20,542 Declaration forms were cancelled during the periods 2005-06 to 2009-10; however, these cancelled forms were not forwarded to the record section for cancellations and for notifying in the official Gazette to prevent their misuse**.**

We called for (February 2011) the information regarding disposal of unused Declaration forms issued prior to introduction of VAT (1 April 2005). However the same was not furnished (August 2011), as such the safe custody of the forms could not be ascertained by us.

2.2.8.5 Enforcement measures

An inter-State cross verification cell (Cell) is in existence in the Department. Upto August 2008, this Cell was functioning under the Enforcement Branch. From September 2008 onwards, the functioning of the Cell was brought under the Joint Commissioner of Sales Tax (MAHAVIKAS), Mumbai. In this Cell, the cases relating to inter-State transactions on Declaration forms which are selected during Business Audit/Refund and Refund Audit (BA/R&RA) and which could not be verified from TINXSYS are received. The Cell rechecks these cases from TINXSYS and doubtful cases are sent to other States for cross verification.

Information received from the Cell revealed that no criteria for selection of cases relating to inter-State transactions on Declaration forms for cross check by BA/R&RA/Large Taxpayers' Unit (LTU) wings was laid down by the Department. In the absence of any criteria or percentage of check, the extent of cross verification to be carried out is solely at the discretion of the assessing officer. Further, the Cell was not required to select any case *suo moto* but was dependant on the cases referred to it by BA/R&RA/LTU wings only.

Till September 2011, 713 cases[9] were received for cross verification in the Cell from BA/R&RA/LTU wings out of which 606 cases were referred to other States for verification. Further, 439 cases were received from other States for cross verification out of which 314 cases were sent to the respective assessing authorities in the State for verification. With effect from September 2008 to July 2011, the Cell had detected 337 "bogus" 'C' forms and 203 bogus 'F' forms. These forms have either been sent to the concerned branches in the State for corrective action or to the Commercial Tax Departments of the State concerned. No information on the extent of corrective action taken and revenue realised there from was available with the Cell. The status report of verification of Declaration forms received from other States along with the fraudulent sale to evade the tax was not furnished (October 2011) to us despite being requested.

No system was put in place to prepare a list of dealers who were detected by the Department for indulging in transactions involving invalid or fake forms and circulating the same amongst the assessing authorities.

The Government may consider strengthening the functions of the cross verification cell so that action taken by the assessing authorities till recovery on the bogus Declaration forms is watched and also introduce a system for selection of Declaration forms for cross verification and pursuance through effective follow-up.

2.2.8.6 Samples of current and obsolete Declaration forms of other States not kept by the Department

According to Rule 4A of CST (Bombay) Rules 1957, the Commissioner may by notification declare that Declaration form of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date as

[9] Includes several Declaration forms of 'C' and 'F'.

may be specified in the notification and a copy of such notification may be sent to other State Governments for publication in their official gazette.

We observed that the Department did not keep a sample of the colour, design and format of the forms prevailing in different States for comparison in order to identify the fake or forged Declaration forms which may lead to evasion of tax.

In the Exit Conference the Commissioner of Sales Tax stated that keeping samples of forms may not be of use as the States are going electronic.

As all the States have not adopted electronic issue of Declaration forms, keeping of such samples till all the States start issuing electronic forms fully, would help detection of 'bogus' Declaration forms.

The Government may consider keeping sample of Declaration forms from other States for reference to ascertain the genuineness at the time of assessment of cases.

2.2.8.7 Internal Control mechanism

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. They help in prevention of fraud and other irregularities. In the STD, an Internal Audit Wing (IAW) is in existence which is headed by a JCST stationed at Mumbai who is assisted by 10 DCSTs, six at Mumbai, one at Thane, two at Pune and one at Nagpur.

It is noticed that the IAW had not conducted internal audit of the Stationery wing, Central Repository wing, and cross verification cell since its inception.

We recommend that the Government may consider issuing directions to the Commissionarate for conducting internal audit of the stationery branch, central repository wing and cross verification cell.

2.2.9 Compliance deficiencies

2.2.9.1 Irregular grant of concession/exemption on invalid forms

Under Section 8 of the Central Sales Tax Act, 1956, tax on sales in the course of inter-State trade or commerce, supported by valid Declarations in form 'C', is leviable at the concessional rate of four *per cent* of the sale price. Otherwise, tax at twice the rate applicable to the sales inside the State in respect of **"**declared goods**"** and in respect of goods **"**other than declared goods**"** at 10 *per cent* or at the rate of tax applicable to the sale or purchase of goods, inside the State, under the local Act whichever is higher is leviable. Besides, interest and penalty is also leviable as per the provisions of the local Act.

2.2.9.2 Grant of incorrect concession of tax on sales of goods on incomplete/not supported by 'C' forms

During test check of the assessments and other related records of six dealers of Mumbai, Nashik and Thane Divisions relating to the period 2002-03 to 2005-06, finalised between September 2009 and March 2010 we noticed that inter-State sales valued at ₹ 354.20 lakh were allowed at the concessional rate,

however, the 'C' forms furnished by the purchasing dealers did not contain the details of registration number and date.

Further, in case of three dealers, relating to the period 2002-03 to 2006-07, assessed between September 2009 and January 2010, the assessing authority allowed sales valued at ₹ 51.81 lakh at concessional rate of four *per cent* without Declaration forms. Hence levy of tax at concessional rate was incorrect and resulted in underassessment of tax of ₹ 30.61 lakh. Besides, interest of ₹ 27.37 lakh and penalty was also leviable.

After we pointed out these cases, the Department stated that observations would be verified. Report on action taken has not been received (February 2012).

2.2.9.3 Incorrect grant of concession/exemption of tax on duplicate copy of Declaration forms

The Declaration forms are prepared in triplicate out of which one copy (counterfoil) is retained by the issuing dealer and the copies marked as 'original' and 'duplicate' are sent to the selling dealer while making purchases.

It has been judicially held[10] that production of 'original' 'C' form is mandatory for claiming concessional rate of tax. During test check of the assessments and allied records of Aurangabad, Nashik and Pune Divisions, we noticed that in case of three dealers, relating to the period 2002-03 to 2005-06, finalised between August 2009 and March 2010 inter-State sales valued at ₹ 54.84 lakh was allowed at concessional rate of tax on form 'C' furnished by the purchasing dealer. However, scrutiny of form 'C' revealed that it was the duplicate portion of the said form which was irregular. Hence levy of tax at concessional rate was incorrect. Tax of ₹ 6.06 lakh and interest of ₹ 4.46 lakh was leviable/recoverable, besides penalty.

After we pointed out these cases, the Department stated that the original copies of forms would be provided to us. No further reply has been received (February 2012).

Delay in assessment and acceptance of duplicate 'F' form

During test check of the assessment and other relevant documents of Nashik division, we noticed that in one case, relating to the period 2001-02, assessed during the year 2009-10, goods valued at ₹ 40.26 lakh were transferred to its branch in Rajasthan for which Declaration in form 'F' was received from the branch. However, our scrutiny of the Declaration form revealed that there was considerable delay in finalisation of the assessment; further exemption from payment of tax was granted on the duplicate portion of the 'F' form. Acceptance of duplicate 'F' form for the purpose of granting exemption from payment of tax was irregular.

[10] Commissioner, Sales Tax Vs. M/s.Prabhudayal Prem Narayan (1988) 71 (SC); M/s.Delhi Automobiles Private Limited Vs. Commissioner of Sales Tax (1997) 104 STC 75.

After we pointed out this case, the Department stated (December 2010) that the original copies of forms would be provided. No further reply has been received (February 2012).

2.2.9.4 Incorrect allowance of branch transfer

During test check of the assessments and other related records and documents of Dhule, Mumbai, Nashik, Pune and Thane divisions, we noticed that four dealers assessed during 2009-10, relating to various periods between 2003-04 and 2006-07, transferred goods valued at ₹ 23.35 crore to their branches without Declarations in form 'F'.

In respect of another five dealers, relating to the periods 2001-02 to 2006-07, assessed between March 2009 to March 2010 goods valued at ₹ 13.33 crore were transferred to their branches. However, the form 'F' furnished in support of branch transfer did not indicate nature of goods received by the transferee.

Rule 12 of CST (Registration and Turnover) Rules, 1957 stipulates that a single Declaration may cover transfer of goods by a dealer to any other place of his business affected during a period of one calendar month.

We noticed in three cases, relating to the period 2004-05 that Declaration form 'F' produced in support of branch transfer of goods valued at ₹ 1.49 crore contained transactions pertaining to more than one calendar month. As such, allowance of branch transfer by the assessing authority as exempt from tax in these 12 cases aggregating ₹ 38.17 crore was incorrect. Tax of ₹ 4.15 crore and interest of ₹ 2.88 crore was leviable.

After we pointed out, the Department stated that observation made would be verified. Report on action taken has not been received (February 2012).

2.2.10 Cross verification of Declaration forms

With a view to verify the genuineness of the inter-State transactions relating to sale, purchase, goods transferred/received to and from, other States on forms 'C' and 'F', details of transactions made on such forms were collected from the dealers' record maintained by the Department and same were cross verified with the dealers' records of the other States. Similar data was also collected from the dealers' records in other States and same was utilised for cross verification in the State of Maharashtra.

Cross verification of the data revealed that there were cases relating to issue of fake 'C' and 'F' forms, variation in the nature of commodity sold and purchased, variation in the name of purchasing dealers mentioned in the forms and the dealers who received the goods and excess or short accounting of goods sold/purchased.

We found discrepancies in 434 'C' forms involving potential revenue of ₹ 5.34 crore in respect of 289 dealers and of 82 'F' forms involving potential revenue of ₹ 1.60 crore in respect of 30 dealers as detailed in **Annexure II.** These are discussed in the following paragraphs 2.2.10.1 to 2.2.10.14.

2.2.10.1 Grant of concessional rate of tax on inter-State sales on fake forms

Mumbai Division

We collected information in respect of three dealers one each from Aurangabad, Kolhapur and Raigad division and found that the dealers had made inter-State sales aggregating ₹ 1.46.crore for the periods from 2002-03 to 2004-05 and assessed during 2009-10. These sales were assessed at concessional rate of tax on the basis of three 'C' forms furnished by the purchasing dealer of Madhya Pradesh and New Delhi. We cross verified these three 'C' forms with the STD of Madhya Pradesh and New Delhi and found that none of the 'C' forms were issued by the STDs of the concerned States. Therefore, the 'C' forms were not genuine and should have been rejected. However, in absence of cross verification, the Assessing Authorities (AAs) incorrectly accepted/allowed concessional rate of tax. The differential rate of tax involved on these fake forms worked out to ₹ 8.78 lakh.

Nagpur Division

We collected information in respect of four dealers of Nagpur division and found that the dealers had made inter-State sales aggregating ₹ 11.88 crore for the period 2004-05 and assessed during 2008-09 and 2009-10. These sales were assessed at concessional rate of tax on the basis of six 'C' forms furnished by the purchasing dealers of Arunachal Pradesh, Chhattisgargh and Uttar Pradesh. We found on cross verification of these sales with the STDs of the concerned States, that the 'C' forms were not issued by them. This was also confirmed by the respective STDs of these States, as such, the 'C' forms were not genuine and should have been rejected. However, in absence of cross verification, the AA incorrectly accepted / allowed concessional rate of tax. The differential rate of tax involved on these fake forms worked out to ₹ 74.28 lakh.

We recommend that the Department may investigate the matter and effect the recovery in all the inter-State Sales supported by fake Declaration Forms as well as penalty due.

2.2.10.2 Inter-State purchases on fake forms

Mumbai

We collected data in respect of the purchases made by purchasing dealers of the State from the STDs of Andhra Pradesh, Kerala, Rajasthan Tamil Nadu and found that four dealers had made purchases valued at ₹ 58.37 lakh during the periods 2007-08 to 2009-10. The inter-State purchases were made on the basis of four 'C' forms provided by the purchasing dealers of Maharashtra to the dealers of these States.

We found on cross verification of the details of these purchasers with the data maintained by the Commissioner of Sales Tax, Mumbai that the series as well

as the serial numbers of these 'C' forms were not issued by the STD of this State. This indicated that the purchases were not made on authentic 'C' forms by the dealers of this State. Though there is no loss of revenue to this State, but purchases on these fake forms needs investigation.

Nagpur Division

We collected data from the STDs of 13 States[11] and found that 111 dealers of Maharashtra in 218 cases had purchased goods valued at ₹ 42.51 crore during the period 2002-03 to 2009-10. The inter-State purchases were made on the basis of 218 'C' forms provided to these dealers by the purchasing dealers of Maharashtra.

We found on cross verification of the details of these purchases from the Stock Register and the related files maintained by the Central Repository in the Divisional offices at Aurangabad, Dhule, Nagpur and Nashik that these 'C' forms were not issued by the STD of this State. This fact was confirmed by the respective divisions also. This indicated that the purchases were not made on authentic 'C' forms by the dealers in this State. Though there is no loss of revenue to this State, but issue of fake forms needs investigation.

2.2.10.3 Excess accounting of sales turnover on 'C' forms.

Mumbai Division

We noticed during test check of the records of nine dealers of Mumbai, Nashik and Thane divisions that goods valued at ₹ 10.29 crore were sold between the periods 2004-05 and 2009-10, to purchasing dealers in Assam, Chhattisgarh, Gujarat, Madhya Pradesh and New Delhi on the basis of nine 'C' forms received from the dealers of those States. However, cross verification of these forms with the assessment records of the dealers by the STDs of the concerned States revealed that only ₹ 3.82 crore were accounted for by the purchasing dealers. This resulted in excess accounting of sales to the tune of ₹ 6.47 crore by these dealers. The matter needs investigation as potential tax revenue involved in these transactions worked out to ₹ 51.88 lakh.

Nagpur Division

Our cross verification of 'C' form issued during 2003-04 by a purchasing dealer of Uttar Pradesh to the selling dealer in Nagpur revealed that purchasing dealer had issued one 'C' form valued at ₹ 1.02 crore for the purchase of iron and steel. However, result of verification received from the STD, Uttar Pradesh revealed that the purchasing dealer had accounted for goods worth ₹ 7.74 lakh. This resulted in excess accounting of sales of ₹ 94.66 lakh. The matter needs investigation as the potential tax revenue involved in this transaction worked out to ₹ 5.68 lakh; besides, penalty was also leviable.

[11] Andhra Pradesh, Assam, Chhattisgarh, Goa, Gujarat, Jammu and Kashmir, Karnataka, Kerala, Rajasthan, Tamil Nadu, Manipur, Orissa, Uttarakhand.

2.2.10.4 Suppression of purchases turnover

We collected data from the assessment records of STDs at Delhi, Goa, Gujarat, Haryana, Jammu and Kashmir, Karnataka, Tamil Nadu and West Bengal which revealed that purchases aggregating ₹ 44.84 crore were made by 34 dealers of Maharashtra State, during different periods between 2005-06 and 2007-08, on 50 'C' forms. Our cross verification of these details with the data maintained by the Commissioner of Sales Tax, Mumbai revealed that only purchases for ₹ 7.54 crore were accounted for by the dealers in Maharashtra. This resulted in suppression of purchases valued at ₹ 37.30 crore involving tax effect of ₹ 3.83 crore.

2.2.10.5 Suppression of sales turnover

We found that three registered dealers of the State had sold goods valued at ₹ 1.77 crore to three dealers of Himachal Pradesh, Gujarat and Kerala and submitted three 'C' forms in support of inter-State sales and claimed concessional rate of tax. Cross verification of these sales from Maharashtra with the assessment records maintained by STDs at Himachal Pradesh and Gujarat and Kerala revealed that the purchasing dealers had accounted for goods valued at ₹ 3.66 crore in their accounts against these forms.

This resulted in suppression of sales turnover by the dealers in Maharashtra to the tune of ₹ 1.89 crore involving a tax effect of ₹ 10.10 lakh as mentioned in the following table:

(₹ in lakh)

Name of the Division	Name of the goods sold/ Assessment year	Value of the goods shown by the selling dealer/ Name of the State	Value of the goods as per the assessment records of purchasing dealers	Difference in sales / tax effect
Nashik	Air conditioners /2006-07	32.49/ Himachal Pradesh	58.06	25.57/ 3.20
Mumbai	Packing material /2004-05	16.47/ Gujarat	25.35	8.88/ 0.88
Amravati	Cotton bales and cotton seeds /2004-05	128.00/ Kerala	283.00	155/ 6.20
Total		176.96	366.41	189.45/ 10.28

After we pointed out the case, the Dy. Commissioner of Sales Tax, Amravati division accepted the observation and stated (August 2011) that action to revise the assessment would be taken.

2.2.10.6 Excess accounting of purchase turnover

Our scrutiny of the data collected from the assessment records of STDs at Gujarat, Haryana, Orissa, Punjab and Tamil Nadu revealed that purchases aggregating ₹ 8.44 crore were made by 12 dealers, during various periods between 2004-05 and 2007-08, on 13 'C' forms issued by the dealers of Maharashtra to the dealers of these States. We cross verified the details with the data maintained by the Commissioner of Sales Tax, Mumbai which revealed that ₹ 16.09 crore were accounted for by the dealers in Maharashtra. This resulted in excess accounting of turnover of purchases to the tune of ₹ 7.65 crore.

Though there is no loss of revenue but in view of the difference in sales the matter needs investigation by the Department.

2.2.10.7 Variation in the commodity sold and purchased against form 'C'

Mumbai Division

Our scrutiny of the data collected from the assessment records of the STDs at Gujarat and Tamil Nadu revealed that goods, such as packing material and cotton yarn valued at ₹ 47.42 lakh and ₹ 1.10 crore, respectively were purchased by two dealers, during the periods between 2006-07 and 2008-09, on two 'C' forms issued by the dealer of Maharashtra to the dealers of those States. We cross verified the details with the data maintained by the Commissioner of Sales Tax, Mumbai which revealed that as against the above, the goods received were *uniqorn* and ceramic glazed tiles, respectively.

We found that a dealer of Pune division, sold scooter valued at ₹ 1.05 crore to a dealer of Madhya Pradesh on one 'C' form during the period 2004-05. On cross verification of the details with the data maintained by the STD at Madhya Pradesh, it was revealed that as against scooter, the goods received were paste glazes.

Nagpur Division

Our scrutiny of the data collected from the assessment records of the STDs at Goa, Karnataka, Rajasthan and Tamil Nadu indicated that the goods valued at ₹ 3.91 crore were purchased by six dealers of these States, during the period between 2005-06 and 2009-10, by furnishing Declaration in eight 'C' forms. Our cross verification of details with the data maintained by the Divisional offices at Nagpur, Nashik and Dhule revealed that as against these purchases, the goods received were not of the same commodity for which 'C' forms were issued by the dealers.

The matter needs investigation by the Department since the sales were on concessional rates.

2.2.10.8 Variation in the names of the purchasing and selling dealers

Form 'C' issued by Maharashtra dealers

Mumbai Division

Our scrutiny of the data collected from the assessment records of the STDs at Goa, Gujarat, Haryana, Jammu and Kashmir, Tamil Nadu and West Bengal revealed that 21 dealers had purchased goods valued at ₹ 15.27 crore on 27 'C' forms, issued by the purchasing dealers of Maharashtra during the period between 2004-05 and 2009-10. During cross verification we noticed that the names of the purchasing and selling dealers in the data maintained by the Commissioner of Sales Tax did not tally with the respective 'C' forms. The correctness of transactions on these 'C' forms is required to be verified by the Department for any possible evasion of tax.

Nagpur Division

Our scrutiny of the data from the assessment records of the STDs at Andhra Pradesh, Bihar, Goa, Gujarat, Karnataka, Rajasthan and Tamil Nadu revealed that goods valued at ₹ 12.71 crore were purchased by 77 dealers in Maharashtra State on 88 'C' forms during the periods, between 2002-03 and 2009-10,. We cross verified these details with the data maintained by the Divisional offices at Aurangabad, Dhule and Nagpur and found that these 'C' forms were issued to the dealers other than those mentioned in form 'C'. The correctness of transaction on these 'C' forms is required to be verified by the Department for any possible evasion of tax.

The matter needs investigation by the Department since the sales were on concessional rates.

Form 'C' issued by Chhattisgarh dealer

We noticed that in one case, goods valued at ₹ 60.59 lakh were sold by a dealer in Maharashtra to a dealer in Chhattisgarh on one 'C' form during 2009-10. Cross verification by us from the records maintained by the STD at Chhattisgarh revealed that the name of the purchasing dealer mentioned in 'C' form was different from the name of the dealer to whom the form was issued. The correctness of transaction on these 'C' forms is required to be verified by the Department for any possible evasion of tax.

2.2.10.9 Branch transfer by dealers of this State - 'F' forms not genuine

Mumbai Division

We found that two dealers of Mumbai division had transferred goods valued at ₹ 2.07 crore to their branches at Gujarat and Uttarakhand during the year 2005-06 to 2007-08. The transfers were supported by Declarations in six 'F' forms. Our cross verification of these branch transfers with the STD at Gujarat and Uttarakhand, revealed that these 'F' forms were not issued by the STDs of these States. Thus these 'F' forms were not genuine and liable to be rejected.

Hence, the exemption from tax allowed to the two dealers in Maharashtra was incorrect .The tax involved was ₹ 10.11 lakh.

Nagpur Division

We found a dealer in Nagpur region had transferred paper and chemicals valued at ₹ 5.11 crore during the year 2004-05 to its branch at Secunderabad in Andhra Pradesh on 12 'F' forms. Cross verification by us from the STD at Andhra Pradesh revealed that the said 'F' forms were not issued by them. Thus the 'F' forms produced were not genuine and liable to be rejected. Hence, the exemption form tax allowed to the dealer in Maharashtra was incorrect. The tax involved was ₹ 52.67 lakh.

After we pointed out the case, the Department stated (July 2011) that action would be taken after ascertaining the facts.

2.2.10.10 Branch transfer by dealers of other States - 'F' forms not genuine

Mumbai Division

Our scrutiny of the data collected from the STDs at Andhra Pradesh and Chhattisgarh revealed that branch transfer of edible oil valued at ₹ 6.86 crore were made by three dealers, during the year 2004-05 and 2005-06, on the basis of 18 'F' forms issued to the dealers of those States. On cross verification of the details of these branch transfers with the data maintained by the Commissioner of Sales Tax, Mumbai, we found that these 'F' forms were not issued by the STD of Maharashtra State. Thus the 'F' forms produced were not genuine and liable to be rejected.

After these cases were pointed out by us, the Department confirmed (August 2011) that the forms 'F' were not issued by the State.

Nagpur Division

Our scrutiny of the data collected from the STDs of eight States[12] revealed that branch transfer of goods valued at ₹ 5.53 crore were made by 14 dealers, during 2003-04 to 2009-10 on the basis of 28 'F' forms issued to the dealers of those States. On cross verification of details of these branch transfers with the data maintained by the Divisional offices at Aurangabad, Dhule, Nagpur and Nashik revealed that these 'F' forms were not issued by the STDs of Maharashtra State. Thus the forms 'F' produced were not genuine and liable to be rejected.

The matter needs investigation by the Department since the branch transfers were allowed as exempt from tax.

After these cases were pointed out by us, the Department confirmed (May, June 2011) that the 'F' forms were not issued by the State.

2.2.10.11 Short accounting of branch transfer

Our scrutiny of the data collected from the STDs at Gujarat, Jammu and Kashmir, Tamil Nadu and Uttar Pradesh revealed that value of goods aggregating ₹ 5.53 crore were transferred to branch by five dealers during the

[12] Andhra Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Tamil Nadu and Uttar Pradesh.

various periods between 2005-06 and 2008-09, on the basis of eight 'F' forms issued to the dealers of these States. On cross verification of the details with the data maintained by the Commissioner of Sales Tax, Mumbai we found that only ₹ 2.80 crore were accounted for against these branch transfers by the dealers in Maharashtra. This resulted in short accounting of branch transfers of ₹ 2.73 crore. The tax revenue involved in these transactions worked out to ₹ 21.01 lakh.

The matter needs investigation by the Department since the sales were exempted.

2.2.10.12 Excess accounting of branch transfer

Our scrutiny of the data collected from the STD at Uttar Pradesh revealed that goods valued at ₹ 4.19 crore were transferred to branch by a dealer during the year 2007-08, on the basis of five 'F' forms issued to the dealer of that State. On cross verification of the details with the data maintained by the Commissioner of Sales Tax, Mumbai we found that ₹ 4.77 crore were accounted for by the dealers in Maharashtra. This resulted in excess accounting of goods valued at ₹ 0.58 crore. The potential tax revenue involved in these transactions worked out to ₹ 7.28 lakh.

The matter needs investigation by the Department since the sales were exempted.

2.2.10.13 Variation in the name of transferee on form 'F'

We found that two dealers of Mumbai and Nashik Divisions had transferred goods to branch valued at ₹ 1.05 crore during the year 2004-05 to 2009-10 to the dealers of West Bengal on three 'F' forms.

Cross verification of these branch transfer by us revealed that the name of the transferee to whom the goods were sent differed from the name of the transferee to whom the 'F' forms were issued. Hence the correctness of transactions on these 'F' forms was required to be verified by the Department for any possible evasion of tax.

The matter needs investigation by the Department since the sales were exempted.

2.2.10.14 Excess accounting of branch transfer

We found that two dealers in Nagpur division transferred cement, washing machine and its parts valued at ₹ 1.25 crore and ₹ 3.08 crore, to their branches at Uttar Pradesh and Orissa on two 'F' forms, respectively during the year 2003-04 and 2004-05.

Our cross verification of these details from the records maintained by STDs of these States revealed that the value of goods accounted for by the dealer in Uttar Pradesh was ₹ 83.10 lakh as against ₹ 1.25 crore and the dealer in Orissa had accounted for ₹ 42.18 lakh against ₹ 3.08 crore. This resulted in excess accounting of stock of ₹ 3.08 crore by the dealers in Maharashtra. The tax potential involved is ₹ 69.02 lakh; besides, penalty was also leviable.

The matter needs investigation by the Department since the sales were exempted.

After we pointed out these cases, the Department Stated (July 2011) that action to modify the assessment orders would be taken after verification.

In the Exit Conference the Commissioner of Sales Tax stated that in respect of the individual observation made in the Performance Audit in paragraphs 2.2.9.2 to 2.2.9.4 and 2.2.10.1 to 2.2.10.14, relating to invalid/'bogus' Declaration forms, excess/ short accounting of sales or purchases, variation in nature of commodity and variation in names of dealers, detailed verification would be done after receiving the photostat copies of the Declaration forms and after confirming the details with the issuing authorities.

2.2.11 Conclusion

We noticed that though a cross verification cell was in existence in the Department, complete information up to recovery of tax, in respect of cases where invalid/bogus forms were used for claiming exemption/concession of tax was not available. The Department did not collect the samples of Declaration forms from other States for detection of invalid/bogus forms. No system was prescribed for selection of Declaration forms for cross verification on a scientific basis. No internal audit of the Stationery and Central Repository wings were being conducted. The Assessing Officer had not only delayed assessments under the CST Act, but had also not exercised due diligence before accepting Declaration forms and allowed concessional rates of tax against the interest of revenue. System of cross verification, despite existence of the Special Cell was woefully inadequate on part of the assessing machinery.

2.2.12 Recommendations

The Government may consider:

- **issuing of Declaration forms electronically and for ensuring full utilisation of the TINXSYS website for cross verification. For this, the TINXSYS website may be updated as quickly as possible. Further, the TINXSYS system may be strengthened and MIS reports on TINXSYS be introduced;**
- **strengthening the functions of the Cross Verification Cell so that action taken by the assessing authorities till recovery on the bogus Declaration forms is watched and also introduce a system for selection of Declaration forms for cross verification and pursuance through effective follow-up;**
- **advising Assessing officers to exercise due diligence before accepting Declaration forms;**
- **keeping samples of Declaration forms from other States for reference to ascertain the genuineness at the time of assessment of cases till the Department becomes completely electronic; and**
- **issuing directions to the Commissionarate for conducting internal audit of the Stationery wing, Central Repository wing and Cross Verification Cell.**

2.3 Other audit observations

Our scrutiny of the assessment records of 11 offices finalised under Bombay Sales Tax (BST) Act, Value Added Tax (VAT) and Central Sales Tax maintained in Sales Tax Department revealed cases of non-observance of provisions of Acts, Rules, non/short levy of tax, irregular grant of exemptions and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of Assessing Authorities (AAs) are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till we conduct audit. There is need for the Government to improve the internal control system including strengthening of internal audit.

2.4 Non-observance of the provisions of Acts/Rules

The BST Act, MVAT Act and Rules framed thereunder provide for:

(i) allowance of set-off as admissible under MVAT Acts;

(ii) exemption of tax on deemed export or branch transfers subject to submission of the prescribed Declarations/certificates;

(iii) levy of tax/turnover tax/surcharge/interest at the prescribed rate;

(iv) computation of turnover of sales; and

(v) grant of interest on refund.

We noticed that the AAs, while finalising the assessments, did not observe some of the provisions of the Act, Rules and notification issued thereunder in cases mentioned in the paragraphs 2.4.1 to 2.4.11. These lapses resulted in non/short levy/non-realisation of tax/interest/excess grant of set-off, etc., of ₹ 2.29 crore.

2.4.1 Excess grant of set-off under MVAT Act

Deputy Commissioner of Sales Tax, Refund and Refund Audit [DCST (R&RA)]-20, Pune Division

Under the provisions of MVAT Act, 2002 and rules made under section 52 read with section 48 (5), set-off shall be allowed to the claimant dealer of taxes collected separately from him by the other registered dealer on purchases of capital assets and goods, the purchases of which are debited to profit and loss account by the claimant dealer. However, in no case the amount of set-off on any purchases of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into the Government treasury. Scraps of plastic, iron and steel are taxable at the rate of four *per cent.*

Our scrutiny of the refund and refund audit files in January 2009 revealed that a dealer had collected tax of ₹ 6.09 lakh (at the rate of four *per cent)* on the purchase of raw material (scrap material) valued at ₹ 1.52 crore from January to March 2006. However, in the return filed by him in August 2007 he claimed set-off of ₹ 19.03 lakh (at the rate of 12.5 *per cent*) on these purchases. The Assistant Commissioner of Sales Tax (R&RA) Pune did

not point out the mistake at the time of accepting the return, resulting in excess grant of set-off of ₹ 12.94 lakh. Besides, interest of ₹ 9.22 lakh and penalty of ₹ 12.94 lakh were also leviable.

After we pointed out the case in January 2009, the Department rectified the mistake by passing an assessment order in November 2010 withdrawing the excess set-off and raising additional demand of ₹ 35.08 lakh including interest of ₹ 9.22 lakh and penalty of ₹ 12.93 lakh. A report on recovery has not been received (February 2012).

We reported the matter to the Government in May 2011; their reply is awaited (February 2012).

2.4.2 Non-levy of interest u/s 30(4) of the MVAT Act

Deputy Commissioner, Large Tax payers Unit E-001, Pune Division

As per sub-section 4 of section 30 of the MVAT Act, 2002 , after the commencement of audit of the business of the dealer in respect of any period and he files one or more returns or, as the case may be, revised return in respect of the said period, then he shall be liable to pay by way of interest, in addition to the amount of tax, if any, payable as per the return or, as the case may be, revised return, a sum equal to 25 *per cent* of the additional tax payable as per the return.

During test check of the business audit records of the unit in June 2010, we noticed that while conducting the business audit of a reseller in motorcars in September 2009, for the periods from 2005-06, 2006-07 and 2007-08, additional demands of ₹ 14.23 lakh, ₹ 12.05 lakh and ₹ 15.10 lakh, respectively were raised. In all these three periods the dealer had not disclosed the quantum of tax payable correctly in the return and on the basis of the letter issued by the Department, the dealer had filed revised returns. However, interest at 25 *per cent* of the additional demand raised was not levied by the AA as required under sub-section 4 of section 30 of the MVAT Act. Non-levy of interest for these three periods worked out to ₹ 10.35 lakh. Failure of the AA to consider the amendment made in section 30 resulted in non-levy of interest aggregating ₹ 10.35 lakh for the periods 2005-06, 2006-07 and 2007-08.

After we pointed out the case in June 2010, the Department accepted the observations and rectified the order passed during business audit in September 2011, raising additional demands aggregating ₹ 10.35 lakh for the periods 2005-06, 2006-07 and 2007-08. A report on recovery has not been received (February 2012).

We reported the matter to the Government in November 2011; their reply is awaited (February 2012).

2.4.3 Irregular grant of exemption from payment of tax against form 'H'

Sr. Deputy Commissioner of Sales Tax, A-14, Thane Division (Sr.DC), Thane and Assistant Commissioner of Sales Tax, C-488, Borivali Division, Mumbai (AC)

Under the provisions of the CST Act and the Rules made thereunder, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India is deemed to be in the course of export and is exempt from tax, provided, the last sale or purchase took place after, and was for the purpose of complying with the agreement or order for or in relation to such export. Also, the selling dealer is required to produce a certificate in form 'H' duly filled in and signed by the exporter along with the evidence of export of goods.

2.4.3.1 During test check of the assessment and other relevant records of the Sr. DC in November 2009, we noticed in the assessment for the period 2002-03 (assessed in September 2008) of a dealer[13] covered under Package scheme of Incentives (Deferral mode), who was engaged in the manufacture of packing material, had sales valued at ₹ 3.57 crore which were exempted from payment of tax in the course of export on the support of form 'H' issued by purchasing dealers. Our scrutiny revealed that neither the details of the agreement orders from the foreign buyer and the details of purchase order were mentioned in form 'H' nor was this information furnished separately by him. In the absence of these details, the conditions under which sales were allowed as exempt from tax could not have been said to be fulfilled. Hence the sales of ₹ 3.57 crore were liable to tax at 10 *per cent.* Non-levy of tax resulted in under-assessment of tax of ₹ 35.71 lakh.

After we pointed out the case in December 2009, the Department accepted the audit observation and rectified the assessment order in September 2010 raising an additional demand of ₹ 35.30 lakh.

2.4.3.2 In another case, during the test check of the assessment and related records of the AC in June 2008, we noticed in the assessment for the period 2002-03 (assessed in January 2008) of a dealer[14] engaged in the manufacture of packing material, that sales valued at ₹ 57.63 lakh were made in the course of exports on certificates in form 'H' which were issued by the purchasing dealers. Scrutiny revealed that these dealers had not furnished copies of the agreement order from the foreign buyer and purchase order of the local dealer in support of their claim for export. In the absence of these documents the exemption granted was irregular and the sales were liable to be taxed. Non-levy of tax resulted in underassessment of tax of ₹ 14.48 lakh including interest of ₹ 8.72 lakh.

[13] M/s Essel Propack Ltd.
[14] M/s JBL Sacks Pvt. Ltd.

After we pointed out the case in July 2008, the Department rectified the assessment in January 2010 raising additional demand of ₹ 14.48 lakh including interest of ₹ 7.92 lakh and penalty of ₹ 80,000. A report on recovery has not been received (February 2012).

We reported the matter to the Government in April and May 2011; their reply is awaited (February 2012).

2.4.4 Incorrect grant of set-off under the BST Act

Sr. Deputy Commissioner of Sales Tax, A-14, Thane Division, Thane (Sr.DC) and Assistant Commissioner of Sales Tax, C-489, Borivali Division, Mumbai (AC)

According to the BST Act and Rule 41 D of BST Rules, a manufacturer who pays tax on purchase of goods specified in entry 6 of Schedule 'B' or Schedule 'C' to the Act and uses those goods within the State in the manufacture of goods for sale or exports or in packing of goods so manufactured is allowed set-off of tax paid on the purchases after reducing a certain percentage of purchase price as is provided in the Rules from time to time. In respect of manufactured goods which are transferred by a dealer to its own branches or commission agents outside the State, the set-off is to be reduced by a sum equal to three *per cent* of local purchases plus three *per cent* of purchases from outside the State as compared to six *per cent* of local purchases of raw materials, whichever is higher. Besides, interest is also leviable as per the provisions of the Act.

2.4.4.1 During test check of the assessments and related records of the Sr.DC in November 2009, we noticed in the assessment for the period 2002-03 (finalised in September 2008) of a dealer[15] covered under the Package Scheme of Incentives (deferral mode) and engaged in the manufacture of multi layer collapsible tubes, that set-off of ₹ 54.25 lakh was allowed on the purchase of raw material treating the purchases as taxed at 15.3 *per cent* (including turnover tax and surcharge). Our scrutiny revealed that the raw material purchased were caps and corrugated boxes on which the rate of tax payable was 5.4 *per cent* (including turnover tax and surcharge). Further, there was an error in computation of the set-off by the assessing authority. On reworking, we noticed that the set-off on these purchases was admissible at ₹ 26.37 lakh only. This resulted in excess grant of set-off of ₹ 27.88 lakh.

After we pointed out the case in December 2009, the Department accepted the audit observation and rectified the assessment order in September 2010 raising an additional demand of ₹ 27.88 lakh. Since the dealer was covered under the Package Scheme of Incentives (deferral mode), the additional demand was adjusted against the monetary limit prescribed under the scheme.

[15] M/s Essel Propack Ltd.

2.4.4.2 In another case, during test check of the assessments and related records of the AC in June 2008, we noticed in the assessment for the period 2004-05 (finalised in December 2007) of a dealer[16] engaged in the manufacture of kitchen furniture and accessories that set-off of ₹ 12.81 lakh was allowed on the purchase of raw material. Our scrutiny revealed that the set-off was computed incorrectly and actual set-off admissible was ₹ 7.79 lakh. This mistake in arithmetical calculation resulted in excess grant of set-off of ₹ 5.02 lakh. Further interest of ₹ 4.29 lakh was also leviable as per the provisions of the Act.

After we pointed out the case in July 2008, the Department rectified the case in April 2010 raising additional demand of ₹ 8.85 lakh. A report on recovery has not been received (February 2012).

We reported the matter to the Government in April 2011; their reply is awaited (February 2012).

Under the provisions of BST Rules, the liquor vendor is entitled to full set off of sales tax paid on the basis of original invoices evidencing payment of sales tax. If the vendor subsequently avails discounts on the basis of credit notes then the amount of discount should be considered by the assessing authority for proportionate reduction of set off.

2.4.4.3 During test check of the assessments and related records the Deputy Commissioner of Sales Tax (DCST), B-253, Nagpur in January 2009, we noticed that in the assessment of M/s.Vidharbha Distillers for the year 2002-03 and 2003-04, finalised in August 2007, the dealer was granted deduction of ₹ 47.74 lakh and ₹ 50.31 lakh respectively in payment of sales tax on discounts granted by him to liquor vendors. However, the assessing officer did not cross verify whether the liquor vendors had reduced their purchases by the amount of discount received by them while claiming set-off. We noticed from cross verification of six liquor vendors to whom the dealer had given discount that four out of six liquor vendors had claimed set off on full tax paid on the original invoice without taking into consideration the discount received by them through credit notes. Thus, lack of coordination amongst various units in Sales Tax Department in Nagpur division and lack of cross verification resulted in grant of excess set off amounting ₹ 29.24 lakh.

After we pointed out the case in January 2009, the DCST (Asstt.), B-253, Nagpur agreed to cross-check the records of the purchasers through the Joint Commissioner of Sales Tax (BST-PT), Nagpur and accepted (March 2010) that the Department allowed irregular set-off of ₹ 70.87 lakh to 11 dealers out of 18 who had received credit notes from M/s.Vidharbha Distillers during 2002-04. A report on recovery had not been received (February 2012).

We reported the matter to the Government in June 2011; their reply is awaited (February 2012).

[16] M/s. Chandan Enterprises.

2.4.5 Short levy of Sales Tax due to incorrect determination of taxable turnover

Sr. Deputy Commissioner of Sales Tax, A-12, Andheri Division, Mumbai

Under the provisions of the BST Act, the turnover of sales means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period. Further, the rate of tax on any commodity was determined with reference to the relevant entry in the Schedule 'B' or 'C' of the Act. Besides, turnover tax, surcharge and interest were also leviable as per the provision of the Act.

During test check of annual accounts and assessment order of the unit in June 2008, we noticed that for the period 2002-03, in the assessment (March 2008) of a dealer, miscellaneous sales amounting to ₹ 2.5 crore shown in the annual accounts of the dealer, for the year ended 31 March 2003, were not included in the sales turnover of the dealer. Non-inclusion had resulted in underassessment of tax of ₹ 39.52 lakh.

After we pointed out the case in July 2008, the Department accepted our observation and rectified the assessment in September 2010 raising additional demand of ₹ 34.74 lakh against ₹ 39.52 lakh pointed out by us. The AA allowed exemption of sales from payment of tax of ₹ 4.78 lakh on account of sales valued at ₹ 30.29 lakh made by other branches of the dealer. A report on recovery is awaited (February 2012).

We reported the matter to the Government in April 2011; their reply is awaited (February 2012).

2.4.6 Acceptance of invalid Declaration for stock transfer

Sr. Deputy Commissioner of Sales Tax, A-14, Thane Division, Thane

Under Section 6A(1) of the CST Act, no tax is payable by a dealer on movement of goods to other States which is not by way of sale but by reason of transfer of stock to other places of his business or to his agent or principal. For claiming exemption, the dealer may furnish to the assessing authority a Declaration in form 'F' duly filled in and signed by the Principal Officer of the other place of business or his agent as the case may be along with evidence of dispatch of the goods. Further, as per the CST (Registration and Transfer) Rules, 1957, a single Declaration in form 'F' is required for transfer of goods effected during a period of one calendar month.

During test check of the assessment and related records in November 2009, we noticed in the assessment for the period 2002-03 (finalised in March 2009) of a dealer engaged in the manufacture of industrial gas cylinders that goods valued at ₹ 1.79 crore were allowed as branch transfer to Gujarat State. It was, however, noticed that a single Declaration in form 'F' was furnished by the branch at Gujarat covering the transactions for the whole year. As form 'F' was required to be furnished for branch transfer for each calendar month,

allowance of branch transfer of ₹ 1.74 crore as exempt from tax which was beyond the period of one calendar month was irregular and was liable to tax. This resulted in underassessment of tax of ₹ 37.49 lakh including interest of ₹ 9.92 lakh.

After we pointed out the case in December 2009, the Department accepted the observation and rectified the assessment in September 2010 levying tax on transaction of ₹ 1.34 crore (after allowing ₹ 44.73 lakh as exempt from tax being the highest value of branch transfer for a month) and raised additional demand of ₹ 28.78 lakh including interest of ₹ 7.62 lakh. A report on recovery has not been received (February 2012).

We reported the matter to the Government in May 2011; their reply is awaited (February 2012).

2.4.7 Loss of revenue due to non-finalisation of assessment within prescribed time limit

Deputy Commissioner of Sales Tax, B-202, Pune Division, Pune

As per the provisions of sub-section 4A of section 4 of the BST Act, where all the returns other than the annual return are filed by a Registered dealer for any year within one month of the end the year to which such returns relate, no order of assessment in respect of that year shall be made after the expiry of three years from the end of the said year. Further, as per section 4-1B notwithstanding anything contained in sub-section (4A), in respect of the returns relating to any period commencing on or after 1 April 1999 and ending on 31 March 2003, the period of limitation of three years laid down in sub-section (4A) for making assessment shall be of five years.

During test check of the assessment and related records in August 2008, we noticed that in the assessment of a dealer, for the period 2000-01, finalised on 10 April 2006, demands of ₹ 12.35 lakh (BST) and ₹ 9.11 lakh (CST) under the BST Act and CST Act respectively were raised. The dealer did not pay the dues aggregating ₹ 21.46 lakh but instead filed an appeal before the Joint Commissioner of Sales Tax (Appeals) in 2006-07 with a plea that the assessment order may be set aside, as it was passed beyond the limitation period of five years i.e. 31 March 2006. The Appellate authority set aside the assessment order in August 2006 and directed the assessing officer to take action as per law. Non-finalisation of assessments in time resulted in non-recovery of dues of ₹ 21.46 lakh.

After we pointed out (September 2008) the Deputy Commissioner of Sales Tax (Administration), Maharashtra State, Mumbai Stated (May 2011) that an Enquiry Committee set up for this purpose by the Department had held the assessing officer guilty. As a consequence of this, the Government (Finance Department) dismissed the erring officer from service as per the order issued in March 2011. A reference was made by us to the Commissioner of Sales Tax in June 2011 regarding the loss of revenue of ₹ 21.46 lakh to the Government and as to how it would be recovered. No reply has been received from the Commissionerate (February 2012).

We reported the matter to the Government in April and June 2011; their reply is awaited (February 2012).

2.4.8 Short levy of Sales Tax due to suppression of sales

Deputy Commissioner of Sales Tax (DCST), B-252, Nagpur

As per provisions of BST Act, where any dealer or person knowingly issues or produces a false bill, cash memorandum, vouchers, Declaration certificate or other document by reason of which transaction of sale or purchase effected by him or by any other dealer is not liable to be taxed or is liable to be taxed at a reduced rate, then the Commissioner may, after giving such dealer or person a reasonable opportunity of being heard, by order in writing, impose on him, in addition to tax, a penalty not exceeding the tax due in respect of such transaction.

During test check of the assessment and related records in February 2009, we noticed that the dealer company was holding entitlement certificate under the 1988 scheme, for deferral mode of expansion capacity at the rate of 54 *per cent* for the period from April 1991 to March 1999 with monetary limit of ₹ 5.08 crore; therefore, only 46 *per cent* was liable for tax.

The dealer (having branch at Nagpur, Raipur and Bhilai) had disclosed the sales of ₹ 115.81 crore in certified accounts of March 1997. As per Raipur branch assessment order for the period April 1996 to March 1997, gross turn over was ₹ 35.27 crore whereas in the profit and loss account ended on 31st March 1997 it was shown as ₹ 28.22 crore (excluding the trial production sales of ₹ 7.07 crore). Therefore the effective sales booked in respect of Raipur branch was not ₹ 30.22 crore as shown at the time of assessment but only ₹ 28.22 crore. Hence, there was a difference of sales of ₹ 2 crore. Thus, the dealer had inflated the sales of Raipur branch to that extent and suppressed the sales from Nagpur unit. As the dealer did not produce any documentary evidence for the branch transfer of ₹ 2 crore, the same was liable for tax at the rate of four *per cent* which works out to ₹ 8 lakh. Penalty of ₹ 8 lakh was also leviable.

After we pointed out the case, the Commissioner of Sales Tax, Mumbai accepted the omission (February, 2010). A report on recovery is awaited. (February 2012).

The matter was reported to the Government in June 2011; their reply has not been received (February 2012).

2.4.9 Incorrect grant of exemption from payment of tax on intra-State sales

Sales Tax Officer, E-322, Nasik Division, Nasik

Under the provisions of the CST Act and the Rules made thereunder, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India is deemed to be in the course of export and is exempt from tax, provided, the last sale or purchase took place after, and was for the purpose of complying with the agreement or order for or in relation to such export. Also, the selling dealer is required to produce a certificate in form '14B' duly filled in and signed by the exporter along with the evidence of export of goods.

During test check of the assessment and related records in February 2009, we noticed in respect of a dealer engaged in the manufacture of engineering goods that sales valued at ₹ 35.45 lakh, for the period 2000-01 (assessed in November 2007), was exempted from tax, as sales in the course of exports. For this the selling dealer was required to obtain a certificate in form '14B' and other documents to confirm that there was a pre-existing order from the foreign buyer and that the goods were actually exported. Our scrutiny revealed that the dealer had not furnished the documents in support of the claim for export.

Failure of the AA to ascertain whether documents in support of the sales claimed as exempt from tax were produced by the selling dealer resulted in underassessment of tax of ₹ 5.42 lakh. Besides, interest of ₹ 6.93 lakh was also leviable.

After the case was pointed out in March 2009, the Department accepted the audit observation and rectified the mistake in November 2010 raising additional demand of ₹ 12.35 lakh. A report on recovery has not been received (February 2012).

We reported the matter to the Government in May 2011; their reply is awaited (February 2012).

2.4.10 Incorrect/excess grant on interest on refund

Sr. Deputy Commissioner of Sales Tax, A-08, Worli Division, Mumbai

Under section 43(A) of BST Act, if a dealer is entitled for refund of any tax in respect of any period of assessment commencing on or after 1 April 1995, then he shall be entitled to receive, in addition to the refund, simple interest at the rate of 12 *per cent* (six *per cent* w.e.f. 1 July 2004) per annum for the period commencing on the next date following the last date of the period of assessment to which such order relates and ending on the date of such order or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the dealer in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any, adjusted towards any recovery under this Act or, as the case may be, under the CST Act.

2.4.10.1 During test check of assessment and related records of the unit in January 2010, we noticed in the assessment of a dealer engaged in the manufacture of fertiliser, animal feeds, poultry feeds, agricultural implements, etc. finalised in March 2009, for the period 2003-04, that interest on refund of ₹ 81.32 lakh was worked out from April 2004 to September 2005, at 18 *per cent* per annum instead of at 12 *per cent* from April 2004 to June 2004 and six *per cent* from July 2004 to September 2005. Thus, interest of ₹ 14.64 lakh was granted instead of ₹ 8.54 lakh. This resulted in excess grant of interest of ₹ 6.10 lakh.

After we pointed out the case. in January 2010, the Department accepted the audit observation and rectified the mistake in March 2011 raising additional demand of ₹ 6.10 lakh. A report on recovery has not been received (February 2012).

2.4.10.2 In another case, during test check of the same unit in January 2010, we noticed in the assessments of another dealer engaged in the manufacture/resale of insecticides, pesticides and industrial input chemicals, finalised in March 2009 for the period 2003-04, that on refund of ₹ 60.08 lakh under the BST Act, interest of ₹ 5.40 lakh was granted. However, as the assessment under the CST Act, for the same period, has resulted in dues of ₹ 3.81 crore, the refund arising out of BST assessment should have been adjusted against the dues under the CST Act. Failure to do so resulted in incorrect grant of interest of ₹ 5.40 lakh.

After we pointed out the case, in January 2010, the Department rectified the mistake in March 2011, withdrawing the interest of ₹ 5.40 lakh on refund incorrectly granted under the BST Act and also adjusted the refund against the dues under the CST Act raising additional demand of ₹ 6.74 lakh including interest of ₹ 1.34 lakh. A report on recovery has not been received (February 2012).

We reported these cases to the Government in June 2011; their reply is awaited (February 2012).

2.4.11 Short levy of interest

Deputy Commissioner of Sales Tax, B-193, Thane Division, Thane

Under the provisions of Section 36(3)(b) of the Bombay Sales Tax Act, 1959, if any tax has remained unpaid for any period of assessment, then the dealer is liable to pay by way of simple interest at the rate of two *per cent* (1.25 *per cent* with effect from July 2004) of such tax for each month or part thereof from the date immediately following the date on which the period for which the dealer has been assessed expires till the date of order of assessment and where any payment of such unpaid tax whether in full or part is made on or before the date of order of assessment, the amount of such interest shall be calculated by taking into consideration the amount and the date of such payment.

During test check of the assessment and related records of the unit in May 2010, we noticed in the assessments of a dealer, finalised in March 2010, for the period 2003-04, that dues totalling ₹ 36.30 lakh, as a result of assessment, were not paid by the dealer for a period of 72 months, from the period of assessment till the date of order of assessment. In this case the AA had levied the interest of ₹ 27.22 lakh on the unpaid dues. Our scrutiny, however, revealed that the interest of ₹ 33.48 lakh should have been levied. This resulted in short levy of interest of ₹ 6.26 lakh.

After we pointed out the case, in June 2010, the Department accepted the audit observation and rectified the mistake in August 2010 raising additional demand of ₹ 6.26 lakh. The DCST (Assessment) stated (July 2011) that the dealer had filed an appeal against the rectification order passed by the Department and the appellate authority had granted stay on the recovery.

We reported the matter to the Government in May 2011; their reply is awaited (February 2012).

CHAPTER III
STAMP DUTY AND REGISTRATION FEES

3.1 Introduction

3.1.1 Tax Administration

At the apex level, Principal Secretary, Relief and Rehabilitation (R&R) heads the Department. Responsibility for overall administration of stamp duty is entrusted to the Inspector General of Registration (IGR), Pune. He is assisted by 9[1] Deputy Inspectors General of Registration (DIG), Superintendent of Stamps (SOS) at Mumbai, six Collectors of Stamps at Mumbai, 31 Joint District Registrars (JDRs) and 377 Sub-Registrars (SRs).

3.1.2 Trend of receipts

Actual receipts from Stamp Duty and Registration Fee, etc., during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	5,600.00	6,415.72	(+) 815.72	(+) 14.57	40,099.24	16.00
2007-08	7,200.00	8,549.57	(+) 1,349.57	(+) 18.74	47,528.41	17.99
2008-09	9,600.00	8,287.63	(-) 1,312.37	(-) 13.67	52,029.94	15.93
2009-10	9,600.00	10,773.65	(+) 1,173.65	(+) 12.23	59,106.33	18.23
2010-11	10,478.86	13,515.99	(+) 3,037.13	(+) 28.98	75,027.10	18.01

As can be seen from the above table, the revenue collection of the State under Stamp duty and Registration Fee increased by 29.17 *per cent* in 2008-09 as compared to 2006-07 and further increased by 30 *per cent* in 2009-10 over 2008-09. In 2010-11, the revenue increased by 25.45 *per cent* over 2009-10.

3.1.3 Cost of collection

The gross collection in respect of Stamp duty and Registration Fee, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2009-10 are given in the following table:

[1] Including one Dy.IGR, Headquarter at Pune.

(₹ in crore)

Sl. No.	Head of revenue	Year	Gross collection[2]	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of the preceding year
1.	Stamp duty and Registration Fee	2008-09	8,287.63	88	1.06	2.09
		2009-10	10,773.65	105	0.97	2.77
		2010-11	13,515.99	100	0.74	2.47

As seen from the above, the cost of collection in the State of Maharashtra, during the periods 2008-09 to 2010-11 is less as compared to the all India average for the year 2009-10.

3.1.4 Impact of audit reports

Revenue impact

During the last five years, 2005-06 to 2009-10, we had pointed out in our Audit Reports cases of under assessments/non/short levy/loss of revenue of stamp duty, etc., interest and other irregularities with revenue implication of ₹ 230 crore in 566 cases. Of these, the Department had accepted audit observations in 78 cases involving ₹ 13.11 crore and had recovered ₹ 0.14 crore in two cases. The details are shown in the following table:

(₹ in lakh)

Year	Amount objected		Amount accepted		Amount recovered	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2005-06	301	6016.07	17	266.57	Nil	Nil
2006-07	212	13570.00	19	220.00	Nil	Nil
2007-08	9	2582.00	3	56.00	1	11.00
2008-09	16	335.00	11	272.00	Nil	Nil
2009-10	28	496.84	28	496.84	1	2.70
Total	**566**	**22999.91**	**78**	**1311.41**	**2**	**13.70**

As would be seen from the above the amount recovered is only one *per cent* of the amount of the accepted cases. The Department needs to take effective steps to recover the amount at least in those cases which have been accepted by the Department.

We recommend that the Government may consider issuing instructions to the Department for effecting recoveries at least in those cases which have been accepted by the Department.

[2] Figures as per Finance Accounts

3.1.5 Results of audit

We reported underassessment, short levy, non-levy of stamp duty, loss of revenue etc., amounting to ₹ 13.75crore in 379 cases as shown below, on the basis of test check of records of stamp duty and registration fees conducted during the year 2010-11:

(₹ in crore)

Sr. No	Categories	No. of cases	Amount
1	Short levy due to under valuation of property	322	9.28
2	Short levy due to misclassification of documents	30	3.14
3	Incorrect grant of exemption of stamp duty and registration fees	19	1.18
4	Non-levy of stamp duty and registration fee.	7	0.12
5	Other irregularities	1	0.03
	Total	**379**	**13.75**

In response to the observation made in the local audit through Inspection Reports during the year 2010-11 as well as during earlier years, the department accepted and recovered short levy and other deficiencies involving ₹ 84.10 lakh in 113 cases, of which 9 cases involving ₹ 1.78 lakh were pointed out during 2010-11 and rest during earlier years.

A few audit observations involving ₹ 5.18 crore are included in the succeeding paragraphs, against which ₹ 16.85 lakh has been recovered up to October 2011.

3.2 Audit observations

During scrutiny of records of the various registration offices, we noticed several cases of non-compliance of the provisions of the Bombay Stamp Act, 1958 and Government notifications and instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on our test check of records. The Government/ Department need to improve internal control mechanisms so that such cases can be avoided, detected and corrected.

3.3 Non-observance of provisions of Acts/Rules

The provisions of the Bombay Stamp Act, 1958 and Government notifications and instructions require:-

i. Levy of stamp duty on market value of property;

ii. levy of stamp duty at prescribed rate; and

iii. levy of stamp duty as per the substance and real nature of transaction.

We observed that the registering authorities did not observe some of the above provisions at the time of registration of documents in cases mentioned in paragraphs 3.3.1 to 3.3.7. This resulted in short levy of stamp duty of ₹ 5.18 crore.

3.3.1 Short levy of stamp duty due to undervaluation of property

As per the provisions of Bombay Stamp Act (BS Act), 1958, stamp duty (SD) on conveyance deed is leviable on the true market value of the property. Further, under the provisions of BS Act, an agreement if relating to giving authority or power to a promoter or a developer by whatever name called for construction on, development of or, sale or transfer of any immovable property, the stamp duty is chargeable at the rate of one *per cent* on the market value of property. BS Act further provides that where the lease including sub-lease is for a period exceeding twenty nine years, with a renewal clause contingent or otherwise, stamp duty is leviable as on conveyance, on 90 *per cent* of market value of the property. The market value of the property is worked out by applying the rates of the ready reckoner applicable to the area in which the property is situated. In respect of members of co-operative society, stamp duty is chargeable at concessional rate.

During test check of the records, we found that undervaluation of the property resulted in short levy of stamp duty of ₹ 2.82 crore. The details are mentioned in the following table:

Sl. No	Name of the office	SD levied (₹ in lakh)	SD leviable (₹ in lakh)	SD short levied (₹ in lakh)	Irregularities in brief
1.	Joint Sub Registrar-II, Borivali, Mumbai and Joint Sub-Registrar -I, Andheri, Mumbai	61.99	187.21	125.22	On two instruments of conveyance, one assignment deed and one development agreement, the duty was levied considering market value of ₹ 17.88 crore whereas correct market value based on rates prescribed in ready reckoner applicable to the area in which the property is situated was ₹ 50.78 crore.
2.	Joint Sub Registrar, City-II, Mumbai	234.37	325.06	90.69	On an instrument of sub-lease for multiplex cinema situated in Phoenix Mills compound, Lower Parel Division, Mumbai for a period of nine hundred years, the duty was levied considering market value of property of ₹ 46.88 crore whereas correct market value based on rates prescribed in ready reckoner and the zone in which the property is situated was ₹ 72.23 crore.
3.	Sub Registrar-II, Thane	55.01	87. 34	32.33	On two instruments of lease for a period of 25 years with renewal clause for a further period of 25 years, duty was levied on 90 *per cent* of market value of ₹ 11 crore whereas the correct market value based on rates prescribed in ready reckoner applicable to the area in which the property is situated was ₹ 19.41 crore.
4.	Joint Sub Registrar, Kurla-I, Chembur, Mumbai	67.79	91.74	23.95	On an instrument of conveyance, the duty was levied considering market value of ₹ 13.55 crore whereas correct market value based on rates prescribed in ready reckoner and the zone in which the property is situated was ₹ 18.35 crore.
5.	Joint Sub Registrar, Andheri -III, Mumbai	2.25	12.35	10.10	On an instrument of conveyance deed, the duty was levied considering market value of ₹ 45 lakh whereas correct market value based on rates prescribed in ready reckoner and the zone in which the property is situated was ₹ 2.47 crore.
	Total	**421.41**	**703.70**	**282.29**	

After we pointed out these cases (between May 2005 and December 2009), the department accepted (between December 2009 and November 2010) the omissions and directed to recover the deficit SD. In one case (Sl. No. 2) the Department stated that after issue of notice the party has approached the High Court for relief. In one case (Sl. No. 5) amount was recovered at our instance. In remaining cases report on recovery has not been received (February 2012).

The matter was reported to the Government in May and June 2011; their reply has not been received (February 2012).

3.3.2 Short levy of stamp duty due to non-consideration of value of movable property

Sub Registrar Paithan, District Aurangabad

As per the provisions of Bombay Stamp Act, 1958, stamp duty on conveyance deed of movable and immovable property is leviable at the rate of three and four *per cent* respectively on the true market value of the property.

During test check of records in July 2008, we noticed that an instrument of conveyance was executed in December 2007 and SD of ₹ 31.93 lakh was levied on consideration of ₹ 7.98 crore. However, an Agreement to transfer business at village Chitegaon, Taluka Paithan, District Aurangabad had been executed and notarised in October 2007 and SD of ₹ 4.41 lakh was paid. We noticed that the value of movable and immovable assets as per this agreement was ₹ 36.21 crore and ₹ 7.98 crore respectively on which SD of ₹ 1.09 crore and ₹ 31.93 lakh respectively was leviable. The adjudicating authority while valuing stamp duty completely ignored the value of the movable assets as per the Agreement. We saw that a letter from the Income Tax Department was available with the Agreement which showed the gross value of the assets. Failure to adopt the value of the movable assets resulted in undervaluation of property and consequent short levy of SD of ₹ 1.04 crore.

After we pointed out the case, the Deputy Inspector General of Registration and Deputy Controller of Stamps, Aurangabad accepted the omission in March 2010. He further stated (August 2011) that after issue of notice the party has approached the High Court for relief.

We reported the matter to the Government in May 2011; their reply has not been received (February 2012).

3.3.3 Short levy of stamp duty due to misclassification of instrument

Joint Sub Registrar, City-II, Mumbai

Under the provisions of Maharashtra Registration Manual, part-II, to classify an instrument as development agreement, the presence of inherent power to sell the units constructed by the developer is essential. Further, as per the provisions of Bombay Stamp Act, 1958, on instrument of exchange of property and development agreements, stamp duty is leviable at the rate of five and one *per cent* respectively on the market value of property. In exchange of property, stamp duty is leviable on market value of the property of the greatest value.

During the test check of records in April 2008 we noticed that, an agreement for development was executed in August 2007 for constructing additional upper floors on existing building by utilising additional floor space index. Stamp duty of ₹ 10.96 lakh was levied on market value of ₹ 10.96 crore treating the instrument as development

agreement though the inherent power to sell the units constructed by the developer was not present. The additional floors constructed by the developer were to be handed over to the owner and in exchange, the owner would sub-lease three floors of the existing building to the developer. Hence, the instrument should have been classified as exchange deed instead of development agreement and stamp duty of ₹ 79.13 lakh was leviable on the market value of the property of the greatest value amounting ₹ 15.83 crore. Thus, misclassification of instrument led to short levy of stamp duty of ₹ 68.16 lakh.

After we pointed out (June 2008), the Inspector General of Registration (IGR), Pune accepted the omission in August 2010 and directed the Collector of Stamps, Mumbai to recover the stamp duty. A demand notice for recovery of deficit stamp duty of ₹ 68.16 lakh was issued in September 2010. The report on realisation of deficit stamp duty has not been received (February 2012).

The matter was reported to the Government in May 2011; their reply has not been received (February 2012).

3.3.4 Irregular remission of stamp duty

Sub Registrar, Haveli XI, Pune

The Government of Maharashtra under notification dated 29th December 2003 remits 75 *per cent* stamp duty on instrument of lease executed by Information Technology (IT) units for starting new unit in private sector IT Park. For the purpose of this remission, an IT unit means units certified by the Development Commissioner (Industries) or any other officer authorised by him in this behalf.

During test check of records in March 2008 we noticed that the Joint District Registrar, Pune granted remission of 75 *per cent* of stamp duty on three instruments of agreement treating them IT units. However, it was observed from the main objects of the company mentioned in the Memorandum of Association, attached with the documents, that the purchasing companies were not IT units. Hence, remission of 75 *per cent* stamp duty amounting to ₹ 29.78 lakh worked out on market value of ₹ 7.94 crore was irregular resulting in short levy of stamp duty of ₹ 29.78 lakh.

After we pointed out in March 2008, the Joint District Registrar and Collector of stamps, Pune (December, 2008) accepted the omission. A report of recovery had not been received (February 2012).

We reported to the Government in May 2011; their reply has not been received (February 2012).

3.3.5 Short levy due to non-follow of the Departmental instructions

Sub Registrar City-II, Mumbai

As per the provision of Bombay Stamp Act, 1958, if an agreement is executed relating to giving authority or power to a promoter or a developer by whatever name called, for construction on, development of or, sale or transfer of any immovable property, the stamp duty is chargeable at the rate of one *per cent* on the market value of property. Further, under the instruction of the Maharashtra Registration Manual, Part-II where the developer offer to allot residential/non-residential components to the owner in lieu of the development rights, the value of residential/non-residential components should be calculated according to the prevailing rates prescribed in the statistics on the day of the Agreement and the duty and fees should be levied on the greater of the two values viz. the value of the property or the components.

During test check of records in April 2008, we noticed that the adjudicating authority while valuing property situated at Mahim, Mumbai had not abided by the Departmental instructions mentioned herein. The adjudicating authority had not considered the greater value of residential/non-residential components of ₹ 19.80 crore given by the Developer to the owner in lieu of development rights, for purpose of valuation and levy of stamp duty. Thus, omission to value according to the departmental instructions led to short levy of stamp duty of ₹ 13.92 lakh.

After we pointed out the case in May 2008, the Inspector General of Registration (IGR), Pune accepted (August 2010) the omission and directed the Collector of Stamp, Mumbai to recover the stamp duty. The report on recovery has not been received (February 2012).

We reported the matter to the Government in May 2011; their reply has not been received (February 2012).

3.3.6 Incorrect grant of exemption of stamp duty

Joint District Registrar, Parbhani.

By a notification dated 5 May 2001, the Government remits the stamp duty on instruments of hypothecation, pawn, pledge, deposit of title deeds, conveyance, further charge on mortgage of property, lease, mortgage deed etc. for starting a new industry/new extension of industry in notified areas on the basis of a certificate issued by the Development Commissioner (Industries) or any authorised officer.

During test check of records in March 2008, we noticed that an instrument of transfer of lease by way of assignment was adjudicated and stamp duty was remitted by the Joint District Registrar treating the transaction of land and factory building separately as transfer of lease and conveyance respectively. The separation of transfer of land and

building was incorrect as the property assigned is of land together with the factory building and chargeable to stamp duty under the provisions of Bombay Stamp Act, 1958. This led to incorrect grant of exemption of stamp duty of ₹ 12.70 lakh.

After we pointed out the case, the Inspector General of Registration, Pune accepted the omission in October 2010. The report of recovery is awaited (February 2012).

We reported the matter to the Government in May 2011; their reply has not been received (February 2012).

3.3.7 Short levy of stamp duty due to incorrect classification of instrument

Sub Registrar XII, Haveli, Pune

As per the provisions of Bombay Stamp Act (BS Act), 1958, stamp duty on instrument of partnership deed is leviable at the rate of five *per cent* as on conveyance on the true market value of the property. As per the note below Article 47 of Schedule I of BS Act, 1958, three essential ingredients necessary to determine the existence of partnership are existence of agreement between the parties; agreement to share profit or loss and the business will be carried on by all or any one of them acting for all. All the three elements must be present to conclude that the persons are partners. Stamp duty on instrument of development agreement is leviable at the rate of one *per cent* on true market value of the property.

During test check of records in June 2008, we noticed that a joint venture agreement was executed in December 2006 and stamp duty of ₹ 1.69 lakh was levied at the rate of one *per cent* on the true market value of ₹ 1.69 crore treating the instrument as development agreement. However, as per recitals of document, all the ingredients determining existence of partnership are present in the instrument. The instrument should have been classified as partnership deed and levied stamp duty of ₹ 8.44 lakh. Thus, incorrect classification of the instrument led to short levy of stamp duty of ₹ 6.75 lakh.

After we pointed out the case in June 2008, the Joint District Registrar and Collector of Stamps, Pune accepted the omission in December 2008. The amount was recovered (October 2010) at our instance.

We have reported the matter to the Government in June 2011.

CHAPTER IV
LAND REVENUE

4.1 Introduction

4.1.1 Tax administration

The administration of Land Revenue Department vests with the Principal Secretary, Revenue Department. For the purpose of administration, the State has been divided into six divisions and each division is headed by the Divisional Commissioner who is assisted by district Collectors. There are 35 district Collectors, 110 revenue sub divisions, 370 *talukas* headed by the Tahsildars. The Revenue Inspector and village officers (*talathis*) are responsible at the grass root level for collecting the land revenue and dues recoverable as arrears of land revenue.

4.1.2 Trend of receipts

Actual receipts from Land Revenue during the years 2006-07 to 2010-11 alongwith the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/ shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	940.00	484.17	(-) 455.83	(-) 48.49	40,099.24	1.20
2007-08	690.00	512.22	(-) 177.78	(-) 25.77	47,528.41	1.08
2008-09	700.00	546.22	(-) 153.78	(-) 21.97	52,029.94	1.05
2009-10	770.00	714.04	(-) 55.96	(-) 7.27	59,106.33	1.21
2010-11	1,647.74	1094.98	(-) 552.76	(-) 33.54	75,027.10	1.46

As can be seen from the above table, the revenue collection under Land Revenue increased by 126.15 *per cent* in 2010-11 as compared to 2006-07.

4.1.3 Impact of Audit Reports

Revenue impact

During the last five years, 2005-06 to 2009-10, we had pointed out in our Audit Reports cases of underassessments/non/short levy/loss of revenue of land revenue, etc., interest and other irregularities with revenue implication of ₹ 551.36 crore in 40,223 cases. Of these, the Department had accepted audit observations in 40,164 cases involving ₹ 53.45 crore and had recovered ₹ 3.74 crore in 59 cases. The details are shown in the following table:

(₹ in crore)

Year	Amount objected		Amount accepted		Amount recovered	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
2005-06	40,011	41.46	40,011	41.46	Nil	Nil
2006-07	44	0.91	44	0.91	7	0.11
2007-08	141	365.68	84	9.51	52	3.63
2008-09	26	140.51	25	1.57	Nil	Nil
2009-10	1	2.80	Nil	Nil	Nil	Nil
Total	**40,223**	**551.36**	**40,164**	**53.45**	**59**	**3.74**

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority.

4.1.4 Results of audit

We reported under assessment, short levy, non-levy of Land Revenue, loss of revenue etc., amounting to ₹ 398.55 crore in 297 cases as shown below, on the basis of test check of records relating to land revenue conducted during the year 2010-11:

(₹ in crore)

Sl. No	Categories	No. of cases	Amount
1.	**Sale/allotment of land and levy and collection of conversion charges (A Performance Audit)**	1	300.87
2.	**Development of Hill Station at Lavasa, Pune**	1	41.33
3.	Non levy/short levy of measurement fees, sanad fees, license fee etc.	13	20.77
4.	Non levy/short levy of fine, unearned income, non-auction/short recovery of surface rent on account of sand ghats	37	15.58
5.	Non levy/short levy/incorrect levy of Non-Agriculture Assessment (NAA), ZP/VP cess and conversion tax	174	10.68
6.	Non levy/short levy of occupancy price, rent, royalty etc.	43	8.27
7.	Non levy/short levy/incorrect levy of increase of land revenue	28	1.05
	Total	**297**	**398.55**

In response to the observation made in the local audit through Inspection Report during the year 2010-11 as well as during earlier years, the Department accepted under assessments and other deficiencies involving ₹ 10.13 crore in 304 cases, of which nine cases involving ₹ 27.27 lakh were pointed out during 2010-11 and rest during earlier years.

A Performance Audit on "**Sale/Allotment of land and levy and collection of conversion charges**" and a compliance audit on **"Development of hill station at Lavasa, Pune"** with a total financial effect of ₹ 342.20 crore including amount contested by the Department of ₹ 63.66 lakh; in addition loss/notional loss of ₹ 81.17 crore and an audit observation involving ₹ 1.57 crore is included in the succeeding paragraphs.

4.2 Performance audit on "Sale/Allotment of land and levy and collection of conversion charges"

Highlights

Database of land available in the State was neither maintained at Government level nor at the Collectorates and thereby the Government did not keep track of cases relating to breach of conditions of allotment of land, cases where lease period have expired, change in use of land, and de-reservations of land, etc.

(Paragraph 4.2.8)

There were irregularities in allotment of land for housing purposes to public representatives/land allotted in violation of conditions regarding income limits/to applicants already owning properties in Mumbai.

(Paragraph 4.2.9)

Land for educational purposes continued to be allotted in Mumbai on basis of Government Resolutions which were 18 to 35 years old, at throwaway prices thereby jeopardising the revenue interests of the Government, though educational activities are no longer only philanthropic in nature. One such case was where the R&FD cancelled the transfer of land to BMC, Mumbai and allotted the land (March 2008) to Arpan Foundation at a meagre amount of ₹ 0.90 lakh as against the market value of ₹ 6.53 crore (as per Ready Reckoner of 2008), for setting up a school on American school pattern.

(**Paragraphs 4.2.10.1 and 4.2.10.2)**

Land was allotted in Nashik to Mumbai Education Trust (MET) on occupancy right basis for Medical and Engineering College of which one Shri Samir Bhujbal was a Trustee for ₹ 9.08 lakh, as against market value of the land of ₹ 9.39 crore (as per Ready Reckoner of 2008), by dereserving land belonging to the State PWD and meant for mining purposes. Further, the entire land admeasuring 91,300 sq.mtr. allotted in November 2003/January 2009 was still lying unutilised as of July 2011.

(Paragraph 4.2.10.3)

The Collector, Pune did not resume land of five acres allotted to Gyaneshwari Trust Pune, for running an English-Marathi medium school though the land whose market value was ₹ 11 crore in 2007, was not utilised for the said purpose since its allotment in November 2008.

(**Paragraph 4.2.10.4)**

Land allotted in Andheri, Mumbai on concessional lease rent basis for a period of 30 years to a public trust "Sindhudurg Shikshan Prasarak Mandal", Kankavli, Sindhudurg for educational purposes/community centre, was misutilised for commercial banquet hall purposes. The Collector Mumbai had no system in place to detect such violations for resumption of Government land.

(**Paragraph 4.2.11)**

The Vasant Dada Patil Pratishthan undertook construction activity which was in violation of the terms and conditions under which land was allotted, but no action was taken by the Department to resume the land to the Government and also to recover the premium of ₹ 17.30 crore from the Pratishthan, though four years have elapsed after the breach of conditions came to the notice of the BMC, thereby conferring undue benefits to the allottee.

(Paragraph 4.2.12)

Though several allottees in Pune/Nashik/Thane had not utilised lands allotted to them by Government, for five to 54 years, since allotment, these lands were not resumed by the Government for breach of conditions. The cost of these lands allotted for residential/educational/recreational purposes aggregated to ₹ 93.46 crore as per current market value.

(Paragraph 4.2.13)

The Government/BMC had irregularly granted redevelopment rights of land to Simplex Mills Mumbai and Jakhubhai Lalji Dal Mill Co. Ltd, instead of resuming the land, though the lease of their land had expired in 1983/1992 and had not been renewed.

(Paragraph 4.2.14)

Huge tracts of land comprising 532.78 hectares granted to the Maharashtra Industries Development Corporation (MIDC) in various districts were lying idle since four to 22 years from their allotment. Similarly, 446.86 hectares of land granted to other five State Corporations were lying unutilised for various periods ranging from five to 36 years, in absence of a periodic review of utilisation of land.

(Paragraph 4.2.15)

Ownership of land originally allotted free of cost to Malti Vasant Heart Trust (Nitu Mandke and family) for a hospital at Andheri, Mumbai was changed by agreements with the Reliance Dhirubhai Ambani Group of Industries, a corporate Group, without prior approval of the Government. The Trust was liable to pay unearned income of ₹ 174.88 crore, which was not recovered by Government in absence of an independent mechanism to enquire timely, about changes in ownerships of original allotments of land and commercialisation of activities thereon.

We also noticed 18 cases of changes in ownership of land in Mumbai, where the Department had not recovered unearned income of ₹ 37.94 crore.

(Paragraphs 4.2.16)

Unjustified reduction of ready reckoner rates of two villages alone in Thane District, resulted in loss of revenue of ₹ 63.57 crore.

(Paragraph 4.2.17)

Non-renewal of lease agreements and delay in fixation of lease rent on part of the Government resulted in non-realisation of lease rent of ₹ 17.60 crore.

(Paragraph 4.2.18)

Non-mentioning of mandatory conditions of time frame to commence activities, in contraventions of Rules resulted in non-resumption of land and undue benefits to the allottee on land allotted in Mumbai Suburban, for a dental college to Manjara Educational Trust.

(Paragraph 4.2.19)

Non-consideration of market value resulted in short recovery of occupancy price of ₹ 2.04 crore, in one case of a co-operative housing society in Mumbai and in two cases in Pune for land allotted for educational purposes.

(Paragraph 4.2.20)

Non-finalisation of annual lease rent on land allotted to the Piramals (HUF) at Worli, Mumbai, resulted in non-recovery of revenue of ₹ 3.75 crore.

(Paragraph 4.2.23)

Irregular sale, non-taking physical possession of surplus lands and absence of monitoring mechanism was noticed in respect of surplus land falling under the Urban Land Ceiling and Regulation Act.

(Paragraphs 4.2.25.1 to 4.2.25.3)

Though there was breach of conditions, land allotted to President, Nagpur Zilla Congress Committee was not resumed by Nagpur Improvement Trust after cancellation of the allotment in April 2005.

(Paragraph 4.2.26)

Introduction

Land is a premium asset, the value of which always shows an increasing trend due to which it has an impact on economy of the State. Due to this the State Government has an important role to play in land management and in making land available for various purposes such as residential/industrial and commercial. Land is a major source of revenue to the Government in the form of sale/alienation of land; lease/ground rent and conversion charges. Under the Maharashtra Land Revenue (MLR) Code, 1966, the Government is empowered to allot any land vested in it, on such terms and conditions, as it deems fit. Further as per MLR (Disposal of Government land) Rules, 1971, power of disposal of Government land costing upto ₹ 2.5 lakh is vested with the Collector, upto ₹ 6.25 lakh it is vested with the Divisional Commissioner and for land costing more than ₹ 6.25 lakh it is vested with the Government. The Revenue and Forest Department (R&FD) is vested with financial powers upto ₹ 25 lakh for disposal of land. The cases dealing with revenue above ₹ 25 lakh, should be got approved by the Finance Department and Chief Minister. The allotment of land is made by the R&FD which includes revenue free allotment, allotment on payment of occupancy price also called market value, allotment on lease hold rights, etc. In cases of grant of land for industrial and commercial purpose the auction of land is being done as per provision of MLR code. However, the occupant/allottee holds the title of land as occupant Class-II irrespective of whether it is granted on full market value or concessional rate.

4.2.2 Audit objectives

Test check of the records of sale/allotment of land by Government was conducted with a view to ascertain whether:

- allotment of land was as per existing laws and procedure and that Government got the best price for the value of the land;
- the policy of Government have been followed while allotting the land at concessional rate;
- the land allotted at revenue free/concessional rate has been put to use for the purpose for which it has been granted;
- appropriate action has been taken in case of breach of terms and conditions as mentioned in the allotment order;
- there exists appropriate monitoring and evaluation mechanism after allotment of land at revenue free/concessional rate;
- occupancy price, lease rent, etc. are levied and recovered properly; and
- any land allotted remained unutilised, if so, has it been resumed by the Competent Authority or necessary action taken in that regard.

4.2.3 Audit criteria

The audit criteria adopted are:-

- to ensure that the rules and procedure of the MLR (Disposal of Government land) Rules, 1971, were complied with.
- implementation of the provisions of MLR Code including rules framed there under as amended from time to time through issue of GRs, circulars, orders, etc., regarding allotment, assessment, levy and collection of land revenue were strictly adhered to. The Government Resolutions in respect of which observations are made in the performance audit are listed in **Annexure III.**

4.2.4 Scope of audit

With a view to check the adequacy of the systems and procedures of the Revenue Department relating to sale/allotment of Government land and its utilisation, test check of records in the office of four Divisional Commissioners[1] and six District Collectors[2] were conducted between March 2011 and June 2011 covering the period from 2005-06 to 2009-10.

4.2.5 Organisational set-up

The monitoring and control of allotment of land at Government level is done by Principal Secretary, R&FD, Government of Maharashtra, Mumbai. The superintendence of the allotment of land is vested with 35 Collectors in the State. They are assisted by the Sub Divisional Officers and Tahsildars in their respective districts. The District Plan is prepared by Town Planning

[1] Konkan Division, Nagpur, Nashik and Pune.
[2] Mumbai City, Mumbai Suburban District, Nagpur, Nashik, Pune and Thane.

Department in consultation with other Government Departments. The same record is maintained by City Survey Officer working under the Director of land records and Settlement Commissioner, Maharashtra State. The disposal of Government land is being done by the R&FD.

For this performance audit, six major districts in Maharashtra were taken up as the land cost in these cities shows increasing trend, to ascertain whether the disposal of Government land was in accordance with the existing rules and regulations.

4.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the R&FD, Relief and Rehabilitation Department and its subordinate offices for providing necessary information and records for audit. An entry conference for the performance audit was held in May 2011 with the Principal Secretary, R&FD and the Executive was informed about the scope, objective and methodology of audit. The Principal Secretary explained the various aspects of allotment/sale of land and also its administration and implementation. The draft Review Report was forwarded to the Government in September 2011 and the audit conclusions and recommendations were discussed in the exit conference held in October 2011. The Principal Secretary, R&FD, Deputy Secretaries, Collectors and other senior officials from the Department attended the meeting. The replies given during the exit conference and at other times have been appropriately included in the relevant paragraphs.

While accepting the recommendations, the Principal Secretary stated that many observations in the performance audit are of a propriety nature and the policies and GRs need to be reviewed at Government level.

4.2.7 Trend of revenue

The budget estimates and realisation of Land Revenue during the year

2005-06 to 2009-10 is as shown in the following table:

(₹ in crore)

Year	Budget estimates*	Actuals*	Variation excess (+) shortfall (-)	Percentage of variation
1	2	3	4	5
2005-2006	424.07	428.97	(+) 4.90	(+) 1.16
2006-2007	940.00	484.17	(-) 455.83	(-) 48.49
2007-2008	690.00	512.22	(-) 177.78	(-) 25.77
2008-2009	700.00	546.22	(-) 153.78	(-) 21.97
2009-2010	770.00	714.04	(-) 55.96	(-) 7.27

*Source: Finance Accounts

As can be seen from the above table, the collections under the head "Land Revenue" increased by 66.45 *per cent* in 2009-10 as compared to 2005-06. However, there has been significant shortfall in the actual receipts against the budget estimates for the years 2006-07 to 2008-09 indicating that the budget estimates were not realistic.

Audit findings

4.2.8 Database of land

As per Government instructions issued in February 1996, the Collector is required to maintain a land distribution register containing the details of grant of Government land, i.e. names of grantee, area, purpose, period of grant and terms and conditions of grant, etc. Further, periodic review of the said register is also required to be carried out so as to keep track of the cases of expiry of lease period and/or breach of conditions of lease. Further, any Government land which is shown as reserved for a particular purpose in the Development Plan, which is a public document can be requisitioned by any individual who intends to use the land for the purpose for which it is shown to be reserved in the Development Plan by paying the cost of land.

We noticed that no database of land was maintained at the Government level. We further noticed from the information furnished by the Collectorates at Mumbai Suburban District (MSD), Pune and Thane that the land distribution register giving details of land, area, purpose, etc., was not being maintained. In Nagpur Collectorate and City Survey Office, Nagpur, we noticed that details of Government land does not exist and register of Government land leased was either not maintained or was not updated and/or improperly maintained.

After we pointed out the matter, Collector, Nagpur accepted the fact. City Survey Officer, Nagpur stated that due to shortage of staff and heavy workload, registers could not be updated, but would be updated within three months.

The collectors did not ensure maintenance of the prescribed register resulting in non-monitoring of cases relating to breach of conditions, keeping track of cases where lease periods of land had expired, etc.

In the exit conference the Principal Secretary directed Deputy Secretaries and Collectors to update the records by adhering to the instructions issued in this regard.

The Government may consider maintaining a data base of land allotted containing details of area, purpose, period, place, name to whom allotted, etc.

4.2.9 Irregularities in allotment of land for housing purpose

Section 40 of MLR code read with rule 27 of MLR (Disposal of Government land) Rules 1971, empowers the State Government to allot land to co-operative housing society (CHS) constituted under law on occupancy rights basis on inalienable and impartible tenure on payment of such concessional occupancy price as the State Government may fix from time to time, regard being had to the nature of scheme and in the case of CHS, to the income of the member, thereof, such income being ascertained after making such enquiries as the State Government may think fit to make in this behalf. The Collector should satisfy himself that the member of the society do not own any building, plot either in their own name or any member of their family any where in any urban area of the State or outside the State. Further, Government issued G.R. on 9 July 1999 framing policy for allotment of Government land to various CHS such as Society formed by freedom fighters, actors, players, literary persons, journalists, etc. The land can further be granted to societies formed by the Government servants, SC/ST/NT communities, public representatives, etc.

As per the said G.R. the permissible carpet area admissible was as under:

Sr. No.	Permissible carpet area	Income limit for non-Govt. servants (per month from all sources)	Category of Govt. servant (as per fifth pay commission)	Rates to be applied on market value for occupancy rights
1.	2.	3.	4.	5.
1.	27.87 sq. mtr.	Up to ₹ 5,000	Group D	Five *per cent*
2.	41.82 sq. mtr.	₹ 5,001 to ₹ 7,500	Group C	10 *per cent*
3.	60.40 sq. mtr.	₹ 7,501 to ₹ 12,500	Group B	15 *per cent*
4.	100 sq. mtr.	Not admissible	Group A	20 *per cent*

Though the monthly income limits are specified in relation to the allotted area, the G.R. exempts public representative from any income limit.

The R&FD vide its memorandum dated 24 August 2004 allotted land admeasuring 4,296.31 sq. mtrs. in survey no. 141A, part of CTS no. 833, *mouja*-Ambivali, Tahsil-Andheri to the Ashirwad CHS in response to their request dated 16 July 2003. In all, 44 members were approved as per the above Government Memorandum. Information independently collected from Brihanmumbai Municipal Corporation (BMC) revealed that the society had constructed stilt plus 21 upper floors. All the flats were of equal size and the built up area of each flat was approximately 119.96 sq. mtrs (i.e. 99.67 sq. mtrs. of carpet area)

Our scrutiny of the list of members of the Society revealed that, 11 of the public representatives whose memberships were approved by the Government, had monthly income in the range of ₹ 2,500 to ₹ 12,500. As such, being non-Government servants they were entitled to flats of carpet area of 27.87 to 60.40 sq. mtrs. only, however flats of carpet area of 99.67 sq. mtrs. were allotted to them. It may be mentioned here that Rule 28 of MLR (Disposal of Government Land) Rules, 1971, provides that, building sites of suitable sizes may be granted by the Collector on receipt of application for residential use

with previous sanction of the Government to freedom fighters, serving members of armed forces and ex-servicemen who are ordinarily residents in the State for not less than 15 years without auction in occupancy right. This Rule 28 does not include the term public representatives, freedom fighters, actors, players, literary persons, journalists etc., hence grant of flat in the society was enabled by the GR issued by the Government in July 1999, which was in the nature of an administrative policy. These public representatives would otherwise have had the status of non-Government servants. As administrative policy were required to be in conformity with the statute, amendment to the existing provisions was necessary prior to issuing the GR which was not done.

Further during scrutiny of the affidavits/information furnished by the members of the society, we noticed that the proforma in which information was collected from the persons to whom flats were to be allotted did not specify the ownership of any pre-existent property by the incumbent, but only indicated the current address. Further, the income of one lady member was ₹ 6,000 per month hence was entitled to a flat of carpet area of 41.82 sq. mtr. only, against which , a flat of carpet area of 99.67 sq. mtr. was allotted irregularly. Moreover, the husband of the same member is chief promoter and member of Rajyog society, Versova, Andheri Mumbai.

We cross verified the list of members of Ashirwad CHS with the membership of Rajyog Society, Versova, Andheri, Mumbai and noticed that two members who had flats in Ashirwad CHS had subsequently acquired flats in Rajyog CHS. Scrutiny of R&FD files also revealed that two of the members of Ashirwad CHS were already having houses in their own name. These were in violation of provisions of the MLR code.

It was also noticed that though the land was allotted in the year 2004 and possession of land handed over to the society in April 2005, the actual execution of the agreement between the President of the society and the Collector, MSD, Mumbai took place much later in December 2009.

After we pointed out the case, the Collector MSD, Mumbai, stated in reply that all the memberships were approved by the Government.

In the exit conference the Principal Secretary agreed to check the necessary provisions in the MLR Code/Rules and stated that amendment would be made, if necessary. The reply is silent on memberships which were given in violation of conditions regarding income limits and existing ownership of properties.

4.2.10 Allotment of Government land for educational purpose

4.2.10.1 The Government allots land for various purposes such as schools, colleges, charitable institutions, hospitals to private institutions at concessional rate. These lands are required to be utilised by the allottee for the purpose for which it is granted within the time frame stipulated by the Government in the GRs. In respect of land which is allotted for primary and secondary education the GR dated 11 May 1984 issued by the Government is still applicable. As per the GR the rate applicable on 1 February 1976 shall be considered for valuation and 25 *per cent* of such amount shall be recovered as occupancy price from the institutions. In respect of the land allotted for higher education (college) the GR issued on 30 June 1992 is to be considered for valuation. As

per the GR for land falling within Municipal Corporation limits the rate applicable five years before (i.e. 1 January of that year) from the date of allotment shall be considered for valuation and 50 *per cent* of that amount shall be recovered as occupancy price from the institution. For land falling outside the Municipal Corporation limits the rate applicable would be 25 *per cent* of the amount worked out.

As can be seen from the above the valuation is based on the GRs which were issued 18 to 35 years back. Considering the fact that the land is a premium asset with ever increasing value in Maharashtra and also taking into account the fact that it is a source of revenue to the Government, **it is necessary to have a re-look into the criteria fixed for valuation which was determined several years back especially now that education is no longer a philanthropic activity in urban areas.**

In the exit conference the Principal Secretary after discussing the issue stated that the rates could be revised only after obtaining the approval of the Government.

4.2.10.2 Test check of the records of Collector, MSD, Mumbai revealed that 1,800 sq. mtr. of land at *mouja*- Ambivali Survey no. 111D, CTS no. 825/1, Taluka-Andheri, Mumbai was reserved and transferred to BMC, Mumbai in the year 2000 for starting a school. In September 2001, Arpan Foundation applied to the Chief Minister for allotment of 1,800 sq. mtr. of land for starting a school for middle class citizens based on the pattern of American School. In response to the application of Arpan Foundation, the R&FD cancelled the transfer of land to BMC, Mumbai and allotted the land (March 2008) to Arpan Foundation at a meagre amount of ₹ 0.90 lakh (at the rates applicable as on 1 February 1976, as per GR dated 11 May 1984) as against the market value of ₹ 6.53 crore (as per Ready Reckoner of 2008). Reason for transfer and change in reservation was not available in the records of the Collector.

After we pointed out the case, the Collector, MSD, Mumbai stated that the information may be obtained from the Government.

4.2.10.3 As per the Government Memoranda dated 7 January 2009, land admeasuring 50,000 sq. mtrs. at Gat No 32, *mouja*-Goverdhan, Taluka/District Nashik was allotted to Mumbai Education Trust (MET) on occupancy right basis for Medical and Engineering College at occupancy price of ₹ 7.53 lakh. This allotment was in addition to earlier allotment of land measuring 41,300 sq. mtrs (in same Gat No. 32) made in November 2003 at occupancy price of ₹ 1.55 lakh.

During test check of the records of Collector, Nashik we noticed that the land measuring 91,300 sq. mtrs. was initially reserved for mining activity (extraction of minor minerals) by the Public Works Department(PWD). The same land was requisitioned by one Shri Samir Bhujbal, a trustee of MET, for opening an engineering and technical college in May 2000. In November 2003, out of 91,300 sq. mtrs. land measuring 41,300 sq. mtrs. was initially allotted to MET after changing the purpose of reservation from mining activity to education purpose, at occupancy price of ₹ 1.55 lakh. Thereafter, Shri Samir Bhujbal again applied for allotment of the balance land admeasuring 50,000 sq. mtrs. for expansion of engineering and technical college. In January 2009, the Government allotted additional land measuring 50,000 sq. mtrs. to

MET at an occupancy price of ₹ 7.53 lakh after changing the purpose of reservation. Scrutiny of the file in the R&FD revealed that Finance Department to whom the file was referred had objected on 21 November 2008 to allot land at concessional rate to the Trust as it had already been allotted 1.53 lakh sq. mtr. of land in Nashik district itself, hence there was no need to grant another land at concessional rate. Further, if at all land was to be allotted, it would be at the market rate of 2008. We also observed that the Revenue Department had communicated to the Finance Department that in one case as per the policy of the Higher and Technical Education Department, granting land at concessional rate to an un-aided society would tantamount to giving a non-recurring grant to the society, which was not proper. Despite the objection raised by the Finance Secretary, the Finance Minister on 4 December 2008 agreed to the recommendation made by the Revenue Department to allot the land at concessional rate in the same manner as done earlier. The total market value of the land was ₹ 9.39 crore (as per Ready Reckoner of 2008) which has been given to MET at ₹ 9.08 lakh.

Further, scrutiny revealed that as per the *panchanama* report (June 2011) submitted by the *Talathi*, village-Goverdhan, Taluka/district–Nashik to the Collector, Nashik, the entire land admeasuring 91,300 sq.mtr. was still lying unutilised.

After we pointed out the case, the Government stated (November 2011) that a notice has been issued (October 2011) to MET for non-utilisation of the allotted land. However, the reply is silent on the matter regarding change in reservation.

4.2.10.4 The Collector, Pune allotted land admeasuring five acre i.e. 20,000 sq. mtrs. bearing survey no. 94/1A/1, *mouja*-Yerwada to Gyaneshwari Education Trust, Mumbai (in response to their application dated 10 September 2007) for running Marathi-English medium school vide his order dated 18 November 2008. The Trust paid ₹ 1.5 lakh which was 25 *per cent* of the cost of land as on 1 February 1976.

During test check of the records of the Collector, Pune, we noticed that these 20,000 sq. mtrs. of land was part of the land admeasuring 50,500 sq. mtrs. in possession of the Government Department (Maharashtra Mental Health *Sanstha*) since 1994 which could not initiate construction activity due to non-availability of funds from the Government. The Collector, Pune, vide order dated 27 September 2007 resumed the land treating it as breach of condition and reallocated the land to the Trust at concessional rate. The market value of the land in 2007 was ₹ 11 crore. The *panchnama* report of the *Talathi* revealed that even though 27 months have passed no construction activity has commenced for starting a school. The Department had not initiated any action to resume the land from the Trust.

After we pointed out the case, Collector, Pune stated that matter would be scrutinised and final reply would be given in due course.

4.2.10.5 During test check of records in the R&FD it was noticed that Jawahar Education Society was allotted 31,000 sq. mtr. of land in the year 2007. The society had subsequently applied to the Government for allotment of additional land of 9,000 sq. mtr. Accordingly, as per the Memorandum issued by R&FD dated 31 August 2009, the Collector had allotted land

measuring 9,000 sq. mtr. to Jawahar Education Society at *mouja*-Govardhan at Taluka/District Nashik bearing survey No 55 (*Gat No.*48/A/1/1B-1) on 4 March 2011 on occupancy right basis at cost of ₹ 62 lakh for an engineering College.

During test check of records of land allotment, we noticed that the Collector, Nashik had informed the R&FD in January 2008 that the land is classified as a "restricted area" as it falls within 500 metres of Gangapur dam. This was based on the report received by him from the Taluka Inspector of Land Records, Nashik. Moreover, the Town Planning and Valuation Department also intimated in January 2008 that the land falls within 500 meter from land acquired for dam for irrigation purpose and could not be utilised for any type of development/non-agricultural use as per clause 7.1 A-1 (ii) of Development Control Rule for regional development. Though the Government had allotted the land at full market value in this case for education purpose, the fact remains that the allotment is in gross violation of rules and procedures in existence wherein the Collector had also objected to the allotment of land, as it was in a restricted area.

After we pointed out the case, the Collector, Nashik stated that the matter would be referred to the Government for necessary action.

The Government stated (November 2011) that the additional land was allotted on the condition that it would be utilised for gardening and sports activities only. However, the reply is silent on the allotment of land in the restricted area.

The Government may consider evolving a system for ensuring utmost care in grant of land to private institutions and its utilisation for the purposes for which it is allotted.

4.2.11 Misutilisation of Government land allotted at concessional rate

The R&FD allotted land admeasuring 1,500 sq. mtrs. and 169.5 sq. mtrs. vide order dated 22 September 1999 and 26 May 2004, respectively, at survey no. 141/A, *mouja*-Ambivali, *taluka* Andheri on concessional lease (annual lease rent of ₹ 9851-40 + ₹ 869) for a period of 30 years to a public trust "Sindhudurg Shikshan Prasarak Mandal", Kankavli, Sindhudurg District for the purpose of "Community Centre". The activities of the trust mainly relate to education. As per the terms and conditions of allotment of land, the land shall not be used except for the purpose of Community Centre and the construction of Community Centre should be completed within three years from the date of possession. If any terms and conditions are breached the lease shall be cancelled and possession of the land and construction on it shall be taken over by Government. The possession of the land was given to the trust on 1 October 1999.

Our scrutiny/visit revealed that a building named "Sindhudurg Bhavan" was constructed with a basement and four floors at survey no. 141/A, *mouja*-Ambivali, *taluka* Andheri. It has a multipurpose banquet hall named "Grande Imperial Banquet" wherein the hall rent for exhibition /events / shoots/ conferences etc was ₹ 2 lakh per day, food

(vegetarian and non-vegetarian) and liquor (with bar accompaniments) is served and also DJ with Console Equipment. Visit to the site revealed that the other floors were empty. Thus it is clear that the constructed building, catered to the needs of the upper class/rich and was not meant for the common man.

From the above it is seen that the Trust which is meant for educational purposes acquired Government land at concessional rate of lease for the purpose of community centre and used it for commercial purposes. This has resulted in breach of terms and conditions. As such, the land is required to be resumed by the Government alongwith the structure on it as the land whose market value was ₹ 6.68 crore (as per Ready Reckoner of 2010) was allotted to the Mandal for a meagre amount.

After we pointed out the case, the Collector, MSD, Mumbai stated that the entire land is being used for the purpose for which it has been permitted. Moreover the matter is also *sub judice*.

The contention of the Collector is not acceptable as no survey report of the plot and building was produced to substantiate his point of view, facts independently collected by audit pointed that the entire structure is being used for commercial purpose as on date defeating the very purpose of allotment.

In the exit conference the Principal Secretary agreed to look into the intent of the matter.

The Government may consider putting in place a system of periodic returns to the Government so that the Collectorates take prompt action in case of violations for resumption of such lands at once or recovery of the penalty.

4.2.12 Undue benefit to occupant of land and non-recovery of premium

As per order dated 4 August 1983, issued by the Additional Collector, Bombay (Mumbai), a Government land admeasuring 12,886 sq. mtrs. out of survey no. 356 of Chembur in Tahsil-Kurla was granted to Vasantdada Patil Pratisthan subject to the condition that all the buildings to be constructed on the land should confirm to the plans which were approved by the Collectorate and the Municipal Corporation. Further, after construction no addition or alteration thereto shall be made without the prior approval of the Collector. In the event of any breach of condition, the said land was to be vacated and delivered to the Government free of all claims or encumbrance of any person, whatsoever. The BMC had granted commencement certificate to Vasantdada Patil Pratishtan on 8 May 1985 for construction upto the fifth slab.

During test check of records of the Collector, MSD, Mumbai, we noticed that, Vasantdada Patil Pratisthan had constructed additional two floors in 2007 without prior approval of the Government, as per the objection raised by BMC, Mumbai in their notice issued to the Pratisthan on 19 July 2007. The action of the Pratisthan amounted to breach of condition requiring the land to be vacated. Despite the BMC's notice, the Government approved the unauthorised construction in August 2009

as a regular sanction, instead of taking possession of the unauthorised construction as well as the land. The Government then asked the said Pratisthan to pay premium of ₹ 17.30 crore only without levy of any penalty. Though two years have elapsed after issue of the Government order the recovery of such a huge amount of ₹ 17.30 crore has not been made.

In their reply, the Department stated (May 2011) that intimation had been sent to the Pratisthan on 15 March 2010 to pay ₹ 17.30 crore within eight days and it has been followed up with a reminder also. It was further stated that hearing in the matter is in progress before the Collector, MSD, Mumbai.

However, the fact remains that though the construction was in violation of the terms and conditions under which land was allotted, no action was taken by the Department to resume the land to the Government and also to recover the premium from the Pratisthan, though four years have elapsed after the breach of conditions came to the notice of the BMC.

In the exit conference the Principal Secretary agreed to look into the aspect of levy of penalty as a deterrent measure for breach of condition.

4.2.13 Non-resumption of Government land involving breach of conditions

Under the provision of MLR (Disposal of Government Land) Rules 1971, read with circular dated 8 February 1983, the Government is empowered to allot land at concessional rate/ revenue free on occupancy right/lease hold rights to educational institutions, charitable trusts, housing societies, hospitals, playgrounds, gymkhanas, religious society etc. However, before allotment of such land the revenue authorities should satisfy itself that, 25 *per cent* of capital expenditure required for putting up of the building is immediately available and the remaining 75 *per cent* is likely to become available within a period of two years, so that actual working of institution will commence within a period of two years from the date of allotment. As per the mandatory terms and condition, the land shall be liable to be resumed by the Government, if it is not used for the purpose for which it has been granted or the activity is not commenced within two years from the date of allotment.

During test check of the land allotment files of the Collectors at Nashik, Pune and Thane, we noticed from the reports submitted by the *Talathis* to the respective Collectorates that between October 2010 and June 2011, in 11 cases land admeasuring 3,31,273 sq. mtrs., which were allotted as "revenue free" or at concessional rates, between February 1957 and October 2005, for the purpose of housing, education, garden/ swimming pool etc; were lying vacant for various periods ranging from five to 54 years, as shown in **Annexure IV.**

After we pointed out these cases, Collector, Pune, stated that compliance would be submitted after detailed scrutiny (seven cases), Collector, Thane, stated that the matter had been referred to the Government in June 2010 (one case).

The Government stated (November 2011) that notices have been issued (July, September and October 2011) by Collector, Nashik in three cases for non-utilisation of land.

The fact remains that though these allottees had not utilised the lands from five to 54 years, these lands were still not resumed by the Government revealing absence of follow up action by the Department. The cost of these lands aggregated to ₹ 93.46 crore as per current market value.

4.2.14 Irregular grant of redevelopment rights

As per Section 38 of MLR Code, 1966, the Collector is empowered to grant land on lease to any person, for such period, for such purpose and on such condition as he may determine in accordance with the rules and in any case the land shall be held for the period, purpose and subject to the condition so determined. As per note two below section 38, on expiry of lease period, the Government would be entitled to resume the land.

During test check of the lease records in office of the Collector, Mumbai city, we noticed that leasehold land admeasuring 7,836.18 sq.mtrs under survey no 1960 (Part) of Byculla Division was allotted on lease to M/s.Simplex Mills Co Ltd on 26 August 1884 effective from 22 April 1884 on annual lease rent of ₹ 48.13 for a period of 99 years. The lease period had expired on 22 April 1983. The Government had not resumed the land till date. Meanwhile the mill was closed and the leaseholder intended to redevelop the land by constructing multi-floored residential towers. Accordingly, the leaseholder got the Development Plan approved by BMC in October 2004 and commenced the work without taking prior permission of the Collector. The Collector granted a "No Objection Certificate" for development of residential building on 26 April 2006 with the condition that the lease rent would be regularised on the basis of lease policy being determined at the Government level. The R&FD also granted ex-*post facto* sanction for development rights to the lease holder on 29 May 2009 subject to the condition that the lease holder will pay temporary valuation at the rate of 10 *per cent* of the market value of the land and conversion charges at three *per cent* of market value for the change in use from industrial to residential purpose till a policy for grant of development rights on leasehold land is decided.

The fact remains that the development rights were granted to the company though the lease was not renewed instead of resuming the land as per the provision of the MLR Code.

In another case of office of Collector, Mumbai city we noticed that land admeasuring 1,004.18 sq.mtrs of Survey No. 7/138 of Mazgaon Division was allotted on lease to Anandrao Vinayak on 20 March 1895, effective from 1 October 1893, for 99 years. The aforesaid land was subsequently leased out three[3] times by the lessee till it was finally leased out to Jakhubhai Lalji Dal Mill Co. Ltd on 26 June 1992. The lease period expired on 1 October 1992. However, the Collector, Mumbai city instead of resuming the land on expiry of lease period (as lease was not renewed), had granted permission for

[3] Anandrao Vianyak (on 01-10-1893 for 99 years), M/s Shaw Wallace Co. Ltd (from 02-01-1956 for 36 years), Shri Amanulla H. Pathan (from 01-07-1964 for 28 years), Smt. Hurbai Chunawala and Partner (from 26-09-1972 for 20 years) and Jakhubhai Lalji Dal Mill (from 26-06-1992).

redevelopment of the aforesaid land in pursuance of Government approval in July 2008.

After we pointed out these cases, the Collector, Mumbai City, stated that permission for development was given as per the orders of the Government since the policy for renewal of lease had not been finalised.

The contention of the Collector was not acceptable as in these cases the lease had expired 18 to 27 years back but neither the lease agreement was renewed nor was the land resumed by the Government and these lands irregularly continued to remain with the lessee without payment of lease rent at enhanced rate.

4.2.15 Land granted to Corporations lying idle

4.2.15.1 Land granted to MIDC lying idle

As per R&FD circular dated 4 February 1983, Government land shall be granted to the Maharashtra Industrial Development Corporation (MIDC) for industrial purpose, without charging any occupancy price at the time of grant, subject to condition that the Corporation should utilise the land for development of industries.

Information collected from the Deputy Chief Accounts Officer (A and R), MIDC, Mumbai, revealed that in respect of 15 offices of MIDC in nine districts[4], 532.78 hectares of land was lying unutilised, for various periods ranging from four to 22 years, due to non-finalisation of layout plan, non-establishment of industries, court case, non-availability of water, etc., as shown in the following table:

Sr. No.	District level office of MIDC	Area lying vacant (in hectare)	Period from which the land is vacant	Reasons for the land lying idle
1.	MIDC, Patur (Akola)	7.26	18 yrs	non-establishment of industrial area
2.	MIDC, Addl. Amravati	21.23	16 yrs	non-establishment of industrial area
3.	MIDC, Dhamangaon (Amravati)	18.30	21 yrs	non-establishment of industrial area
4.	MIDC, Achalpur (Amravati)	14.66	21 yrs	non-finalisation of layout plan
5.	MIDC, Chandur Railway (Amravati)	17.26	20 yrs	non-finalisation of layout plan
6.	MIDC, Dharni (Amravati)	5.12	21 yrs	non-establishment of industrial area
7.	MIDC, Nandgaon Khandeshwar (Amravati)	10.64	21 yrs	non-establishment of industrial area due to water problem
8.	MIDC, Khultabad(Aurangabad)	9.95	17 yrs	non-establishment of industrial area
9.	MIDC, Lonar (Buldhana)	5.20	14 yrs	non-finalisation of layout plan
10.	MIDC, Kolhapur	28.37	22 yrs	objection of Forest Department
11.	MIDC, Vinchur(Nashik)	115.08	9 yrs	non-commencing of winery industry
12.	MIDC, Sangli	167.88	10 yrs	non-establishment of industrial area

[4] Akola, Amravati, Aurangabad, Buldhana, Kolhapur, Nashik, Sangli, Washim and Yavatmal.

13.	MIDC, Washim	71.52	18 yrs	non-establishment of industrial area as it was not plotable
14.	MIDC, Risod (Washim)	11.35	14 yrs	due to court cases
15.	MIDC, Pandharkavda (Yavatmal)	28.96	4 yrs	land belongs to Forest Department
	Total	**532.78**		

At the time of allotment to MIDC, Government had not specified any time period for utilisation of these lands.

4.2.15.2 Land granted to other Corporations lying idle

Information collected by us from five Corporations revealed that 446.86 hectares of land were lying unutilised for various periods ranging from five to 36 years, as seen from the following table.

Sl. No.	Name of the Corporation	Area lying vacant (in hectare)	Period from which the land is vacant
1.	Maharashtra State Road Transport Corporation	12.15	24 yrs
2.	Maharashtra State Power Generation Company	19.73	5 yrs
3.	Maharashtra State Mining Corporation Limited	408.50	36 yrs
4.	Maharashtra State Handloom Corporation Limited	2.08	*
5.	Development Corporation of Konkan Limited	4.40	32 yrs
	Total	**446.86**	

***** Stated to be idle since construction of structure but date of construction not intimated by the Corporation.

The reasons for which the lands were lying vacant have been called in the matter from the Corporations concerned, which are awaited. Further reply is awaited (November 2011).

The Government may consider instituting a mechanism for periodic review of the lands allotted to MIDC and other Corporations so as to ensure that land not required by them would be available to the Government for other welfare measures instituted by them.

4.2.16 Non-resumption of Government land/non-recovery of unearned income in cases of violation of conditions

As per rule 8(a) of the Maharashtra Land Revenue (Disposal of Govt. Land) Rules, 1971, land or any part thereof or any interest therein shall not be transferred, except with the previous sanction of the State Government. As per the Resolution of the Revenue Department in November 1957, the Collector may grant permission for sale of such land on payment of a sum equal to 50 *per cent* of the unearned income i.e. difference between the sale price approved by the Collector and the original price paid to the Government including the cost of improvements, if any, made in the plot by the grantee. In case of sale without prior permission of the Government, the grantee was required to pay 62.5 to 75 *per cent* of the unearned income.

4.2.16.1 During test check of the records of Collector, MSD, Mumbai, we noticed that land admeasuring 12,050 sq. mtrs. in survey no. 141A, part of CTS no. 833, plot no. one, *mouja*-Ambiwali Taluka-Andheri was allotted for hospital and research centre at lease rent of ₹ One per year for the period

of 30 years to Malti Vasant Heart Trust vide Government order dated 29 December 1997. At the time of allotment of land the trustees were Shri Nityanand Vasant Mandke, Smt. Alka Nityanand Mandke and Smt. Jyotsna Vasant Mandke.

Our scrutiny of records revealed that only Smt. Alka Nityanand Mandke remained of the original trustees and in place of the two other original trustees, three new trustees[5] were brought in. The hospital building was constructed in January 2009 on the allotted land and named Kokilaben Dhirubhai Ambani Hospital and Research Institute. There were seven share/stake holders[6] of the hospital. One of the trustees namely Smt. Tina Ambani informed the Chief Minister on 23 January 2009 that it was a flagship hospital of Reliance Anil Dhirubhai Ambani Group. The business group had invested ₹ 291 crore for the hospital. Three more trustees were subsequently added to the trust and decision making was now with the new trustees. Thus the original trustees excluding one are no longer on the Board of Trustees of the Hospital.

However, from the letter written by the Collector to the trustees on 6 February 2007 **it is clear that no prior permission was taken from the Government for change/ownership in the trustees.** Effecting such changes without the knowledge of the Government was irregular. **As the ownership had been changed without prior approval of the Government the Trust was liable to pay unearned income of 75 *per cent* of the market value of 2009 which worked out to ₹ 174.88 crore.**

According to a circular issued by the Government in February 1983, when land is allotted by the Government at concessional rate, 40 *per cent* of the total/ available operational beds should be available to the general public on payment of fees which is fixed by the hospital with prior approval of the Public Health Department. Information independently collected by us revealed that the bed charges in the hospital ranged between ₹ 15,000 to ₹ 20,000 per day. The Collector, MSD, Mumbai confirmed (August 2011) that the rates for bed charges were not approved by the Government.

As per the agreement (*sanad*) between the Chairman (original trustee) of Malti Vasant Heart Trust and the Collector, MSD, Mumbai in April 2003, the fees and rates to be charged in the Out Patient Department (OPD) of the hospital shall be in accordance with the rates charged in the Government Hospital in the Municipal Corporation area. Information independently collected by us, revealed that the OPD charges of the hospital were ₹ 600 whereas the OPD charges in Government hospitals in the municipal area were ₹ 10. The data collected by us from the hospital revealed that the building is put to use for commercial activities such as - gift shop, spa, beauty saloon, food court, office of Reliance Company and business centre comprising of video conference facility, ready to use office blocks, etc., in violation of conditions of the agreement.

The records maintained by the Collectorate did not corroborate the above facts of violation and commercialisation of the plot which was granted by Government virtually for free (₹ one).

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[5] Smt. Kokilaben D. Ambani, Shri Anil D. Ambani and Smt. Tina A. Ambani.

[6] Smt.Kokilaben D.Ambani, Shri Anil D.Ambani, Smt.Tina A.Ambani, Shri Satish Shah, Shri Amitabh Jhunjunwala, Shri Gautam Joshi, ADA Enterprises and Ventures Pvt. Ltd.

After this was brought to notice, the Collector, MSD, Mumbai stated (May 2011) that notice was issued in 2007 and 2010 for change in ownership and commercial use. On scrutiny of records, we found that the notice issued by the Collector was based on the report appearing in the Times of India, rather than his independent monitoring to ensure that violation of conditions does not occur.

This only goes to confirm that the monitoring mechanism in the Department was grossly inadequate and even after lapse of more than four years the Government was not aware of the charges in ownership of the plot, commercialisation of activities at the plot. Consequently no action was taken to recover the unearned income of ₹ 174.88 crore as per the Government instructions applicable.

4.2.16.2 As per the Government Resolution, R&FD of May 1961, read with Government Resolution, Industries and Labour Department of December 1961, land in the layout of Government Industrial Estate at Kandivali was leased for 30 years for establishment of industrial units. Further, as per memorandum issued by the R&FD in December 1982, sanction was accorded for transfer of the occupancy rights of these plots on payment of occupancy price to the existing lessees with certain terms and conditions. As per condition no. 3, the State Government shall be entitled to half the unearned income in respect of disposal of land along with the factory, plant, structures and other installations, by way of sale.

During test check of the records of Collector, MSD, Mumbai, we noticed from the reports submitted by the concerned *Talathis* to the Collector that the properties had changed hands in 17 cases, involving land admeasuring 22,844 sq. mtrs. The above cases were not brought to the notice of the Collector by the authorities concerned due to which the approval required from the Government had not been taken. This resulted in violation of terms and conditions under which land was granted to the original allottees. It is pertinent to note that the required information was available in the records of the Department itself, which could have been collated with the information of the original lessees The Government was entitled to 50 *per cent* of the unearned income which worked out to ₹ 36.31 crore according to the ready reckoner of 2011, as detailed in the **Annexure V.** Failure of the Department to take action under the Rules, resulted in non-realisation of unearned income of ₹ 36.31 crore.

After we pointed out these cases, the Collector, MSD, Mumbai accepted the observations and stated that the amounts would be recovered. Further report on recovery is awaited (November 2011).

4.2.16.3 As per Memorandum of March 1978 issued by R&FD, Government land admeasuring 543.487 sq. mtrs. was allotted on lease for a period of 30 years to Dr. S.R. Pawar for the purpose of construction and running of dispensary on payment of yearly lease rent. As per the terms and conditions, the lessee could not directly or indirectly transfer, assign, encumber, mortgage or part with his interest under or the benefit of the agreement of lease or any part thereof, in any manner, without the previous consent in writing of the Government. The Government was free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of

premium as Government may in its absolute discretion think fit (condition no. 17).

During test check of the records, we found that the Tahsildar, Kurla had intimated to the Collector, MSD, Mumbai that out of 543.487 sq. mtrs., only 110.63 sq. mtrs. of land had been utilised for the dispensary and in remaining area (432.857 sq. mtr.), the allottee had constructed and sold three shops and 17 residential flats without obtaining Government permission and earned an income of ₹ 1.56 crore. As per the provisions of MLR Code the land was either required to be resumed by the Government or unearned income of ₹ 1.17 crore (75 *per cent* of ₹ 1.56 crore) was to be recovered from the lessee for unauthorised construction and sale. Though more than four years have elapsed neither the unearned income was recovered nor was the land resumed by the Government.

The Collector stated that notice (date of issue of notice not specified) has been given to lessee and developer to pay unearned income for unauthorised sale and transfer for which hearing is in progress. Further reply in the matter is awaited (February 2012).

4.2.16.4 As per Para 1 of the G.R. issued by R&FD in September 1983 any person who holds agriculture land as occupant Class-II[7] seeks permission to sell agriculture land for agriculture purpose, the holder shall pay to the Government an amount equal to 50 *per cent* of the net unearned income[8]. Further, as per R&FD letter of September 2006, the unearned income should be levied on the market value or sale consideration whichever is higher, so as to ensure that Government is not put to any loss.

During test check of the records relating to permission granted for sale of Class-II land, we noticed in respect of three cases of the Divisional Commissioner, Pune and seven cases of the Collector, Nashik that unearned income of ₹ 56.71 lakh was levied at 50 *per cent* of the market value on the sales aggregating ₹ 1.13 crore. Cross verification of this data with the records of the Sub-Registrar at Pune and Nashik revealed that the actual sale consideration in respect of these nine cases aggregated to ₹ 2.06 crore. Thus total unearned income recoverable was ₹ 1.03 crore against which only ₹ 56.71 lakh was recovered. This resulted in short recovery of unearned income of ₹ 46.13 lakh.

After we pointed out these cases, Collector, Nashik accepted the audit observation in respect of seven cases amounting to ₹ 30.47 lakh. The Divisional Commissioner, Pune accepted the audit observations in two cases involving ₹ 9.82 lakh and stated that recovery would be made.

In another case involving ₹ 5.84 lakh the Divisional Commissioner, Pune stated that recovery of unearned income was correctly made based on the market value. The reply is not tenable as the recovery of unearned income is to be made at the market value or sale consideration whichever is higher and

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[7] In note 2 below section 29 of the MLR Code, occupant Class II means the person who holds unalienated land in perpetuity subject to restrictions on the right to transfer.

[8] 50 *per cent* of the difference between current market value or the price realised by way of sale whichever is higher and occupancy price at which the land was originally granted to the applicant plus the structural and permanent improvement which will create assets and the same will influence the valuation of land.

in this case the recovery of unearned income was made on the market value, instead of sale value.

In the exit conference the Principal Secretary agreed to the observations and assured to effect recovery in accordance with the codal provision and GRs applicable. Further, as regards allotment of land to Kandivali Industrial Estate, the Principal Secretary directed the officials to look into the matter with a view to recover unearned income.

The Government may consider prescribing a mechanism to conduct periodic surveys to ensure that land allotted is being utilised for the purpose for which it is granted and terms and conditions under which land is allotted are not violated.

4.2.17 Short realisation of revenue due to reduction of ready reckoner rates of two villages

The R&FD vide Resolution dated 29 May 2006, had made it mandatory to adopt the rate given in the ready reckoner for computing the value of land for all purposes related to levy of revenue. The ready reckoner, which is the basis of determination of valuation of land, is prepared by the Inspector General of Registration (IGR) in consultation with Town Planning Department. Ready reckoner is prepared for each calendar year based on the current market rate.

The R&FD vide its order dated 17 August 2010 allotted land admeasuring 1,41,628.57 sq. mtrs. bearing survey no.156/1 and 27 other survey numbers at *mouja*-Kolshet Taluka,Thane and 1,98,225 sq. mtrs. bearing survey no. 58/1 and 16 other survey no. at *mouja*-Kavesar Taluka-Thane to Roma builders at the prevailing market rate for the year 2010 on occupancy rights basis. M/s Roma builders vide challans dated 13-09-10 had paid ₹ 60.94 crore for 1,98,225 sq. mtrs. land at Kavesar and ₹ 67.35 crore for 1,41,628.57 sq. mtrs. land at Kolshet respectively.

During test of the records of Collector, Thane, we noticed that despite no natural calamity/ external aggression/ no change in topographic condition of land between year 2008 and 2010, the value of land in these two particular villages were reduced in the year 2010 as compared to 2008 (there was no change in rates during the year 2009). In Kolshet, out of 28 surveys nos. in 18 survey nos. the rate of ready reckoner of year 2010 was reduced compared to the prevailing rate of year 2008, though all these area falls in same village and there is no change in topographic condition of land. At Kavesar, in entire 17 survey nos. the ready reckoner rate of year 2010 was less than the ready reckoner rate of year 2008. Thus, application of reduced rate in 2010 resulted in loss of Government revenue[9] of ₹ 63.57 crore, as detailed in **Annexure VI.**

[9] For Kolshet the amount is worked out in respect of 28 survey nos. on the basis of increase in rates during 2010 for 10 survey numbers and due to reduction in rates for 18 survey numbers where in ready reckoner rates of year 2008 are adopted. For Kavesar, due to reduction in rates for all 17 survey numbers ready reckoner rates of year 2008 are adopted.

After we pointed out these cases, Collector, Thane stated that every year the market rate of land is determined by the IGR, Pune which was applied in toto while computing cost of land.

We referred the matter to the IGR, Pune and the Assistant Director, Town Planning, Thane, for ascertaining the reasons for reduction of rates particularly in those two villages. The IGR in reply stated that the reduction in rates in the two villages was based on the representations received from the Indian Merchants Chamber (IMC) as well as the local representatives who wanted a reconsideration of the rates due to worldwide recession which had reduced the rate of properties. Other factors, such as, location, nearness of main road, creek, etc., were also taken into consideration.

The reply is not tenable as it was observed that in the neighbouring four villages viz. Dhokali, Balkum, Boriwade and Wadavali, the rates of open land as per the ready reckoner of 2010 had either remained constant or had been increased as compared to the ready reckoner of 2008. Further, the contention of the IGR in considering the area near the creek as a reason for reducing the rates was also not acceptable as in one case in village Kolshet, the rate of land was reduced to ₹ 3,200 in 2010 as against ₹ 7,050 in 2008 on the plea that area is near the creek (CRZ) whereas in Kavesar which is also near the creek, the rate of the land was increased to ₹ 3,200 in 2010 as against ₹ 2,500 in 2008.

The land rates were also booming in Maharashtra and as such there was no specific reason for reducing the rates of land which resulted in short realisation of revenue.

In the exit conference the Principal Secretary stated that matter is being looked into and reply from the Government would be sent. Further reply is awaited (February 2012).

4.2.18 Non-realisation of revenue due to non-renewal of lease agreement in time

As per section 38 of MLR code,1966, the Collector is empowered to grant land on lease to any person for such period, for such purpose and on such condition as he may determine as per rule and in any case the land shall be held only for the period, purpose and subject to the conditions so determined. Further as per the GR of July 1999, the annual lease rent shall be calculated at prime lending rate declared by the State Bank of India from time to time on full market value of land determined as per section 108 of MLR code, 1966, read with rule 13 of MLR (Conversion of use of land and Non-Agriculture Assessment) Rule, 1969.

During test check of the records of the Collector, MSD, Mumbai, we noticed that, in six[10] cases the lease periods had expired between November 2004 and November 2009. However, the Department had neither renewed the lease nor withdrawn/ resumed the lands from these lease holders. Failure of the Department to renew the lease agreement in time resulted

[10] Shram Sadhana Trust, Bandra; CKP Samaj Chembur, Kurla; Ind. Premises CHS, Ghatkopar; Rayat Shikshan Sanstha, Kandivali; Tata Hydro Electric Supply, Kandivali; Eastern International Hotel (P) Ltd., Juhu.

in non-realisation of lease rent of ₹ 17.60 crore being the differential lease rent worked out on the basis of the prime lending rates for the respective years in which lease has expired.

After we pointed out these cases the Collector, MSD, Mumbai stated that the Government had decided on a policy for renewal of lease as per GR issued in October 1999. However the GR was challenged by the lessee in the High Court. The High Court in its order requires that the GR issued be withdrawn and lease rent be collected at old rate till lease rent is refixed after giving opportunity to the lessee. A proposal for fixation of lease rent and renewal of lease was also stated to have been sent to the Government by the Collectorate.

In the exit conference the Principal Secretary stated that the policy of renewal of lease is under consideration of the Government and is yet to be finalised.

The contention of the Department is not acceptable for the reason that, the High Court in the same order had also directed the Government to revise the rate for renewal of lease at the earliest for fixation of lease rent. However, despite lapse of more than six years, the Government has still not decided on the issue of fixation of lease rent and its renewal, resulting in non-realisation of lease rent of ₹ 17.60 crore.

4.2.19 Non-mentioning of mandatory conditions of time frame for commencement of educational activities resulted in undue benefits to the allottee

As per the provisions of MLR (Disposal of Government land) Rules, 1971, read with R&FD circular dated 8 February 1983, for grant of Government land at concessional rate/revenue free to educational institutes (clause 6e), the Revenue Department should satisfy itself that 25 *per cent* capital expenditure required for putting up the building is immediately available and remaining 75 *per cent* is likely to become available within a period of two years, so that actual working of institution shall be commenced within a period of two years from the date of possession. Further, as per clause 6(f) of the said circular, if the school/college is not started within the prescribed period or in case of breach of any conditions, the land would be resumed by the Government immediately without payment of any compensation.

During test check of the land allotment records of Collector, MSD, Mumbai, we noticed that land admeasuring 23,840 sq. mtr. situated in survey no. 263, CTS-6-A, plot no.1 *mouja*-Malvani, Taluka-Borivali, MSD, Mumbai was allotted by Government order dated 28 September 2005 at concessional rate on occupancy rights basis to Manjra Charitable Trust for opening a Dental College by charging 50 *per cent* of the market value of the land prevailing prior to five years of the date of allotment (as per provision contained in Government decision dated 30 June 1992). The condition No.6 of the said order directed the Collector to hand over the land by making agreement with the Trust incorporating all mandatory terms and conditions. The Trust paid ₹ 6.56 crore as occupancy price. The

possession of the land was given to the Trust in 2006 and Agreement to the effect was executed between the Trust and the Department on 4 October 2006.

Our scrutiny of the land records revealed that Collector, MSD, Mumbai, while allotting the said land to the Trust, vide letter dated 23 November 2006, did not mention about the basic condition regarding "completion of entire work within a period of two years so as to commence educational activities". While scrutinising the records in the R&FD, it was noticed that out of four applicants for the said plot of land the Chief Minister had approved the application of Manjra Charitable Trust for allotment of land in preference to three other applicants without assigning any specific reasons for the preferential allotment. Though four years have elapsed after taking possession of land, the same was not put to use for the intended purpose. Further, the Trust under letter dated 11 April 2011 had requested the Collector to alter the purpose of use of land from "Dental College" to "Educational activity" as it was not in a position to start a Dental College.

Thus non-inclusion of the mandatory clause deprived the Government from resuming back the land and the Trust got privilege of retaining the land on occupancy rights basis by merely paying ₹ 6.56 crore (against the market value of ₹ 30.37 crore as per ready reckoner of 2006).

After we pointed out the case, Collector, MSD, Mumbai, stated that as the permission of Medical Council of India was required for starting education activity no specific time limit was fixed. The Collector further assured that henceforth the time clause of two year would be incorporated in terms and conditions of similar allotment order.

The reply is not tenable as the conditions prescribed in the MLR code are mandatory, hence non-inclusion of the conditions was contrary to the provisions of the Rules. Not having a time frame clause itself amounted to an unintended favour to the Trust.

4.2.20 Short recovery of occupancy price

According to the GR issued by the R&FD on 25 July 2007 for grant of land at concessional rate, the occupancy price of land shall be 20 *per cent* of the market value of land determined as per rate prescribed in the ready reckoner. Earlier the R&FD vide Resolution dated 29 May 2006, made it mandatory to adopt the rate given in the ready reckoner for computing the value of land for all purposes relating to recovery of cost of land.
Further as per the instruction issued every year in the ready reckoner by the Inspector General of Registration, Maharashtra State, Pune (Sr. No. 3), in respect of the land situated in Mumbai (City) and Mumbai (Suburban), where TDR can be utilised, for the purpose of valuation of the land, 40 *per cent* increase of the cost would be considered.

4.2.20.1 During test check of records of Collector, Mumbai City we noticed that, as per Memorandum dated 20 August 2009 issued by the R&FD, land admeasuring 7,424.09 Sq mtrs, situated at City Survey No. 3/147 in *mouja*-Vadala (Salt Pan), Mumbai City, was allotted to Shree Panchasheel Co-operative Housing Society having 125 members. Detailed scrutiny by us revealed that the occupancy price was determined at ₹ 3.68 crore which is 20 *per cent*

of the land cost of ₹ 18.41 crore as per ready reckoner. However, the market value, considering FSI usable land worked out as ₹ 4.90 crore[11] on land costing ₹ 24.49 crore.

Thus non-consideration of the market value on FSI usable land had resulted in short realisation of Government revenue to the tune of ₹ 1.22 (4.90-3.68) crore.

In the exit conference the Principal Secretary stated that the differential amount of occupancy price on 0.33 FSI would be levied and recovered.

4.2.20.2 As per the R&FD GR dated 30 June 1992, in respect of the land allotted to an education society which is within the limits of the Municipal Corporation, the valuation rate of the land would be reckoned as applicable before five years (i.e. from 1 January of that year) with respect to the year in which allotment is made and 50 *per cent* of that amount shall be recoverable as occupancy price from such education society.

- During test check of the records in the office of Collector, Pune we noticed that land admeasuring 8,094 sq. mtrs. was allotted to Dr. Vikhe Patil Foundation, Pune in June 1988 for the purpose of secondary education. Out of this 5,396 sq. mtrs of land was reallocated for higher and technical education (Degree College) in November 2002. Though the market value of the land was to be determined on the basis of 1 January 1997 for calculating the occupancy price which works out to ₹ 91.33 lakh, the occupancy price was determined on the basis of market value as on 1 January 1983 and levied at ₹ 17.35 lakh. This resulted in short recovery of occupancy price of ₹ 73.98 (91.33-17.35) lakh.

- In another case of Pune district, we noticed that land admeasuring 4,000 sq.mtrs. was allotted to Vijay Foundation, Pune in June 2004 for cultural purpose. On the basis of the application received from the Foundation for change of use from cultural purpose to education purpose, the R&FD accorded sanction for change of use of land in November 2008. Though the market value of the land was to be determined on the basis of 1 January 2003 for calculating the occupancy price which works out to ₹ 52.70 lakh the occupancy price was determined on the basis of market value as on 1 January 1999 and levied at ₹ 44.80 lakh. This resulted in short recovery of occupancy price of ₹ 7.90 lakh.

After we pointed out these two cases, Collector, Pune accepted the observation in respect of Vijay Foundation and stated the recovery would be made and in respect of Dr. Vikhe Patil Foundation it was stated that action would be taken after detailed scrutiny.

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[11] Area of the land = 7424.09 Sq mt
Market value of land per sq m =₹ 24800
Market value of land = 7424.09 X ₹ 24800 X 1.33= ₹ 24,48,76,185
Occupancy price as per Audit = 20 *per cent* of 24,48,76,185= ₹ 4,89,75,237.

4.2.21 Non-recovery of differential amount of cost of land due to breach of conditions

As per the R&FD GR of June 1992, while allotting land to an educational society for education purpose the rate for valuation shall be considered as under:
(i) For primary and secondary education, as per GR of May 1984 the rate applicable on 1 February 1976 shall be considered for valuation and 25 *per cent* of that valuation shall be recovered as occupancy price from education society.
(ii) For higher education/ College within municipal corporation limits, rate applicable five year before (i.e. on 1 January of that year) from the date of allotment order shall be considered for valuation and 50 *per cent* of that valuation shall be recovered as occupancy price from education society.

During test check of the records of the Collector, Pune, we noticed that the R&FD vide GR of November 2001 accorded sanction for allotment of land for education purpose (pre-primary, primary and secondary, vocational courses and hostel for boys and girls) admeasuring 29,550 sq. mtr. bearing survey no.-35, *mouja*-Lohgaon, Taluka-Haveli, District-Pune to Marathwada Mitra Mandal. On the basis of this sanction, Collector Pune issued order on 13 November 2002 to Marathwada Mitra Mandal for payment of ₹ 4,802 i.e. 25 *per cent* of the cost of land as on 1 February 1976. Information collected by us revealed that, as per the brochure published by Marathwada Mitra Mandal (Institute of Technology), the Mandal has started degree courses in engineering and MBA from 2008 itself. This was in violation of the purpose for which the land was originally allotted by the Government. No information was available on record to show that prior permission was obtained for change of purpose and also whether the entire or part of the land allotted was used for technical education and management courses. In any case the amount payable for the land would be 50 *per cent* of the rate applicable which worked out to ₹ 16.94 lakh, which was not recovered and not ₹ 4,802 being 25 *per cent* of the rate applicable as was paid by the Mandal. There is no mechanism put in place to ensure that violations of the conditions are brought to the notice of the Collector. We also noticed that there are no deterrent provisions in the conditions for change in use of the land.

After we pointed out the case Collector, Pune agreed to recover the differential amount and further stated that all similar cases would be reviewed on the basis of audit observation.

4.2.22 Incorrect waiver of license fee

The R&FD under circular issued in September 1999 granted permission to Gymkhana & Sports Institution for use of hall and open space for marriage, reception functions, exhibition, etc., on payment of license fee of ₹ 25,000 for first day and ₹ 15,000 for each forthcoming days. The license fee was further enhanced vide circular dated 4 August 2006 to ₹ 50,000 and ₹ 25,000, respectively, on the following terms and conditions:-

- gymkhana should pay in advance ₹ 50,000 for first day and thereafter ₹ 25,000 for each day for the same function.
- prior permission of the Collector is required to be taken by the Gymkhana in every organisation of any non-sports activity.
- double the licence fee will be charged if any non-sports activity was conducted in the hall/open space without the prior permission of the Collector.

During test check of the records of Collector, MSD, Mumbai, we noticed that Khar Gymkhana had given permission for use of hall/ open space on rent for marriage ceremony to 39 different persons from 2 December 2007 to 2 March 2008, without the prior approval of the Collector. However, the license fee payable by the Gymkhana for giving permission for utilising the hall was at ₹ 19.50 lakh and penalty leviable for not seeking prior approval was ₹ 19.50 lakh. Total amount recoverable was ₹ 39 lakh. The Department had served notice to the Gymkhana for payment of license fee of ₹ 18.50 lakh only. Against this notice, the Gymkhana preferred an appeal to the Revenue Minister, who ordered that only ₹ 4.57 lakh was to be recovered, which was 50 *per cent* of earnings of the Gymkhana for the said period. This was contrary to the provision of the Government Resolution issued in August 2006 and resulted in irregular/incorrect waiver of ₹ 34.43 lakh.

After we pointed out the case, the Collector, MSD, Mumbai stated that the decision taken by the Revenue Minister on 25 August 2009 was based on the merits of the case.

In the exit conference the Principal Secretary stated that, as the observation is of a propriety nature it needs to be reviewed at Government level.

In absence of any provisions in the MLR Code for waiver or reduction of any charges payable, the recovery of license fee at reduced rates was irregular/incorrect.

4.2.23 Non-recovery of lease rent

As per Section 38 of MLR code,1966, the Collector is empowered to grant land on lease to any person for such period, for such purpose and on such condition as he may determine as per rule and in any case the land shall be held only for the period, purpose and subject to the conditions so determined. Further the lease rent payable is determined by the Government on an annual basis.

During the test check of records of the Collector, Mumbai City, Mumbai, we noticed that Land admeasuring 1,256.56 sq.mtrs (situated adjacent to plot Nos.67 and 67-A, Worli Scheme No.52) was allotted to Ashok G.

Piramal, Dilip G. Piramal and Ajay G. Piramal (HUF) (who are lessees in respect of plot No.67, CS No.788, Worli Division) for a period of 30 years vide R&FD memorandum of May 2005. The provisional annual lease rent (subject to final lease rent to be decided by Town Planning Department) was fixed at ₹ 57.21 lakh. The possession of the land was given on 19 July 2005. The lessee paid lease rent in the first year (June 2005).

We saw that the Department had neither finalised the annual lease rent nor recovered provisional lease rent during the last five years (i.e. from 2006-07 to 2010-11) due to which Government revenue to the extent of ₹ 3.75 crore was not realised.

After we pointed out the case the Collector, Mumbai City, Mumbai assured that recovery would be made.

4.2.24 Avoidable payment of interest

Under GR dated 5 October 1999, the Government of Maharashtra formulated a policy for fixation of lease rent and extension of lease period. As per this policy, a lease hold land could be given on occupancy right basis for charitable, residential and educational purposes. However, the clubs and gymkhanas are not included in the GR.

During test check of the records of the Collector, MSD, Mumbai, we noticed that the Collector vide his order dated 20 February 2001 had sanctioned the conversion of leasehold land into outright purchase to Otters Club. The land measuring was 4,180.65 sq. mtrs., in survey No. CTSNo.C/1658, village-Danda, Tahsil-Andheri. Accordingly two crore was paid by the Club as occupancy price on 29 March 2001. The order issued by the Collector was not in keeping with the GR issued by the Government since clubs and gymkhanas were not to be considered for such conversion. Hence, the Collector approached the Government for ex-post facto sanction which was rejected, due to which the amount paid by the club was refunded by the Department on 23 January 2006. As there was delay of more than four years in returning the amount, Otters Club filed a writ petition in Mumbai High Court for payment of interest on delayed refund. The High Court in its decision dated 14 March 2005 directed the Government to pay interest at 6 *per cent* from 29 March 2001 to 23 January 2006. In pursuance of the court's order, the Department paid ₹ 57.82 lakh towards interest on delayed payment of ₹ 2 crore in September 2006.

Thus, the Collector had incorrectly allowed conversion of land from leasehold to occupancy rights basis and the refund of ₹ 2 crore was also delayed.

After we pointed out the case, the Department stated that the Government had used ₹ 2 crore during the period March 2001 to January 2006, and the club had been paid interest at 6 *per cent* only, though the prime lending rate was higher during that period. Hence, the payment of interest of ₹ 57.82 lakh was held as justified.

The reply is not acceptable since discretionary powers used by the Collector in sanctioning the conversion from lease to occupancy right, though not admissible and irregular retention of the amount of ₹ 2 crore resulted in avoidable payment of interest of ₹ 57.82 lakh out of Government funds.

4.2.25 Disposal of land under Urban Land Ceiling and Regulation Act

4.2.25.1 Irregular sale of surplus land under ULC Act.

Under Land (Ceiling and Regulation) Act, 1976 (ULC Act), no person is entitled to hold any vacant land in excess of the ceiling limit. State Government shall by notifications declare the vacant land in excess of ceiling limit to be deemed to have been acquired by the Government. However, if any person declares before competent authority that such vacant excess land will be utilised for construction of dwelling units for weaker sections of the society, Government may exempt such land from acquisition on certain terms and conditions as may be prescribed. Further, the said persons shall submit report from time to time in order to indicate the progress of the work done.

As per the provisions of Section 20 of Urban Land Ceiling (ULC) Act, 1976, the land declared surplus is exempted from acquisition, if the land owner develops the land by providing plots and/or construction of tenements in accordance with the terms and conditions of the exemption order. If there is any violation of terms and conditions, Government shall withdraw the exemption.

During the test check of records of the Additional Collector and Competent Authority, ULC, Nagpur, we noticed that land declared surplus was exempted from acquisition. The terms and conditions *inter alia* stated that the land owner is permitted to transfer total/part area under scheme submitted on surplus land to any group of purchasers intending to propose a Co-operative Housing Society. However, land owner sold the land (in January 2007) to J.P. Realties Private Ltd violating the condition as it is neither a co-operative housing society nor a group of purchasers intending to form a co-operative housing society. No action was taken to withdraw the exemption. This resulted in irregular transfer of land worth ₹ 3.96 crore.

On being pointed out by audit in May 2011, the Additional Collector and Competent Authority, ULC, Nagpur, accepted the observation and issued notice to the land holder.

4.2.25.2 Non-taking of physical possession of land declared surplus under ULC Act

As per the provisions of ULC Act, 1976, the State Government shall notify the vacant land held by any person in excess of ceiling limit as surplus and such surplus land shall be deemed to have been vested absolutely in the State Government. The Competent Authority shall, by notice in writing, require the person to deliver the possession of such vacant land to State Government failing which the Government may forcefully take possession. The ULC Act, 1976 was repealed by both the Houses of Maharashtra Legislature with effect from 29 November 2007.

During the test check of records in Additional Collector and Competent Authority, ULC, Nagpur, we noticed that in 656 cases, 1,164.41 hectare land was vested in the State Government by virtue of section 10 of ULC Act, 1976. However, neither possession of the vacant land was delivered to the

Government nor possession was taken forcefully by the Government. Out of 656 cases of such land, in 20 test checked cases we noticed that possession of the land worth ₹ 76.88 crore based on ready reckoner for the year 2011, was not taken over by the Government.

After we pointed out in May 2011, the Additional Collector and Competent Authority, ULC, Nagpur stated that concerned Tahsildars were instructed to take possession but the instructions were not complied by them.

4.2.25.3 Absence of monitoring mechanism on ULC Land

As per the provisions of ULC Act, 1976, the land declared surplus is exempted from acquisition, if the land owner develops the land by providing plots and/or construction of tenements in accordance with the terms and condition of the exemption order. The terms and conditions *inter alia* stated that the land exempted shall be used for providing plots and/or constructions of tenements as per the terms and conditions of exemption order. Further, the said persons shall submit report from time to time in order to indicate the progress of the work done.

During the test check of records in Additional Collector and Competent Authority, ULC, Nagpur, we noticed that in six cases, wherein the competent authority granted exemption under section 20(1) of the ULC Act between 2002 and 2005, the landholders did not submit the report on progress of work.

After we pointed out in May 2011, the competent authority while accepting the fact stated that notices will be issued to the concerned landholders and report will be furnished after spot verification.

The Government may issue directions to the Sub- Registrar that an NOC from the Additional Collector and Competent Authority (ULC) may be obtained and verified before registering a document. An affidavit may be obtained on non-judicial stamp paper from the original land holder mentioning that the land being sold is not part of the land allotted by the Government under ULC Act.

4.2.26 Non-resumption of land by Nagpur Improvement Trust on breach of condition

Under the provisions of Nagpur Improvement Trust (NIT) Land Disposal Rules, 1983, lands are leased out to public institutions, Co-operative Societies and shall be subject to the terms and conditions of the grant. In case of any breach of condition, the allotment of land shall be cancelled and land shall be resumed.

During the scrutiny of records of NIT in May 2011, we noticed that land admeasuring 1,126.45 sq. mtrs. was leased to President, Nagpur Zilla Congress Committee (Rural Circle) for a period of 30 years from November 1973. The terms and conditions *inter alia* stated that land shall be used for construction of building for carrying out the aims and object of the Committee. Further, no shops, hostels, offices, canteens, etc., shall be permitted and any breach on this count and diversion of the purpose for which the land is allotted will entail forfeiture of whole lease and resumption of the entire land. The lessee violated these conditions by constructing building having seven shops on the front portion, a meeting hall on the backside, office

of the Committee on the mezzanine floor and construction up to lintel level on the upper floor. The lessee sold the shops between April 1993 and May 1995. The NIT after issuing notices for breach of condition cancelled the allotment in March 2005. Action taken to resume the land worth ₹ 2.02 crore, on the basis of ready reckoner for the year 2011, was not found on record.

After we pointed out, NIT confirmed the construction of building and sale of shops and also stated that notice for cancellation of allotment was pasted in April 2005 at the office of the Committee. The Committee thereafter requested to suspend the action till they hold the organisational election. The possession was given back to the Committee in April 2005 and is presently being used by them. Thus, non-resumption of land by NIT on breach of condition has resulted in undue benefit to allottee.

4.2.27 Conclusion

Being a premium asset with ever increasing value, land management is to be dealt with efficiently and promptly. For this purpose, having a data base of land in possession and its allotment is of paramount importance. We noticed during the review that such a data base was not maintained either at the Government level or by the Collectorates. We also noticed that land allotted free of cost/concessional rates for specific purposes was irregularly utilised for commercial exploitation and other activities, etc., or were simply kept vacant. There were blatant violations of the conditions under which land was granted and action either to resume the land or recover the unearned income was not made due to a lackadaisical approach of the Department. Absence of follow-ups and action on follow-up reports resulted in huge tracts of land lying idle with private persons/govt corporations for several years. Monitoring mechanism was weak and ineffective. There were cases of non-realisation of lease rent due to non-renewal, non fixation of lease rent, short determination of occupation price, incorrect waiver of license fee and avoidable payment of interest, resulting in revenue loss to the Government.

4.2.28 Recommendations

The Government may consider:

- ***maintaining a database of the land allotted containing details of area, purpose, period, place, name to whom allotted, etc at district levels and government level.;***
- ***evolving a system for ensuring utmost care in grant of land to private institutions for the purpose of education/health and other activities and to ensure that land is utilised for the purpose for which it is granted by an effective reporting mechanism and dissuade the allottees from misusing the land for commercial purpose by enforcing the penal provisions;***
- ***instituting a mechanism for periodic review of the lands allotted to MIDC and other Corporations so as to ensure that land not required by them would be available to the Government for other welfare measures instituted by them; and***
- ***monitoring of surplus land exempted under the ULC Act and ensure that it is utilised for the purpose for which it was exempted.***

4.3 Development of Hill station at Lavasa, Pune

4.3.1 Highlights

Hill-station type areas in Pune District were identified without any expert study or survey and Lavasa Corporation Ltd (LCL), the project proponent (developer) was selected without any transparency. The project was driven by private interests rather than public interest.

The State Government's policy decision in November 1996 to develop townships in hill-station type areas with participation of the private sector, was implemented without wide publicity/inviting Expressions of Interest, resulting in only one project namely the Lavasa, being sanctioned in June 2001 in Pune district. Though the policy is now more than a decade old, no other hill stations have been developed with private participation in other parts of the State resulting in skewed rather than balanced development in the State.

(Paragraph 4.3.7)

Grant of Special Planning Authority (SPA) status to LCL, the project developer was the very first of its kind without a precedent in the State and instead of closely monitoring all aspects of the project implementation Government abdicated monitoring of the project resulting in extension of undue favours/benefits to the developer.

(Paragraph 4.3.9)

The Special Planning Authority (SPA) approved plans and layouts of LCL which were not in conformity with the Maharashtra Regional Town Planning Act, 1966 (MRTP Act, 1966) and Development Control Regulations by permitting an increase of 67.33 ha in the layout of the area to 681.27 ha. for construction activities which was also inclusive of the non-submergent land admeasuring 12.368 ha. taken on lease from Maharashtra Krishna Valley Development Corporation Ltd. (MKVDC); falling within a distance of 500 mtr from the HFL(high flood level) of Warasgaon Lake and dam for irrigation project constructed on Mose river. The Director of Town Planning, Pune also did not monitor these irregular modifications though he was a member of the Committee, thereby facilitating crucial changes in violation of the rules and procedures prescribed for ecological safety.

(Paragraph 4.3.10)

The State Government gave environmental clearance to the project without referring the project to the GoI, by stipulating that, no development was to be made in area beyond a height of 1,000 mtrs and above, since development beyond 1,000 mtrs required clearance from the Ministry of Environment and Forests (MoEF). The developer exceeded these limits and non-compliance of Environment (Protection) Act, 1986/non-monitoring of the works by the Environment Department resulted in stoppage of work (October 2008, June 2009 and November 2010). However, in November 2011, GoI gave a conditional clearance to the project.

(Paragraph 4.3.11)

The MKVDC irregularly leased land in its possession admeasuring 141.15 ha. (128.78 ha. of submergent area and 12.368 ha. of non-submergent area) in

Mulshi Taluka to LCL in August 2002 at a nominal lease rent of ₹ 2.75 lakh per annum, which they had acquired for irrigation purposes.

Permission given to LCL for construction of *bandharas* on Mose river valley was not only irregular but may also affect water availability to Pune City and adjoining areas at the cost of public interest.

(Paragraphs 4.3.12.1 and 4.3.12.2)

LCL leased the land to private parties on long-term basis for 999 years of which the Government had no knowledge. An inquiry as to whether LCL purchased tribal land without prior permission is being conducted by the Collector, Pune.

(Paragraphs 4.3.13 and 4.3.14)

Lavasa Project being purely a commercial venture designed to reap rich dividends for itself from the appreciation of land prices and the proposed activities of the project catering to the elite, we are of the opinion that the grant of exemptions and concessions from payment of stamp duty and registration fees and *nazrana* fees are unwarranted and devoid of subservience of any public interest. The concessions availed were ₹ 4.36 crore towards stamp duty and registration fees and ₹ 3.71 crore on account of *nazrana* fees.

(Paragraph 4.3.16)

Breach of provisions of the Bombay Tenancy and Agricultural Land Act 1948 (BTAL Act) and Maharashtra Agriculture Land (Ceiling on Holdings) Act, 1961, (MALCH) Act in 120 purchase transactions of *watan* and ceiling lands by LCL , which were in the knowledge of the Collector, Pune, resulted in irregular acquisition of land and non-realisation of *nazarana* fees amounting to ₹ 36.43 crore.

(Paragraphs 4.3.17.1 and 4.3.17.2)

4.3.2 Introduction

The Government of Maharashtra (GoM) framed Special Development Control Regulations (SDCR) to permit the private sector to undertake development of townships in hill-station type areas (November 1996). The Urban Development Department (UDD) of the State Government was empowered to declare any suitable area at appropriate height and suitable topographical features for the purpose of development as hill station. Accordingly, the UDD modified and sanctioned the Pune District Regional Plan in November 1997 and designated 20 villages in Mulshi and Velhe Talukas for Hill Station development. Subsequently, the UDD accorded sanction in June 2001, for Hill station development to M/s.Lake City Corporation Pvt. Ltd. {which was previously known as M/s.Pearly Blue Lake Resorts Private Ltd. and named as M/s.Lavasa Corporation Ltd. with effect from June 2004}. This project was first of its kind in the country and envisaged to have lakeside stylish apartments, hillside luxury villas, golf courses, hotels, spas, country clubs, boutique convention centers, schools, colleges, Institutes, Sports academics, Research and Training centers, incubation centers, nature and adventure activities and health and wellness centers. The project was expected to be completed in four phases by 2022. LCL purchased 3,882 hectares (ha.) of land of which construction activities are underway in 681 ha. Under Phase I the estimated expenditure incurred was ₹ 1,500 crore till August 2011, and was expected to be completed by 2012-13. The details of land purchased by LCL and the sequence of events relating to the project is mentioned in **Annexure VII**. However, MoEF stopped the work on the project in November 2010 due to environmental issues.

4.3.3 Audit objectives

The audit was conducted to ascertain whether:

- the Government's objectives of permitting private sector involvement in the development of hill stations in the State was achieved;
- there was transparency in the selection of the project proponent by way of procedures of selection through competitive bidding, invitation of expression of interest, etc.,
- there was compliance with the rules and regulations for sanction of the project and there was justification for allotment of government land for the project;
- adequate controls were in place to safeguard the interest of the Government while sanctioning the project for development by a private agency;
- whether the planning for and implementation of the project was adequately monitored by the Government and environment regulations were complied with; and
- grant of various concessions by the Government in payments of stamp duty, registration fees, *nazarana* fees, etc., was proper.

4.3.4 Audit Criteria

The audit criteria adopted were:

1. the SDCR framed by GoM in November 1996 and the notifications issued by the UDD;
2. implementation of the provisions of the Environment (Protection) Act, 1986 and notifications issued thereunder; and
3. the circular instructions, orders and Government Resolutions of the Land Revenue and other concerned Departments.

4.3.5 Audit Methodology

A test check of records of the Revenue and Forest Department (R&FD), Environment Department (ED), UDD, Industry, Energy and Labour Department (IE&LD) and Water Resources Department[12] (WRD) at the Government level and offices of the Directorate of Industries (DI), the Collector, Pune, Executive Director, MKVDC, Pune, Assistant Director of Town Planning (ADTP), Pune and Joint District Registrar and Collector of Stamps, Pune (Rural) were carried out during the period May 2011 to September 2011.

4.3.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of the UDD, ED, R&FD, WRD and IE&LD for providing necessary information and records for audit. The compliance audit report was forwarded to all the above Departments in September 2011. The audit conclusions and recommendations were discussed in the exit conference held in October 2011, attended by the Principal Secretaries of the UDD and R&FD and the Collector, Pune. The replies given have been appropriately included in the relevant paragraphs.

4.3.7 Lack of transparency in identification of Hill-Station type areas and for selection of project proponent (developer)

The Regulations provided for on-site infrastructure to be provided by the project proponent, permission to purchase agriculture land without any ceiling limit, grant of status of industry, non-requirement of NA permission[13] as required under the provisions of Maharashtra Land Revenue Code, 1966 (MLR Code). Considering the broad objectives of developing hill station type areas with private participation and the numerous concessions and facilities which were offered towards the stated objectives to the private partner, it was absolutely essential that the State Government should have carried out feasibility studies for developing areas across the State and also ensured wide publicity of the policy/regulations to broad base the participation of private agencies.

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[12] Formerly known as Irrigation Department.
[13] Permission to use agricultural land for other purposes.

During the audit we noticed that:

- Government framed the Special Regulations without any expert study or survey for identification of areas where hill stations could be developed. The Regulations also do not provide for a feasibility report to examine whether the site was suitable for development of a hill station covering the issues such as, eco-sensitivity, environmental compatibility and construction activity working to the detriment of the local residents and their life styles, etc. Further, the Regulations did not prescribe any procedure for selection of developers in a transparent manner through invitation of Expression of Interest, etc.

- All the six[14] hill station development projects including Lavasa Project which were sanctioned by the UDD in the State were in Pune District. Thus equitable development of hill stations in rest of the districts of the State was not planned for and the development was driven by interest of the project developers. Thus, Government did not fulfill its obligations to develop other hilly areas in the State, which had potential for development either in Western Maharashtra, Vidarbha or Marathwada areas.

- After UDD had approved the Regional Plan for Pune District in November 1997, two private parties viz. M/s.Aqualand (India) Ltd. and M/s.Pearly Blue Lake Resorts Pvt. Ltd. approached the Government in January and March 2000 respectively, seeking permission for development of hill station in 18 villages in Mulshi and Velhe Talukas in Pune District. On the basis of requests made by M/s.Pearly Blue Lake Resorts Pvt. Ltd. for those particular 18 villages, between March 2000 and June 2000, the Department declared the land in 18 villages as suitable for development of hill station in June 2001, though this area was earlier reserved for afforestation. UDD notings indicated that M/s Pearly Blue Lake Resorts Pvt. Ltd. restricted its project area with elevation of less than 1,000 mtr as in that case GoI's clearance was not necessary. The project of M/s Pearly Blue Lake Resorts Pvt. Ltd. was approved by the UDD in June 2001. Reasons for selection of M/s Pearly Lake Resorts Pvt. Ltd. in preference to M/s Aqualand (India) Ltd. were not available on record. As per UDD's sanction, the development was to be made in designated villages with some conditions, such as, no development was to be made in the area beyond the height of 1,000 mtrs and above as development beyond 1,000 mtrs requires clearance from the Ministry of Environment and Forests (MoEF) and prepare an Environmental Impact Assessment (EIA) report as per the guidelines of MoEF and obtain approval from the ED of GoM.

Non-invitation of Expression of Interest by the Government for selection of agency to execute the project and unilateral acceptance of land/project preference shown by LCL made the selection process non-transparent. Further, allowing of land as hill station on the request of the project proponent though the land was earmarked for afforestation was irregular.

In the exit conference, Principal Secretary, UDD stated (October 2011) that the project was sanctioned on first come first serve basis with the intention of

[14] M/s.Lavasa Corporation Ltd., M/s.Aqualand (India) Ltd., M/s.Katraj Hill Club and Resorts Pvt. Ltd., M/s.Sahara India Commercial Corporation Ltd., M/s.Satind Infrastructure Pvt. Ltd. and M/s.Maharashtra Valley View Pvt. Ltd.

development of hill station and it is not necessary to float a tender or Expression of Interest.

The reply is not tenable as the project being first of its kind in the State, the selection of the site as well as the developer should have been done with the widest of publicity and transparency.

4.3.8 Project approvals and increase in project area without environmental/cabinet approvals

In April 1999, GoM declared tourism as an industry and in July 1999 included development of hill station as tourism activity. By virtue of amendment to Section 63-I-A(II) of BTAL Act powers were vested in Development Commissioner (Industries) to grant permission for purchase of land for *bonafide* industrial purpose as proposed by the project proponents. Accordingly, the Directorate of Industries granted permission to purchase agriculture land admeasuring 6,671.06 ha. (4,000 ha. in December 2002 and 2,671.0633 ha. in November 2010) under the BTAL Act. The Maharashtra Pollution Control Board (MPCB) granted (May 2002) 'No Objection Certificate' (NOC) for the project under the provisions of Water Act, Air Act and authorization under the provisions of Hazardous Wastes (Management & Handling) Rules. The ED granted clearance on 18 March 2004. UDD declared (June 2008) the Corporation as SPA for the area in their jurisdiction under Section 40(1)(B) of MRTP Act.

Our scrutiny of the records revealed that UDD had initially fixed the area for development between 400 ha. and 2,000 ha. as per the Regulation No.2 of notification issued in November 1996. The UDD by way of an amendment in May 2001 deleted the said maximum limit and thus there was no cap on the total area which could be developed under any project.

As hill areas are ecologically and environmentally sensitive and development thereof involves socio-economic undertones, UDD should have accorded sanction for development of hill station on the basis of a study report on these issues, in consultation with the ED and the IE&LD. A cabinet approval for the same was also necessary considering it's long term ramifications, but these requirements were bypassed.

4.3.9 Grant of Special Planning Authority status to LCL-dilution of Government's role and undue favour

The State Government inserted clause 1(B) in Section 40 of the MRTP Act, 1966 in 2002, whereby it was provided that the State Government may, by notification in the official Gazette, appoint any agency or authority created by or in accordance with Government order or instrument, or any company or corporation established by or under any State or Central law, to be the SPA for any notified area.

A meeting was held at Lavasa in January 2007 in which officials from LCL, Chief Minister, Union Minister for Agriculture, State Minister for Irrigation, Chief Secretary, Additional Chief Secretary and other officers had participated. In the meeting LCL had made a request to appoint them as SPA, under the plea that approval processes of plans in the Government are long drawn and would delay their project. In response, the then Chief Minister

indicated that he was in favour of minimal control by the Government and hence could consider appointing promoters of large projects as SPAs for their projects. Thereafter, LCL brought these considered views expressed by the Chief Minister to the notice of the UDD and reiterated (February 2008) its request to appoint them as SPA. On the basis of this request and also in view of sub-section 1(B) under Section 40 of MRTP Act, 1966, a notification was issued by UDD in June 2008 to appoint LCL as the SPA. According to one of the conditions of the notification, a committee to perform the duties and functions of SPA should be formed.

During scrutiny of the records in the UDD and office of the Assistant Director of Town Planning (ADTP), Pune, we noticed that there were irregularities with respect to constitution, delegation of powers and functioning of the SPA as discussed below:

- LCL is a private limited company registered under the Companies Act, 1956 and whether the Section 40(IB) was wide enough to cover such a private company for appointment as SPA was questionable. Also, a writ petition in the matter is pending in the Bombay High Court.

- As per the MRTP Act, 1966, provisions of Chapter VI in relation to the Development Authority (DA) were to be applied to the SPA also. Under Chapter VI of the said Act, the new Town Development Authority was to be constituted and its Chairman, Vice Chairman and all other members were to be appointed by the State Government. The DA would have all powers and carry out all the duties of Planning Authority under this Act. The State Government could give directions to any such DA for restricting the powers of the DA.

- LCL passed a resolution in September 2008 constituting a committee of 10 members including the Director of Town Planning, Pune (DTP, Pune) to be called as SPA committee. We noticed that majority of the committee members were from Hindustan Construction Company (HCC) of which LCL is the subsidiary in which the parent company is having major share holding. The Chief of HCC's Planning Section was made Chairman and Chief Executive Officer of the SPA. As the head of the SPA, he acts as building regulating agency for all development projects of LCL. This situation was facilitated by the conditions of the notification issued in June 2008 by the UDD restricting the Government representation in the SPA Committee to one member (Director of Town Planning) in violation of Chapter VI of MRTP Act, 1966.

Thus, the arrangement made by the State Government for implementation of the Lavasa Project did not protect the interest of the State and its people. As such granting of SPA status to LCL without any control by the Government left scope for irregularities, perceived conflict of interest and did not help the development of Hill Station as per the objective of Hill Station Development Policy of the Government.

In effect the Government's participation in the planning and approval of the project was diluted as the decision making process could reach finality through a majority consisting of only one Government member. As plans prepared by the SPA would have bearing on several related issues of public welfare, environment etc., wholesome participation of Government was

necessary, however, the Government chose to relinquish its hold on the project and its implementation.

Grant of SPA status to LCL, the project developer and abdication of Government monitoring of the project amounted to extension of undue favour and was without any such precedence in the State.

In exit conference, Principal Secretary, UDD stated (October 2011) that the appointment of LCL as SPA and provisions relating to grant of SPA in MRTP Act, 1966 are being reviewed and a decision would be taken accordingly.

4.3.10 Irregular approval of plans and layouts by the SPA

As per the Section 115 of the MRTP Act, 1966, before preparing a final plan the objections and suggestions are to be invited from the people living in that area and considered. Thereafter the plan has to be approved by the Government.

As per the regulations for development of special townships notified by the UDD in November 2005, for areas falling under the Pune Regional Plan, the land which comes within the belt of 500 mtr from the high flood level (HFL) of a major lake and also command area of an irrigation project shall not be included for any type of township project. Further, according to the conditions of the notification of June 2008, the SPA has no right to grant any relaxation in the prevalent Development Control Regulations (DCR) applicable to the notified area, all the development permissions granted shall be brought to the notice of ADTP, Pune within a period of three months from the date of grant of permission and any violation in DCR and provision of Regional Plan shall be liable for legal action by the Collector, Pune.

During test check of the records in the office of the ADTP, Pune, we noticed the following irregularities:

- According to the resolution passed by the LCL, the duty of the SPA committee was to prepare a draft plan proposal for Lavasa Hill Station and to suggest, as part of the planning proposals, such modifications or additions to DCR, as was necessary for implementation of the planned project. This indicated that the LCL had the intention to go beyond the provisions of the existing DCR. Hence, the modifications in the draft plan proposals should have been monitored by the DTP and the Collector.

- The Master Plan sanctioned by SPA is primarily a layout plan. Though objections and suggestions from the public are to be invited before final plan is prepared and got approved from the State Government, this set procedure was not followed by the SPA of LCL.

- Collector, Pune had approved (June 2008) an area of 613.94 ha. for development of project. LCL, on being granted SPA status, made additions (October 2008, June 2009 and November 2010) of 67.33 ha. to the already approved area, increasing the layout to 681.27 ha. for construction activities. This was also inclusive of the non-submergent land admeasuring 12.368 ha. taken on lease from MKVDC. This non-submergent land was falling within 500 mtr from the HFL of Warasgaon lake and dam for irrigation project constructed on Mose river. As such, the additions and modifications approved

by the SPA were irregular being in violation of the November 2005 Regulations.

- Three modifications as detailed above in the layout plans were carried out by SPA. However, we noticed in the report submitted by DTP, Pune to Principal Secretary, UDD in February 2011 that two modifications were intimated after two years and one modification was not intimated at all, though this was to be brought to the notice of the ADTP, Pune within three months.

- While revising layouts, the LCL changed the internal roads, and the location and planning of buildings.

- The company did not demarcate independently the area with slopes having gradient of 1:3 and above and that between 1:3 and 1:5 in the "Contour Map". Due to this, the construction activity undertaken in the area with such slopes could not be ascertained. The aforesaid areas are not eligible for development. Further in the absence of such demarcation in the "Contour Map" it is difficult to know how much cutting of the hills and filling were made by the company. It is also seen that the company has done construction activity after digging the area situated on the slope having gradient between 1:3 and 1:5.

- The height of one hotel is more than 20 mtr though the SDCR had prescribed the limit of 20 mtr.

It is pertinent to mention here that the Expert Level Committee (ELC) on environment issues had observed in its report that LCL itself had stated that it has kept the planning flexible to suit the commercial demand. Under the circumstances the State Government was required to supervise the activities of LCL, which was not done. The DTP, Pune also did not monitor this though he was a member of the Committee, thereby facilitating crucial changes in violation of the rules and procedures prescribed to safeguard ecological concerns. It was only after the recommendation of the ELC, in January 2011, that the DTP, Pune recommended (February 2011) to the State Government that the provisions for constitution of SPA need to be reviewed. Collector, Pune could have taken legal action on SPA which was not done.

In exit conference, Principal Secretary, UDD stated (October 2011) that a hearing on the matter is in progress and a decision would be taken thereafter.

4.3.11 Non-Compliance with Environment (Protection) Act, 1986

The Environment Department, Government of Maharashtra issued a provisional NOC to LCL in December 2002 to develop the hill station in 7,000 ha. at Mulshi and Velhe Talukas in Pune District and which was converted into final environmental clearance in March 2004 for 2,000 ha. with specified terms and conditions. We noticed that LCL did not comply with the specified conditions as discussed below:

- Though clearance was granted in March 2004 for development of the project in area of 2,000 ha., the MPCB issued (January 2005) consent to operate in 6,181.37 ha of land which was irregular. LCL had purchased 3,882 ha. up to September 2009. Moreover the Directorate of Industries had also granted permission subject to the condition that all necessary clearances were required to be taken by LCL.

- We are of the opinion that the environmental clearance given by the State Government (March 2004) was irregular, by avoiding the clearance to the project from the MoEF on the ostensible reason that the development would not be beyond 1,000 metres. As this project had a huge ramification in terms of area being developed in the eco-sensitive Western Ghats and partially in forest/tribal land by a private agency and being first of its kind in the State, *ab-initio* clearance should have been sought by the State Govt from the GoI. As can be seen from the progress of the project, development beyond 1,000 mtrs was done by LCL without MoEF clearance (Expert Committee Report). Thus the State Government failed to monitor their own conditions stipulated by them in various clearances. LCL continued developmental activities violating the condition to maintain the distance to protect flora and fauna from the effect of these activities in the surrounding area.

- The condition stipulated that waste water disposal system shall be designed in such a manner that no waste water directly or indirectly enter into surrounding water resources. However, as per Expert Committee report, the treated waste water is discharged in water bodies through storm water drainage and directly during the rainy season.

The State Government did not insist compliance to the conditions of EIA notification issued by GoI, MoEF in 1994 as amended in 2004 and 2006 for clearance from the MoEF for development of this hill station. On being pointed out by the MoEF (July 2005) that the provisions of EIA notification of July 2004 were applicable in case of Lavasa Project, the State Government directed LCL in August 2005 to obtain environmental clearance for the project. In November 2010, MoEF passed an order stopping the work in view of the environmental violations and thereafter directed (June 2011) the State Government to initiate necessary action under the Environment (Protection) Act, 1986 against LCL. Meanwhile, the LCL filed a writ petition (No. 9448/2010) in the Bombay High Court. The Hon'ble High Court directed (July 2011) the State Government to seek clarification from the GoI regarding the action to be initiated. On direction of the Hon'ble High Court to pass final orders on the application of LCL, the MoEF issued a conditional clearance on 9 November 2011 for first phase of a hill station township development on a plot area of 2000 ha. and directed the State Government to constitute a high level Verification and Monitoring Committee consisting of eminent experts, representatives of MoEF, State Government, District Administration and other stakeholders.

- The Principal Secretary, ED stated (November 2011) in reply that the Department does not have any mechanism to ensure compliance of the conditions. We do not agree with the response, since all agencies including the ED of the State failed to monitor the progress of the project as per the stipulated conditions and for compliance to various environmental laws, thereby facilitating the violations that took place on part of LCL.

4.3.12 Irregular grant of permission for construction of bandharas and lease of land by MKVDC

4.3.12.1 Irregular grant of permission for excess water requirements and for construction of bandharas

The Khadakwasla Irrigation Project has four storage dams at Khadakwasla, Panshet, Warasgaon and Temghar. This Project also supplies water for drinking and industrial purposes to the Pune City. The LCL had been given permissions to provide water supply for its project by construction of bandharas[15] in catchment and submergence areas of Warasgaon Dam.

During test check of the records of Khadakwasla Irrigation Division, Pune, we noticed that in October 2001, LCL approached MKVDC for permission to construct ten bandharas, eight on Mose river valley (storage capacity 871 mcft) and two on Kal river valley (storage capacity 160 mcft). In view of the fact that the Minister, WRD who was also Chairman, MKVDC had granted approval in May 2002 itself to construct ten bandharas on Mose and Kal rivers, MKVDC granted *post facto* approval in June 2002. Mose river valley is the main source of water for Warasgaon dam. MKVDC's permission to a private party for construction of *bandharas* to store and utilise water was first of its kind in the State. By constructing 10 bandharas, LCL proposed to utilize 1,031 million cubic foot (mcft) of water (93 mcft for domestic use, 170 mcft for plantation and 768 mcft for industrial use). The construction of eight bandharas on Mose river would decrease the water level of Warasgaon dam by 871 mcft. Further possibility of reduction in the storage capacity of the dam due to haphazard way of hill cutting resulting in land slides, high erosion and siltation could not be ruled out.

Further, two of the eight *bandharas* constructed in the submergence area of Warasgaon dam would decrease the storage capacity of the dam by 284 mcft. The requirement of water for drinking purpose determined by Pune Municipal Corporation was 15,920 mcft and for irrigation and industrial purpose as determined by MKVDC was 26,420 mcft. Thus the total requirement of water was 42,340 mcft, whereas the storage capacity of Khadakwasla dam (for which one of the storage dams was Warasgaon) was 29,160 mcft. Hence permitting LCL to utilise 871 mcft from Mose river valley would likely have adverse impact not only on the water requirements of irrigation projects and drinking water supply to Pune City but also to the Talukas at Daund, Indapur and Baramati, which are chronic scarcity areas.

It is also pertinent to note that as per the report submitted by the Assistant Chief Engineer, WRD, Pune to MKVDC on 29 April 2002, the requirement of water for the Lavasa Project was only 547 mcft (93 mcft for domestic use, 170 mcft for plantation use and 284 mcft for tourism and boating). Thus, it is clear that MKVDC's permission to LCL which is a private project, for excess utilisation of 484 mcft of water, is at the cost of lesser availability of water to Pune City and surrounding talukas.

The Government (WRD) replied (February 2012) that permission granted to LCL for storage of 1031mcft of water out of Mose River Valley which is the

[15] Check dams

main source of water to Warasgaon Dam, was not in excess of LCL's requirement and would not affect the irrigation projects and drinking water supply to Pune City.

The fact remains that a private project was given permission to lift water directly from an irrigation project which serves a larger public purpose and such permission was first of its kind. Further, though LCL which is a private agency was given the possession and management of water from two bandharas, no deterrent clause was incorporated for any violations in the Agreement executed between MKVDC and LCL, in the interest of the Government and public at large. The issues raised now relating to loss of water due to evaporation/silt etc to deny that there is any excess sanction of water to LCL, could have been taken into account before giving approval for constructing bandharas.

4.3.12.2 Irregular grant of land by MKVDC to LCL

It has been held by the Supreme Court in the case of Shri Bhaskar Pillai v/s State of Kerala (Appeal No.2628/1997), that if land is acquired for a public purpose, after the said public purpose was achieved, rest of the land could be used for other public purpose only. In case there was no other public purpose for which the land was needed, then, instead of disposing it by way of sale to erstwhile owner, the land should be put to public auction and the amount fetched in the public auction could be utilised for the public purpose envisaged in the Directive Principles of the Constitution. In light of the above mentioned judgment the WRD issued a circular in July 2002 according to which a decision on excess land which is not required by Irrigation Development Corporations would be taken by their Executive Directors.

During test check of the records pertaining to Khadakwasla Irrigation Division, Pune we noticed that MKVDC has leased out land in its possession admeasuring 141.15 ha. (128.78 ha. of submergent area and 12.368 ha. of non-submergent area) in Mulshi Taluka to LCL in August 2002 at lease rent of ₹ 2.75 lakh per annum for 30 years. The submergent land was to be utilised for *bandharas* and water sports activities by LCL. The non-submergent land acquired for the Warasgaon Dam was declared surplus by MKVDC on which LCL constructed commercial buildings (hotels, convention centre, etc.). Grant of non-submergent land on lease to LCL was not in conformity with the judgement of the Supreme Court and the directives issued by the State Government, was thus irregular. This surplus land should have been utilised for other public purposes or put to public auction or surrendered to Collector and was certainly not to be given for commercial purposes to a private party.

After we brought this to the notice (September 2011), the Government stated (February 2012) that MKVDC was empowered to lease the land to LCL which is not a permanent disposal.

The reply is not tenable since a long lease of land for 30 years is virtual devolvement of land to LCL, which they have already developed for commercial purposes and given to third parties. It would not be easy now for the MKVDC/Government to retrieve the land and thereby they have violated the Supreme court directives and their own circular based on the same.

4.3.13 Grant of land on extended lease and as partnerships with national/international institutes

During test check of the computerised property records (Index No. II), we noticed that several lands purchased by LCL were given on a long term lease for a period of 999 years. The total area of such land was not available in the Departmental records.

Further, as per the brochure of the LCL, it had entered into strategic partnerships with various national and international hospital and educational institutes like Apollo Hospitals, National Aeronautics and Space Administration (NASA), Oxford University etc. Copies of the agreement entered into by LCL with these parties were not available for scrutiny as also whether the concurrence was obtained from Ministry of Defence for lease to NASA. The Copies of partnership agreements were also not furnished, though requisitioned.

In the exit conference, Principal Secretary, R&FD stated (October 2011) that the matter in respect of land leased on 999 years would be checked. He further stated that matter regarding partnership with NASA would be examined. The response only highlights, as mentioned earlier, that there is no governmental control on the activities of the LCL.

4.3.14 Purchase of Tribal land

As per the conditions under which permission was granted by Development Commissioner (Industries) for purchase of land in November and December 2010, the purchase of land from a person belonging to a Scheduled Tribe is subject to the provisions of Section 36 and 36A of MLR Code and Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. As per Section 36A of the MLR Code, no occupancy of a tribal shall, after the commencement of the MLR Code and Tenancy Laws (Amendment) Act, 1974, be transferred in favour of any non-tribal by way of sale (including sales in execution of a decree of a civil court or an award or order of any Tribunal or Authority), gift, exchange, mortgage, lease or otherwise, except on the application of such non-tribal and except with the previous sanction of the Collector in the case of a lease or mortgage for a period not exceeding five years and in other cases from the Collector with the previous approval of the State Government.

During test check of the records of the Collector, Pune, we noticed that LCL had purchased land admeasuring 23.47.72 ha. at Mugaon village (Mulshi Taluka) from four persons belonging to the tribal (Katkari) community. It was not ascertainable from the records whether prior permission was obtained by LCL for purchase of these lands from the tribals. In this connection a writ petition is pending in the Bombay High Court.

In the exit conference, the Collector, Pune stated (October 2011) that an inquiry in the matter is going on and in cases where prior permission for purchase of tribal land has not been obtained, necessary action to restore the land would be taken.

4.3.15 Purchase and sale of land

During test check of the records relating to purchase and sale of land at offices of Joint District Registrar and Collector of Stamps, Pune (Rural) and the Collector, Pune, we noticed that LCL had purchased land during the period between October and December 2002 at Dasave village in Pune district. The rates at which land was purchased fall in the range of ₹ 13 to ₹ 35 per square mtr. All these lands were developed and subsequently sold during the period between November 2009 and March 2010 at a price of ₹ 3,114 to ₹ 6,034 per square mtr. The development costs of the land not withstanding, the huge difference in purchase and sale price was definitely on account of the hill station development being undertaken by LCL, which was used by it for its own financial gains.

4.3.16 Exemptions/concessions of duty, fees, etc.

As per the Government Resolution dated 7 April 1999, tourism has been accorded the status of an 'Industry'. Further, as per the notifications issued in June 2006, July 2006 and June 2007, by the R&FD, payment of Stamp duty and Registration fees were fully exempted by way of amendment to Section 63-I-A of the BTAL Act. Concession in lieu of *nazarana* fees or such other charges, which may otherwise be payable were also granted.

During the test check of the records of the Collector, Pune, we noticed that LCL had availed of exemption from payment of stamp duty of ₹ 4.31 crore, Registration fees of ₹ 5.39 lakh and concession in payment of *nazarana* fees of ₹ 3.71 crore. This was not justified as only that area which was to be developed for tourism purpose should have been identified and exemptions and concessions should have been restricted to that area alone. Extension of exemption to areas being developed for commercial purposes like sale of land, flat, etc. was not justified in absence of any public interest being served.

There was nothing on record to indicate that the Government had made it mandatory to ensure medical and educational facilities at Lavasa are provided at concessional rates to the local poor people.

Lavasa Project is purely a commercial venture as the proposed activities of the project caters to a lavish life style of the elite for which the Corporation was expected to reap rich dividends, grant of exemptions and concessions from payment of stamp duty and registration fees and *nazarana* fees appears to be unwarranted and unjustified.

4.3.17 *Nazarana* fees

4.3.17.1 Non-realisation of *nazarana* fees for purchase of *watan* land

According to Resolution dated 8 September 1983 of R&FD, when permission is to be granted to the occupant to sell the agricultural land held as Occupant Class-II land for the purposes of non-agricultural use, the holder (alienor) shall pay to Government an amount equal to 75 *per cent* of the net unearned income i.e. 75 *per cent* of the difference between current market value or the price realised by way of sale, whichever is higher and the occupancy price at which the land was originally granted to the applicant. However, according to Section 63-I-A(2) of the BTAL Act, an amount of two *per cent* of the

purchase price shall only be payable within one month of execution of sale deed in lieu of *nazarana* fees for purchase of *watan* (Class-II) land for bonafide industrial use. Further as per the conditions under which the Directorate of Industries had granted (December 2002 and November 2010) permission for purchase of agriculture land under the BTAL Act, LCL has to submit a report every six months furnishing the details of purchase and use of land to the Collector.

During test check of the records of the Collector, Pune, we noticed that LCL had undertaken 72 transactions, between October 2006 and July 2010, for purchase of w*atan* (Class-II) lands admeasuring 119.32 ha. the aggregate market value of which worked out to ₹ 44.36 crore, for industrial use. In these cases the *nazarana* fees payable at two *per cent* has not been recovered as of August 2011. Further as the *nazarana* fees was not paid within the stipulated period of 30 days, it amounted to breach of conditions attracting levy of *nazarana* fees at 75 *per cent* which amounted to ₹ 33.26 crore. No demand notices were issued by the Collector, Pune for recovery of the amount.

After we pointed out this case, Collector, Pune stated (July 2011) that on the basis of directions issued by him the Sub-Divisional Officers at Maval and Bhor, had issued show cause notices to the concerned persons and inquiry in the matter is in progress.

It is pertinent to mention that the six-monthly returns in respect of purchase and use of agriculture land furnished by the LCL should have been utilised by the Collector for levy and recovery of *nazarana* fees in time. Failure of Collectorate to check these six monthly returns resulted in non-realisation of ₹ 33.26 crore.

In the exit conference, the Collector, Pune stated (October 2011) that an inquiry in the matter is going on and necessary action to recover *nazarana* fees at 75 *per cent* would be taken considering the views of LCL and regularisation thereafter in respect of proven cases.

4.3.17.2 Non-realisation of *nazarana* fees for breach of conditions in the purchase of agricultural ceiling land

According to R&FD GR of September 1983, when permission is to be granted to the occupant to sell the agricultural land held as Occupant Class-II land for the purposes of non-agricultural use, the holder (alienor) shall pay to Government an amount equal to 75 *per cent* of the net unearned income i.e. 75 *per cent* of the difference between current market value or the price realised by way of sale whichever is higher and the occupancy price at which the land was originally granted to the applicant. As per Section 21 of the Maharashtra Agriculture Land (Ceiling on Holdings) Act, 1961, the Collector shall announce his declaration regarding surplus land and such surplus land shall be distributed to the landless persons as stipulated in Section 27 of the Act. Further, Section 29 of the Act stipulates that without the previous sanction of the Collector, no land granted under Section 27 shall be transferred by way of sale, gift, mortgage, exchange, etc.

During test check of the records of the Collector, Pune, we noticed that LCL had undertaken 48 transactions, between October 2002 and February 2009, for

purchase of ceiling lands admeasuring 214.58 ha., the aggregate market value of which worked out to ₹ 4.23 crore for industrial use. In none of these cases prior permission from the Collector, Pune was obtained. We are not aware whether these sale deeds were registered in favour of the purchaser LCL without the requisite permissions of the Collector. In these cases the *nazarana* fees payable at 75 *per cent* of the market value was attracted due to breach of conditions of the Act. No demand notices were issued by the Collector, Pune for recovery of the fees, which worked out to ₹ 3.17 crore.

After we pointed out this case, Collector, Pune stated (July 2011) that on the basis of directions issued by him the Sub-Divisional Officer, Maval had issued notices to the concerned persons and inquiry in the matter is in progress.

It may be pertinent to mention here that the six-monthly returns in respect of purchase and use of agriculture land furnished by the LCL should have been utilised by the Collector to ascertain how land was acquired without Collector's permission and action taken for breach of the conditions for levy and recovery of *nazarana* fees. ***Failure of the Collectorate to check these six monthly returns resulted in land being purchased/registered in favour of LCL*** without the requisite permissions, besides non-realisation of ₹ 3.17 crore.

In the exit conference, the Collector, Pune stated (October 2011) that an inquiry in the matter is going on and necessary action to recover *nazarana* fees at 75 *per cent* would be taken considering the views of LCL and regularisation thereafter in respect of proven cases.

4.3.18 Non-recovery of royalty charges

As per Schedule-I appended to Rules 18, 22 and 29 of the Bombay Minor Minerals Extraction Rules 1955, royalty was recoverable from the licencees who extract minor minerals at ₹ 100 per brass between 15 December 2006 and 10 February 2010 and at ₹ 200 per brass with effect from 11 February 2010.

During test check of records of the Collector, Pune, we noticed that permission had been granted by District Mining Officer, Pune for extraction of minerals from five quarries. As seen from a report prepared by the Additional Collector, Pune, LCL had excavated murum of 8,08,246 brass in order to construct buildings, bungalows, shops, offices, roads and dams on the basis of reports received from Tahisildar, Mulshi, Executive Engineer, Zilla Parishad, Pune and Deputy Engineer, Khadakvasla Irrigation Division, Pune. This excavation was made from other sites in consonance with the agreements made with Zilla Parishad and MKVDC. However, the royalty charges of ₹ 15.05 crore were not paid by LCL for quantity of *murum* extracted.

In the exit conference, the Collector, Pune stated (October 2011) that the dispute is regarding eligibility of LCL for incentives in respect of payment of royalty charges as per the tourism policy of the Government. Further Principal Secretary, R&FD stated that the matter would be examined and decision would be taken considering the writ petition filed by LCL in Bombay High Court.

4.3.19 Non-levy of entertainment duty on water-sports and other amusement activities

Under Section 5A(a) of the Bombay Entertainments Duty Act, 1923, tax shall be levied and paid by the proprietor to the Government in respect of any water sport activity. Further, as per the provisions of Section 5A(a)(i), no duty shall be levied for the first three years from the date of commencement of water sports activities, at the rate of 50 *per cent* of the amount collected for the subsequent two years and full entertainment duty was payable from the sixth year as per Section 5A(a)(ii) and 5A(a)(iii), respectively.

During test check of the records of Collector, Pune, we noticed that water-sports and other amusement activities were being conducted by LCL since December 2008 in the project area. The proceeds collected during the period from December 2008 to March 2011 were ₹ 1.74 crore for conducting water sport activities, etc., which would have attracted entertainment duty. For commencement of water sport activities, permission from the Collector, Pune was required to be obtained by LCL. However, no such permission has been granted till July 2011 and neither was entertainment duty paid by LCL. From the records of the Collector, Pune it transpired that the matter relating to grant of exemption is pending at Government level (September 2011).

In exit conference, Principal Secretary, R&FD stated (October 2011) that a decision on the matter would be taken shortly.

4.3.20 Conclusion

We conclude based on our findings above that the policy decision of the State Government to develop hill station type areas in the State with private participation was not achieved and it appears that the entire regulations framed and amendments to existing laws and procedures made by the State Government were propelled by private interests for setting up the Lavasa project alone. The amendments which diluted well established government procedures were made to ensure that LCL had a free hand to develop the project to serve its own commercial interests at the cost of public interest.

We have brought out the total lack of transparency in selection of the project proponent. Granting of SPA status to LCL without any control by the Government left scope for irregularities, perceived conflict of interest and violation of environmental laws. Though the State Government was required to supervise the activities of LCL, they did not do so. In the absence of any public purpose being served, exemptions and concessions given to LCL were unwarranted and not in public interest. The Government had no knowledge of sub lease of land by LCL to private agencies on long term basis. Requisite permissions of Government/Collector were not obtained by LCL for purchase of Tribal Land. The State Government at the highest level and its agencies at executive/implementation level went out of its way to facilitate a single project, with scant regard for ensuring compliance to its own conditions laid down for the project and disturbing the already ecologically fragile environment.

4.3.21 Recommendations

The Government may consider:

- ***conducting a feasibility study to identify locations so that hill station development is uniform and balanced throughout Maharashtra;***
- ***inviting expression of interest, etc. to ensure transparency in selection of project proponent;***
- ***reviewing the policy of granting SPA status to private agencies;***
- ***evolving suitable mechanism for effective monitoring of compliance to various environmental laws;***
- ***restricting grant of exemptions and concessions which have revenue implications only in cases where public purpose is served; and***
- ***undertaking a social cost benefit analysis of the Lavasa project.***

4.4 Audit observations

During scrutiny of records of the various land records and land revenue offices we noticed several cases of non-compliance of the provisions of the Maharashtra Land Revenue Code, 1966 (MLR code), Government notifications/instructions as mentioned in the succeeding paragraphs of this chapter. These are illustrative cases and are based on the test check carried out by us. As such cases are pointed out by us repeatedly; there is need on the part of the Government to improve the internal control system so that recurrence of such cases can be avoided.

4.5 Non-observance of the provisions of Acts/Rules

The provisions of the Maharashtra Land Revenue Code, 1966 (MLR code), Government notifications/instructions provides for:-

(i) Levy of unearned income on market value as on date of order granting permission to sale Government land or price realised by way of sale whichever is higher.

We noticed non-compliance of the above provision which resulted in short levy of ₹ 1.57 crore as mentioned in paragraph 4.5.1.

4.5.1 Short levy of unearned income

Tahsildar, Raigad at Alibagh; Tahsildar, Baramati and Tahsildar, Shirur

As per Government Resolution (GR) issued in September 1983, permission to sell agriculture land shall be granted to landholder, holding land as class II occupant, on the condition that he shall pay unearned income equal to 50 *per cent* of the difference between current market value or the price realised by way of sale whichever is higher and the occupancy price at which the land was originally granted to the applicant plus improvement cost influencing the valuation of land. In case of non-agriculture land, unearned income shall be levied at the rate of 75 *per cent*. Further, as per GR issued in May 2006, the market value shall be determined as per ready reckoner as on the date of order granting permission to sell. Government clarified in September 2006 that in case the market value so determined is less than price realised by way of sale, the unearned income shall be determined on sale price.

During the scrutiny of records in January 2009 and May 2009 we noticed that in 12 cases, while granting permission (between August 2005 and June 2008) to sell the agriculture and non agriculture land held by class II occupant, unearned income was determined on the basis of market value instead of price realised by way of sale which was higher than the market value. In one case we noticed that unearned income was determined on the basis of market value of earlier year instead of market value as on date of order granting permission to sale. This led to short levy of unearned income of ₹ 1.57 crore as detailed in **Annexure VIII**.

After we pointed out these cases in February 2009 and June 2009, in seven cases the Tahsildar, Raigad at Alibag accepted (March 2010) the omission and stated that in six cases the recovery is under process and in one case the

landholder approached court against recovery order and obtained status quo. In one case (sl. no. 13), the Commissioner, Pune Region (August 2010) stated that the unearned income is determined on the market value as on date of order granting permission to sale and is correct as per GR but was silent on remaining five cases. The report of recovery is awaited (February 2012).

We reported the matter to the Government in June 2011; their reply has not been received (February 2012).

CHAPTER – V
TAXES ON MOTOR VEHICLES

5.1 Introduction

5.1.1 Tax revenue administration

Levy and collection of taxes and other receipts under the Motor Vehicles sector are regulated by the Central Motor Vehicles Act, 1988, Bombay Motor Vehicle Tax Act, 1958, and the Bombay Motor Vehicles Transportation of Passengers Act, 1958 and the Rules made thereunder. These Acts and Rules are implemented by the Transport Commissioner under the overall control of the Principal Secreta ry (Transport) to the Government in Home Department, assisted by an Additional Commissioner, a Joint Commissioner, Deputy Commissioners and Regional and Deputy Transport Officers. The motor vehicles receipts mainly comprise of taxes on motor vehicles and taxes on goods and passengers.

5.1.2 Trend of revenue

The actual receipts from motor vehicle tax etc., during the years 2006-07 to 2010-11 and the total tax receipts of the State during the same period is exhibited in the following table.

(₹ in crore)

Year	Budget estimates[1]	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	1,410.10	1,841.06	(+) 430.96	(+) 30.56	40,099.24	4.59
2007-08	2,070.00	2,143.11	(+) 73.11	(+) 3.53	47,528.41	4.51
2008-09	2,426.18	2,220.22	(-) 205.96	(-) 8.49	52,029.94	4.27
2009-10	2,600.00	2,682.30	(+) 82.30	(+) 3.17	59,106.33	4.54
2010-11	2,860.00	3,532.90	(+) 672.90	(+) 23.53	75,207.09	4.70

As can be seen from the above table, the revenue collection under motor vehicle increased by 92 *per cent* in 2010-11 as compared to 2006-07.

5.1.3 Cost of collection

The gross collection in respect of motor vehicle tax receipts, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2008-09, 2009-10 and 2010-11 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the year 2009-10 are given in the following table:

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[1] Original budget estimates.

(₹ in crore)

Head of revenue	Year	Gross collection[2]	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2009-10
Taxes on vehicles	2008-09	2,220.22	57.93	2.61	3.07
	2009-10	2,682.29	76.96	2.86	
	2010-11	3,532.90	90.62	2.56	

As can be seen from the above table, the overall cost of collection of taxes on motor vehicles for the year 2008-09 to 2010-11 is marginally lower than the all India average for the year 2009-10.

5.1.4 Impact of Audit Reports

Revenue impact

During the last five years i.e. 2005-06 to 2009-10 we had pointed out cases of underassessments, loss of revenue, non/short levy/recovery and other irregularities with revenue implication of ₹ 8.15 crore in 5,874 cases. Of these, the Department had accepted audit observations in 5,381 cases involving ₹ 7.80 crore and had recovered ₹ 0.94 crore in 1,192 cases. The details are shown in the following table:

(₹ in crore)

Year	Amount objected		Amount accepted		Amount recovered	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	456	0.67	456	0.67	161	0.18
2006-07	509	0.60	509	0.60	194	0.15
2007-08	633	0.91	633	0.91	200	0.16
2008-09	1,080	1.47	1,080	1.47	335	0.33
2009-10	3,196	4.50	2,703	4.15	302	0.12
Total	5,874	8.15	5,381	7.80	1,192	0.94

The Government may consider issuing instructions to the Department to recover the amount involved in accepted cases on priority basis.

[2] Figures as per the Finance Accounts.

5.1.5 Results of audit

We reported under assessments, non/short levy, non-recovery, etc. of revenue and other similar cases amounting to ₹ 14.14 crore in 1,056 cases as shown below, on the basis of test check of the records of taxes on motor vehicles conducted during the year 2010-11:

(₹ in crore)

Sl. no.	Nature of receipts	No. of cases	Amount
1.	**Computerisation of the Motor Vehicle Department (A Performance Audit)**	1	2.03
2	Non/short levy of tax due to application of incorrect rates	1,055	12.11
	Total	**1,056**	**14.14**

In response to our observations in the local audit reports during the year 2010-11 as well as during earlier years, the Department concerned accepted the underassessment, short levy, etc. and recovered ₹ 25.41 lakh in 327 cases, out of which 39 cases involving ₹ 2.38 lakh were pointed out during the year 2010-11 and the rest during the earlier years.

A Performance Audit on **"Computerisation of the Motor Vehicles Department"** with a tax effect of ₹ 2.03 crore and few audit observations involving ₹ 1.53 crore are included in the following paragraphs against which ₹ 24.97 lakh has been recovered upto September 2011.

5.2 Performance Audit on "Computerisation in the Motor Vehicle Department"

Highlights

VAHAN was implemented in 40 out of 46 RTO offices, since its inception in December 2006. Non-creation of State Register for Driving Licence and non-capturing of legacy data, the ultimate objective of creation of a State register and national database for registered vehicles/driving license was not fully achieved. Enforcement Module for prosecution cases was also not operationalised.

(Paragraph 5.2.6 and 5.2.12)

Incorrect categorisation of vehicles owned by companies as of individuals and imported vehicles as domestic, resulted in possible short levy of tax of ₹ 57.93 lakh.

(Paragraph 5.2.7.2)

Issue of unauthenticated 'bogus' smart cards in respect of 65,171 Vehicle Registration Certificates and 3,34,806 driving licences in all the nine test checked offices defeated the objectives to issue secure smart card based licences and registration certificates.

(Paragraph 5.2.9.1 and 5.2.15.1)

Lacunae in the Vahan system enabling the user to make use of the option to alter the component of interest amount resulted in possible non-levy of interest of ₹ 50.90 lakh.

(Paragraph 5.2.9.3)

Instead of allotting registration numbers to vehicles serially the RTO officials skipped the serials through manual intervention. This resulted in non-recovery of fees applicable to reservation of jumping numbers having possible revenue loss of ₹ 30.97 lakh.

(Paragraph 5.2.7.1)

Delay in allotting registration numbers, though Departmental procedures were completed, resulted in allotment of numbers as per applicant's choice, without recovery of fees applicable for choice numbers involving possible revenue loss of ₹ 8.66 crore involving 39,611 vehicles.

(Paragraph 5.2.7.6)

Sixteen vehicles were registered twice under Regional Transport Office (RTO), Pune as well as Dy. RTO, Pimpri-Chinchwad, since interconnectivity between the offices was not established.

(Paragraph 5.2.8.4)

Despite contracting out on build-own-operate-transfer (BOOT) basis for issue of 'Smart Cards' for registrations/licences, we saw that only 8 *per cent* and 14 *per cent* smart card based registration certificates and driving licences respectively, were issued within the time frame for such services.

(Paragraph 5.2.10.1 and 5.2.16.2)

Our analysis of 32,73,980 licence records on Sarathi system in Mumbai Region revealed that 5,378 persons bearing same name, father/husband's name and DOB have been issued 10,756 licences and 28 persons have been issued 92 licences. In six offices in the Nagpur Region 764 licenses were issued to 382 persons.

(Paragraph 5.2.14.1)

Absence of guidelines in respect of job and responsibility for various stages of work flow and weak enforcement of safeguards in the system exposed the system to the risk of unauthorised access. At RTO, Andheri 79,464 unauthenticated driving licences were issued and 70 *per cent* of licenses issued in nine offices of Mumbai Region were with approvals of clerical staff instead of the RTOs concerned. Due to the deficient controls, absence of supervision checks and non-operationalisation of MIS system available in Sarathi, resulted in the issue of unauthenticated licences.

(Paragraphs 5.2.15.3 and 5.2.15.4)

5.2.1 Introduction

The Transport Department of the Government of Maharashtra (GoM) is governed by the Motor Vehicle (MV) Act, 1988, the Central Motor Vehicle (CMV) Rules, 1989, Maharashtra Motor Vehicle (MMV) Rules, 1989, the Bombay Motor Vehicles Tax (BMVT) Act, 1958 and the Bombay Motor Vehicles Tax Rules, 1959. The Transport Department is primarily responsible for enforcement of the provisions of the Act and the Rules framed thereunder, which includes the collection of taxes and fees, issuance of the vehicle registration certificates and driving licences.

The Government of India, Ministry of Road Transport and Highways had embarked upon a scheme for creation of National Database Network by introduction of Information Technology in the Road Transport Sector. The Scheme was implemented through National Informatics Centre (NIC) and was desired to be operated in such a way that data from all the RTOs in the state flows in the 'State Register' which in turn was to be captured at the National level. Two software, Vahan, that dealt with registration of vehicles and Sarathi, that dealt with the issue of licenses were designed by the NIC for this purpose.

The GoM in 2006 started the computerisation of registration of vehicle and issue of optical smart card based vehicle registration certificates (VRCs) with an objective of making the Registration Certificate (RC) book last longer and making them difficult to forge and more secure with Vahan as application software. Simultaneously, the computerisation of driving licences (DLs) and issue of smart card was started with an objective of making the licences last longer, difficult to forge, helpful for enforcement agencies to record and keep track of the offences committed and minimising the time taken for processing the application and the delivery documents with Sarathi as application software. The applications software implemented with IBM DB2 as database and application programme in Visual Basic. The projects were implemented by the Department on BOOT basis who appointed private agencies M/s. Shonkh Technologies International Limited (Shonkh) for computerisation of vehicle registration and M/s. United Telecom Limited (UTL) for computerisation of learner licences and driving licences for a period of 15 years from the date of execution of the agreement or till such time one crore cards were issued whichever was earlier and 10 years respectively. The optical smart card based vehicle registration was operational in 40 of the 46 RTOs/Dy. RTOs while smart card based driving licences was operational in all 46 RTOs/Dy. RTOs.

5.2.2 Organisational set up

The Transport Commissioner (TC) heads the Maharashtra Motor Vehicle Department (MMVD). The Commissioner is under the administrative control of the Pr. Secretary (Transport and Ports), Home Department, GoM. The Commissioner is assisted by an Additional Transport Commissioner and a total staff of 645 gazetted officers and 2935 non-gazetted officials. Dy. Transport Commissioner (Computer) (Dy.TC(Comp)) is monitoring the computerisation of the Transport Department. NIC, Pune centre has provided

technical assistance for customisation and backend integration for implementation of Vahan. Similarly NIC, Hyderabad centre has provided technical assistance for implementation of Sarathi.

5.2.3 Audit objectives

The performance audit was conducted with a view to assess whether

- the overall objectives of computerisation through the NIC developed computer applications of Vahan and Sarathi were achieved;
- the phase wise implementation schedules for the states for Vahan and Sarathi were achieved as per time frames fixed;
- computerised systems implemented were complete (module wise) and correctness and completeness of the data captured by the RTO offices;
- connectivity was established between RTOs in the State for creation of State Registers of vehicles and licenses and National Registers and Central Servers were put in place towards achievement of above stated objectives;
- the Computerised National Permit System was implemented as planned for and project objectives were achieved;
- reliable general and security controls were in place to ensure data security and audit trail besides back up of data for loss of data/crash of systems and to have an overall assurance of the functioning of the computerised system for the stated objectives;
- internal control mechanism was in place at the State level to monitor the implementation of the projects.

5.2.4 Audit scope and methodology

Audit of the application software Vahan, Sarathi and National Permit System was conducted for the period from the date of implementation i.e. since December 2006 upto May 2011. Nine RTOs/Dy.RTOs[3] under the audit jurisdiction of Principal Accountant General (Audit)-I, Maharashtra, Mumbai (Mumbai Region)and six RTOs/ Dy.RTOs[4] under the audit jurisdiction of Accountant General (Audit)-II, Nagpur (Nagpur Region) were selected on the basis of simple random sampling and the office of the Transport Commissioner, Mumbai was selected for reviewing the planning for implementation and monitoring the computerisation work. Data analysis was done on data obtained from 15 RTOs/Dy. RTOs using Computer Assisted Audit Technique (CAAT).

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[3] RTO: Mumbai (Central), Mumbai (West), Nanded, Pune and Thane and Dy. RTOs : Baramati, Kalyan, Navi Mumbai and Pimpri-Chinchwad

[4] RTO: Amravati, Nagpur urban and Nagpur rural; Dy.RTOs : Buldhana, Chandrapur, and Yavatmal

5.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department and its subordinate offices and NIC for providing the necessary information and records/data for audit. An entry conference was held in July 2011 with the Principal Secretary (Transport and Ports), Home Department and the NIC, Pune in which the objective, scope and methodology of audit were informed. The Dy. Transport Commissioner (Computer) explained the various aspects of computerisation and its implementation. The draft report of the Performance Audit was forwarded to the Government and the Department in October 2011 and the audit conclusions and recommendations were discussed in the exit conference held in November 2011. The Principal Secretary, Transport Commissioner, personnel from NIC, and other senior officers from the Transport Department attended the meeting. The replies given during the exit conference and at other times have been appropriately included in the relevant paragraphs.

Audit findings

Vahan application system

5.2.6 Implementation

The Vahan system for registration of non-transport vehicles was introduced in December 2006 and implemented in 40 of the 46 offices of RTOs/Dy.RTOs. The system was not implemented (May 2011) in six offices[5] of RTOs/ Dy. RTOs. In respect of transport vehicles the Vahan system was not implemented as the module for the same is still under trial run at Dy. RTO, Pimpri-Chinchwad since December 2010. As per the Motor Transport Statistics of Maharashtra 2009-10, the total number of vehicles on road was 1,57,68,421, whereas as per the information furnished by NIC from the State Register of Vehicles, the total number of vehicles recorded as on 3rd November 2011 was 53,77,080, the difference being due to non importing of legacy data to *Vahan* and the State Register.

We further noticed that enforcement module for recording prosecution cases relating to vehicle has not been operationalised. NIC has informed that an enforcement module has been released recently and is ready for implementation (November 2011). Moreover audit module and a module to monitor recovery of environment tax introduced in October 2010 have not been developed.

In the exit conference the Department stated that Vahan system would be implemented in the remaining offices soon and Transport module would be implemented within a couple of months.

The Government may take appropriate steps to implement the system uniformly in the offices.

[5] RTO:Akola; Dy. RTOs : Ahmednagar, Akluj, Ambejogai, Beed and Shrirampur

5.2.6.1 State Register and National Register

According to the provisions of section 63 of MV Act, 1988, each State Government should maintain the State Register (SR) of Motor Vehicles, in respect of the motor vehicles in that State, containing the particulars, such as (a) registration numbers; (b) year of manufacture; (c) classes and types; (d) names and address of registered owners; and (e) such other particulars as may be prescribed by the Central Government.

The State Register (SR) of motor vehicles has been created and maintained by NIC and data pertaining to 39 offices out of 40 offices where Vahan system was implemented was available in SR. RTO, Panvel where the Vahan system was implemented in January 2011 was yet to be connected to the Server of the SR.

Scrutiny of data base in nine offices by us revealed that 7,174 vehicle records in respect of which registration numbers had not been assigned were also available in the system and such records were also included in the SR. Further scrutiny of database revealed that out of 7,174 records six vehicles bearing same chassis number were registered in the same RTO/Dy.RTOs and 580 vehicles bearing same chassis number were registered in other test checked offices. Due to this the SR is incorrect to that extent.

In the exit conference the Department accepted the observation.

5.2.7 Mapping of Business Rules

5.2.7.1 Allotment of registration numbers in a non-serial order without recovering required fees

As per Rule 54-A of MMV Rules, 1989, the registering authority shall assign the registration number which falls in serial order after the last registration mark and in case of reservation of Jumping Number a minimum fee of ₹ 2,000 and ₹ 3,000 (₹ 4,000 upto 11.12.2007) for two/three wheeler and other than two/three wheeler vehicles respectively is leviable. Vahan system allots the registration numbers serially excluding the numbers reserved by applicants.

We observed that registration numbers were made to skip and later allotted in respect of 1,348 cases in six offices[6] of the Mumbai Region. Out of these 600 and 531 cases pertained to Pimpri-Chinchwad and Baramati offices respectively. This indicates that the system of allotment of registration numbers was manually intervened and registration numbers were allotted non-serially without recovering applicable fees for Jumping Number. The possible revenue loss worked out to ₹ 30.97 lakh. All these cases need to be examined case by case.

[6] RTOs:Mumbai West and Pune; Dy.RTOs:Baramati,Kalyan,Navi Mumbai and Pimpri-Chinchwad.

Further, it is observed that in 4 offices[7] of the Mumbai Region, involving 16 cases the numbers were allotted before commencement of the alphabetical series and in three offices[8] in the Mumbai Region, involving 164 cases the numbers were allotted to vehicles after the expiry of the alphabetical series to which they belonged.

Our scrutiny of database in six offices of Nagpur region revealed that in 854 vehicles the fees for allotment of Choice Numbers were paid beyond the registration dates.

In respect of Nagpur region, the Department replied that the fault lies with the vehicle owners since they did not approach the Department in time and hence the delay etc.

In the exit conference the Department stated that the matter would be investigated.

5.2.7.2 Short levy of one time tax due to misclassification of vehicles and application of incorrect rates

As per the BMV Tax Act, 1958, the levy of one time tax (OTT) on motor vehicles depends on the category of the vehicle owner and also whether the vehicle is indigenous or imported. The rates are regulated by the notifications issued by the Government from time to time. Section 3 of the BMV Tax Act prescribes that tax shall be levied on imported vehicles and firms at twice the rates on indigenous vehicles or for individuals as the case may be. Further, the office of the TC periodically issues circular for approving the model for registering the vehicles as imported under non-transport category or under the transport category.

During scrutiny of database in eight test checked offices[9] of the Mumbai Region, for various periods between December 2006 and April 2011, we noticed that 33 vehicles which were declared as imported vehicles as per the circular instructions issued by the TC were taxed at the rates applicable to indigenous vehicles. Thus, as against an aggregate tax of ₹ 106.34 lakh recoverable as worked out by us, Vahan data reflected recovery of ₹ 53.11 lakh indicating short levy of tax amounting to ₹ 53.23 lakh.

Further, during scrutiny of data base in five offices[10], for various periods between February 2007 and March 2011, we noticed that in respect of 15 vehicles registered in the name of firms, tax was shown by the system as pertaining to vehicles owned by individuals. Thus, as against an aggregate tax of ₹ 9.80 lakh recoverable as worked out by us, Vahan data reflected recovery of ₹ 5.09 lakh indicating short levy of tax amounting to ₹ 4.70 lakh.

In the exit conference the Principal Secretary stated that the cases would be verified and recovery would be effected.

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7 RTOs: Mumbai West, Pune and Thane; Dy.RTO : Pimpri-Chinchwad.
8 RTOs: Mumbai West and Pune; Dy.RTO: Pimpri-Chinchwad.
9 RTOs, Mumbai (Central), Mumbai (West), Nanded, Pune and Thane, Dy. RTOs Baramati, Navi Mumbai and Pimpri Chinchwad
10 RTOs-Mumbai (West), Pune and Thane,Dy. RTOs : Baramati and Pimpri-Chinchwad

5.2.7.3 Non-levy and collection of Environment Tax

The Government ordered in October 2010 levy of an additional tax called green tax on transport vehicles and non-transport vehicles that have completed seven years of age and 15 years of age respectively from the date of registration. The rate of tax is 10 *per cent* of the tax amount for transport vehicles. In respect of non-transport vehicles such as motorcycles, petrol driven cars and diesel driven cars, the tax is ₹ 2,000, ₹ 3,000 and ₹ 3,500, respectively for every five years.

We observed during test check of nine offices of the Mumbai Region that the module for recovery of environment tax is not available in Vahan system but is in the planning stage. Had the facility been available, the Department could have effectively monitored the recovery. In respect of six offices of Nagpur Region for 11,373 vehicles as per the database environment tax of ₹ 3.79 crore was outstanding for recovery.

The Department accepted that there was no Module to check the payment of environment tax. However the vehicles which came to the office for any transaction, the green tax/environment tax was levied and collected manually.

In the exit conference the Department stated that the module for recovery of environment tax was under planning. This must be put in place early.

5.2.7.4 Unexplained mismatch in sale value and OTT recoverable as per database

Under the provisions of the BMV Tax Act, 1958, OTT on non-transport motor cycles and motor cars is leviable at the rates prescribed in the second and third schedule of the said Act, as regulated by the notifications issued by the Government from time to time.

During scrutiny of database in four offices[11] of the Mumbai Region, we noticed that for various periods between December 2006 and May 2011, taxes recovered on account of OTT in respect of 173 non-transport vehicles was shown in the system as ₹ 1.38 crore, whereas the basis of the applicable rates and the taxes recoverable worked out to ₹ 2 crore based on the value of the vehicles. Due to the absence of audit query module in the system to generate exceptions reports such as mismatch in sale value, we could not establish the reasons for the above mismatch. The Department may investigate these cases relating to mismatch in sale value and OTT recoverable considering the huge revenue of ₹ 62.44 lakh involved.

In six offices of the Nagpur Region the sale value and tax recovered was posted wrongly in 266 records in the database resulting in an unfair picture of the tax paid for instance the tax collected on particular receipt numbers were cross posted against each other showing short OTT in one vehicle and excess OTT in another vehicle.

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[11] RTO : Mumbai (Central), Mumbai (West), Nanded and Pune.

In the exit conference the Principal Secretary stated that the cases would be verified.

5.2.7.5 Registration numbers allotted through "Backlog" mode of registration

There is a provision in "Vahan" to enter details of vehicles registered prior to "Vahan" as well as of vehicles registered at other RTO offices and thereafter brought within the jurisdiction of an RTO. This is carried out through the "Backlog" mode of registration. As the "Backlog" mode permits allotment of any registration number, numbers favourable to applicants can be allotted without payment of choice fees.

Analysis of data revealed that "Backlog" mode was used for recording registration details of new vehicles in 842 cases in seven offices [12] of the Mumbai Region out of which 522 cases pertained to Pimpri-Chinchwad office. This indicates the possibility of allotting registration number of the applicant's choice without collecting jumping number fees.

In the exit conference the Principal Secretary stated that the necessary changes in the application software would be made.

5.2.7.6 Delay in allotment of Vehicle Registration Numbers

As per Rule 54-A of MMV Rules, 1989, a non-serial number namely Jumping Number could be reserved on payment of minimum fee of ₹ 2,000 and ₹ 3,000 (₹ 4,000 upto 11.12.2007) for two/three wheeler and other than two/three wheeler vehicles respectively. In Vahan system after the applicant acknowledges the correctness of data, the same is recorded in the system and thereafter the system allots registration number to the vehicle.

Scrutiny of database in nine offices of the Mumbai Region we observed that in respect of 39,611 vehicles, the allotment was carried out even after five days since the completion of all procedures. The undue delay in allotment of numbers indicates the possibility of allotment of vehicle number of the applicant's choice without payment of applicable fees for reservation Jumping Number involving possible revenue loss of ₹ 865.75 lakh. All these cases need to be examined case by case.

In the exit conference the Principal Secretary stated that the matter would be investigated.

The Government may put in place necessary measures to prevent revenue leakage.

[12] RTOs: Mumbai Central, Nanded, Pune and Thane; Dy.RTOs: Kalyan, Navi Mumbai and Pimpri-Chinchwad.

5.2.7.7 Non/short levy of Choice Number and Jumping Number fees

As per Rule 54-A of the MMV Rules, 1989, the fee leviable for reserving numbers was revised vide a notification dated 12.12.2007. Further, a provision was introduced for interchanging the allotment of registration numbers from one series to another by payment of three times the prescribed fee.

We observed that in five offices [13] of the Mumbai Region the fees for allotment of Jumping Number/Choice Numbers were not recovered at the revised rates resulting in short levy of fees amounting to ₹ 7.35 lakh. In six offices[14], the fees leviable on interchanging of choice numbers from one series to another was not charged in 46 cases resulting in short levy of fees amounting to ₹ 11.95 lakh. Delay in implementation of the revised provisions in the system, thus, resulted in non/short levy of fee of ₹ 19.30 lakh. All these cases needs to be examined and necessary safeguards put in place.

In the exit conference the Principal Secretary stated that the amount would be recovered.

5.2.7.8 Reserved numbers lying in blocked status

As per provision under Rule 54A of CMV Rules 1989 the reservation of choice numbers shall be cancelled if the vehicle is not produced within 30 days. Audit observed that the Vahan application system blocks the reserved numbers and continued the block status even after expiry of 30 days and no MIS report was available to monitor the reserved number that remained to be allotted.

We observed that in nine offices of the Mumbai Region, 3,523 Jumping Numbers and 764 Choice Numbers that were reserved but not allotted, remained in the blocked status and were not available for re-booking as their alphabetical series had expired. This indicates that those numbers were not released during the currency of the series and publicised and thus, the Government lost the chance of earning revenue on account of choice numbers.

In the exit conference the Department stated that necessary MIS reports would be developed.

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[13] RTOs: Mumbai Central, Nanded, Pune and Thane; Dy.RTO: Navi Mumbai.

[14] RTOs: Andheri, Mumbai Central, Pune and Thane; Dy.RTOs: Navi Mumbai and Pimpri – Chinchwad.

5.2.8 Data accuracy

5.2.8.1 Invalid data in Vahan database

Scrutiny of database relating to Vahan system in nine test checked offices of the Mumbai Region revealed that invalid data such as zeroes, "-", "*" etc. were recorded in respect of the fields mentioned below:

Field	Number of records
Engine number	14
Seat capacity	1,82,610
Cubic capacity	282
Laden weight	11,00,539
Unladen weight	2,05,205
Purchase date	116
Insurance cover note/policy number	2,216

Out of the above fields only engine number, seat capacity, cubic capacity, purchase date and insurance cover note number were mandatory. In the six offices of the Nagpur Region we observed that the engine numbers are left blank in respect of 8,163 records and in respect of 1,62,956 vehicles the tax amount and sale amount are entered as zero.

In the exit conference the Department stated that the data records would be verified.

5.2.8.2 Duplicate Chassis/engine numbers

Chassis/engine number is unique to each vehicle and the same number cannot be allotted to more than one vehicle.

Test check of the data indicated that there were 176 vehicles with the same chassis numbers in four offices[15] and 1,084 vehicles with duplicate engine numbers in nine offices of the Mumbai Region. The system does not allow duplicate chassis numbers as this is a validation check. In respect of engine numbers no validation checks have been incorporated in the system.

In six offices of the Nagpur Region we observed that 3,131 records the chassis numbers were found duplicate. Similarly in 3,527 records in the database engine numbers were found duplicate. In respect of six offices the RTOs replied that the duplication of engine numbers and chassis numbers, were due to non-provision of rectification of wrong entries in the software. This needs to be examined and set right in all offices.

The reply is not acceptable in view of the fact that the NIC had provided and the duplication was done by bypassing the validation checks and lack of supervisory checks on data entry for rectification of such entries which was overlooked by the Department.

[15] RTOs :Mumbai Central, Nanded and Pune; Dy RTO: Pimpri-Chinchwad.

5.2.8.3 Duplicate insurance cover note numbers

Rule 47 of CMV Rules prescribes Form 20 for the application of vehicle registration in which the insurance certificate or the cover note number is to be filled in by the owner of the vehicle. Vahan system provides validation for entry of duplicate insurance certificates (IC)/cover note (CN) numbers.

Test check of the data relating to the IC/CN numbers in eight offices[16] of the Mumbai Region revealed that there were repetitions of the IC/CN numbers in case of 1,791 vehicles. Further scrutiny revealed that this was made possible by either prefixing/suffixing "-" or inserting "/" symbol between the numbers. The Department may investigate these cases relating to duplicate IC/CN numbers.

In the exit conference the Department agreed to take appropriate steps to ensure capturing of correct data.

5.2.8.4 Registration of motor vehicles under two different Registering Authorities

According to the provisions of Section 40 of the CMV Tax Act,1988 every owner of a motor vehicle shall cause the vehicle registered by a registering authority (RA) in whose jurisdiction he has the residence or place of business where the vehicle is normally kept.

Analysis of registration records of RTO, Pune and Dy.RTO, Pimpri and Chinchwad revealed that 16 new vehicles bearing same Chassis number, Engine number, Maker model and vehicle class were registered under the RA, Dy.RTO, Pimpri and Chinchwad as well as under RTO, Pune. Out of the above, in respect of seven vehicles the name and address of the registered owner are same, in respect of 11 vehicles smart cards VRCs have been issued by both the RAs. Due to absence of inter Departmental connectivity the RAs failed to restrict registration of a single vehicle in different RAs.

In the exit conference the Department stated some of the cases were verified and found that vehicles were registered under different RTOs.

Government must ensure that necessary safeguards are in place to ensure that multiple registration of the same vehicle in any of the other offices is not possible.

5.2.8.5 Gaps in issue of registration numbers

On completion of the requisite formalities, the vehicles are allotted registration number by the Vahan system serially.

Scrutiny of database pertaining to various periods between January 2008 and August 2011,

[16] RTOs: Mumbai Central,Mumbai West, Nanded, Pune, Thane;
Dy RTOs: Kalyan, Navi Mumbai and Pimpri-Chinchwad

revealed that in eight offices[17] of the Mumbai Region, 1,565 registration numbers were found to have been skipped and had not been allotted to vehicles. It is pertinent to mention that the system does not allow skipping of registration numbers. Thus not only these numbers wasted temporarily, besides the possibility of these registration numbers being misused subsequently cannot be ruled out.

After we pointed out these cases, RTO, Thane, stated that such skipping of numbers were on account of problems in the Vahan software and that the matter had already been referred to NIC, Pune in December 2009. However, in a meeting held by us with NIC, Pune in November 2011, the Technical Director, NIC stated that Vahan system does not allow for such gaps and the same was possible only through manual intervention.

The fact remains that though the matter had come to the notice of the Department in December 2009, the irregularity continued to exist and remedial action to prevent manual intervention by RTO staff was not taken as out of 1,565 registration numbers skipped, 222 numbers belonged to the registration series operated between January 2010 and August 2011. This mandates immediate attention so as to plug the irregularity.

In the exit conference the Principal Secretary stated that the matter would be investigated.

[17] RTOs-Mumbai (Central), Mumbai (West), Nanded, Pune and Thane,Dy. RTOs : Kalyan, Navi Mumbai and Pimpri-Chinchwad.

5.2.9 Data security

5.2.9.1 Issue of Unauthenticated smart card based vehicle registration certificates

As per the Government Resolution no:MVD-1205/CR 134/TRA-4 dated July 2005, the authentication procedure *viz* 'Key Management System (KMS)' has to be used for securing the electronic data stored in the smart card. This is in accordance with the technical procedure prescribed by GoI for which the RTOs/Dy. RTOs were to be nominated as Regional Key Management Authority.

The KMS procedure is to be carried out by the Department after the smart cards are printed by the private agency subsequent to which the Department has to issue the smart card to the vehicle owner. Such smart cards, digitally signed by the RTO using the KMS procedure are the valid smart cards as stated by NIC, Pune.

During scrutiny of the database in all the nine test checked offices of Mumbai Region, we noticed that 65,171 optical smart card based VRCs printed by the agency (data approved by the Department between December 2006 and March 2011) were not authenticated through the prescribed KMS procedure before their issue to vehicle owners. As such these VRCs were 'bogus'. Out of this 42,422 pertained to RTO, Pune and 16,945 to Dy. RTO, Pimpri-Chichwad. The RTOs could not explain how these VRCs were issued without valid authentication. Besides Vahan system did not provide for generation of MIS reports regarding application received and smart cards issued.

Issue of such unauthenticated smart card based VRCs would cause hardship to vehicle owners as the traffic enforcement agencies would not be able to ensure the genuineness of the cards and would also defeat the objective of computerization for more secured registration certificates.

In the exit conference Department stated that the reasons for unauthenticated cards would be verified.

The Government may ensure that smart card security procedures are completed before issue of the smart cards and the system provides for generating of MIS reports regarding application received and smart cards issued, in consultation with NIC.

5.2.9.2 Unauthorised printing of Smart Card based VRCs

As per Rule 53 of CMV Rules, 1989, an application for the issue of duplicate certificate should be made to the registering authority accompanied by a copy of the police complaint from the vehicle owner regarding loss or destruction of the VRC. For this, fees ranging from ₹ 30 to ₹ 400 is chargeable under Rule 81.

We compared the new registration Vahan data with the agency's data pertaining to printing of Smart Cards. This revealed that in 3,694 cases pertaining to the nine test-checked offices of the Mumbai Region, duplicate Smart card VRCs were printed by the agency, using the available data, without the authorisation of the

registering authority and payment of required fees. It was observed in RTO, Thane that 28 of such new registration VRCs were detected and confiscated. This also indicates that the agency misused the data supplied to them. Further, RTO, Thane had sought the permission (December 2009) of the Dy.TC, (Comp) to file a police complaint against the agency for printing the unauthorised Smart Cards. However, the Dy.TC, (Computer) denied permission (December 2009) to the RTO for lodging a police complaint on the plea that the unauthorised printing was unintentional and system problem and referred (December 2009) the matter to NIC, Pune. The NIC, Pune in response (January 2010) Stated that the Vahan system was not responsible for printing of Smart Cards and in fact the printing of dual cards was due to absence of checks in the agency's application software to prevent printing of more than one card for the same transaction. The total loss of revenue in 3,694 cases worked out to ₹ 1.76 lakh. It is also observed that though 18 months had passed since the incident was reported by RTO, Thane the Department had not initiated any action against the agency and the unauthorised printing of Smart Cards was still continuing in the various RTO offices audited.

Absence of requisite controls resulted not only in utilisation of data for unauthorised printing of VRCs but also lead to loss of revenue to the Government.

In the exit conference the Department stated that the issue would be taken up on priority.

The Government may ensure that necessary deterrent measures are put in place so that data is not misutilised for printing of duplicate smart cards.

5.2.9.3 Manual intervention in calculation of interest for late payment of tax

As per the Section 8A of BMVT Act, 1988 if any tax due in respect of any motor vehicle is not paid within the time limit prescribed in the Act, interest shall be payable at the rate of two *per cent* per month for each calendar month or part thereof.

During scrutiny of the Vahan system relating to collection of tax, we noticed that the system calculates interest for the period of delays exceeding one day. The field for levy of interest on delayed payment of tax is designed with an editable field enabling the user to make changes in the amount of interest calculated by the system. Our analysis of data in the Vahan system in Dy.RTO, Baramati, revealed that 63 vehicle owners had registered their vehicle on 25 February 2011 and paid tax on 1 March 2011. However, the data in the system recorded calculation of interest only in respect of 23 vehicles and in the remaining 40 vehicle no interest was recorded in the system. Since the dates of registration as well as date of payment of tax in these cases were the same in respect of these 63 vehicle, the system should have automatically worked out the amount of interest payable. However, the interest recorded in the system indicated that interest was not charged in similar conditions. This was only possible due to the availability of an editable

field in the system which was open for manipulation through manual intervention.

Our test check of data in nine offices of the Mumbai Region, of the data extracted from the system relating to cases in which there were delays of more than three days, between the date of registration and date of payment of tax, for various periods between 2006-07 and May 2011 revealed that, in 14,166 cases the interest leviable as worked out by us was ₹ 48.67 lakh, however, the system had not recorded the interest. In view of the fact which is brought out as above in the 63 cases of Dy.RTO, Baramati, the Department may investigate these cases relating to non-levy of interest on delayed payment of tax considering the huge revenue involved. The system should have provided for necessary audit trails in order to detect any changes made through manual intervention and also facilitate capturing the reason for any changes made and history data actually changed. In the absence of such audit trails factual position could not be ascertained by us.

We observed in six offices of the Nagpur Region in respect of 58 vehicles an interest of ₹ 2.23 lakh was attracted due to delay in payment of tax.

Lacunae in the VAHAN system enabling the user to use the option to change the interest amount resulted in modification of data and implementation of rule not uniformly to all the vehicle owners.

In the exit conference the Principal Secretary stated that the matter would be monitored case by case and necessary MIS reports and audit log would be incorporated in the system to monitor such changes.

5.2.9.4 Incorrect recording in Vahan system of tax collected manually

Vahan system provides modules for calculating, recording and generating BMV tax receipts. In abnormal circumstances, such as power failure and software errors, manual receipts are issued and entries are taken in the manual cash book. These entries are subsequently required to be entered in the system, offline.

On analysis of data in respect of manual recovery of BMV tax in Dy. RTO, Kalyan, we noticed that the details of 125 manual receipts, pertaining to various periods between April 2007 and November 2010, instead of being entered in the specified fields were wrongly entered in the field provided for vehicle owner's address. Further, we noticed that the alphabets preceding the receipt numbers were not entered in Vahan and thereby the cross verification of the data entered into the system with the manual cash book was not possible. Thus, the Vahan system did not reflect the correct position of the BMV tax collected manually and such receipts were prone to misuse.

The Department may in consultation with NIC address the problem regarding entry of manually collected receipts in Vahan system.

5.2.9.5 User for approval of VRC

The risk of unauthorised transaction processing could be reduced by the presence of controls which positively identify individual users and log actions against them.

There were no guidelines available in respect of job and responsibility of users for various stages of work flow and maintenance of data in electronic form.

Analysis of transactions in Vahan in nine offices of the Mumbai Region revealed that out of 28,62,722 approvals carried out, 27,66,942 transactions (97 *per cent*) were approved by clerical grade staff. This indicates that the data relating to registration of vehicles in the system were not verified by the Registering Authority.

In the exit conference the Department stated that the guidelines in respect of persons responsible for approval of VRCs would be checked.

5.2.9.6 Data Loss

In RTO Nagpur Urban as per the information furnished by the Department, the data was lost for the dates between 26 July 2007 and 27 July 2007 but subsequently recovered by entering the data through backlog entry. However, no details of the quantum of data so recovered were provided to audit. Thus we could not ascertain whether the data had been completely recovered.

5.2.9.7 Modification of data through back-end database of Vahan system

In order to secure the data and the system, it is essential that modifications made through backend are required to be recorded in the database system in order to ascertain whether changes carried out were authorised.

As informed by NIC during the meeting held in November 2011, the audit log in the DB2 system for Vahan application has not been activated and the back-end database modifications are not being recorded in the system. It was further informed that it may slowdown the system process. We noticed during scrutiny of data recorded in Vahan system unexplained manipulation of data such as duplicate chassis number and allotment of registration numbers in a non-serial order indicating manual intervention through back-end. Absence of audit log in the system led to the risk of irregular manipulation or deletion of records going undetected and made the system insecure. In the absence of such audit log, modification made in the data through backend could not be verified by us.

In the exit conference Principal Secretary Stated that necessary security features would be introduced in consultation with NIC.

5.2.9.8 National Permit System

The electronic mode of grant/renewal of national permit for goods carriages were implemented in all the test checked nine offices of the Mumbai Region from 15.09.2010 and 19,512 number of National Permits have been issued

upto 31 May 2011. NIC has informed that the system has been implemented in all the offices.

The data entry for new national permit, their renewal, modification, reassignment, replacement and cancellation are done by senior clerks assigned for the same and the application was accessed by using the user ID allotted to RTOs/Dy. RTOs, allotted by the TC, except Dy. RTO Baramati. It was observed that individual users were not allotted with independent user ID.

In the exit conference the Department stated that the user IDs would also be given to the actual users.

5.2.10 Outsourcing

5.2.10.1 Deficiencies in citizen services due to delay in issue of smart card based vehicle registration certificates

As per the 'Citizen Charter' of the Transport Department, the time frame for registration of vehicle is seven days. As per terms and conditions of the agreement the agency appointed for printing of optical smart card VRCs has to print the same within 24 hours extended to a maximum of 4 working days after receiving the data from the Department. Further, the agency was allowed to collect the charges for printing of smart cards upfront. The agreement did not include any clause for charging of penalty for any delay in services related to printing of smart cards. The Department had also not prescribed for submission of periodic returns by the agency giving details of receipt of data, position of smart cards printed, and number of days of delays in printing and cards not printed to monitor the timely printing of smart cards.

During test check of the database in nine offices of the Mumbai Region , we noticed that out of 17,23,065 cases received for registration, the vehicle registration procedures (including optical smart card based VRCs) were completed in time only in 1,31,409 cases, 7,50,277 cases were completed between eight to 30 days and balance 8,41,379 cases were completed beyond 30 days. Thus it could be seen that 92 *per cent* cases received for registration were not completed within the stipulated period though the requisite fees and tax were collected from the vehicle owners in advance.

This indicated that there is deficiency in services by delaying the process of printing smart cards though the charges were recovered by the agency in advance from the vehicle owners. As the very purpose of computerisation of data is to maximize efficiency and provide timely services the objective envisaged by the Citizen Charter remained largely unfulfilled, due to ineffective monitoring of the registration process by the RTOs.

In the exit conference the Principal Secretary Stated that delay in services for issue of smart cards would be brought down and that at present no facility was available in the system to generate reports relating to delay in printing of smart

cards and the same would be incorporated with the help of NIC to monitor delays.

The Government may ensure prompt and efficient delivery of services to the citizens.

5.2.10.2 Delay in printing of smart card VRCs

As per terms and conditions of the agreement the agency appointed for printing of optical smart card VRCs has to print the same within 24 hours extended to a maximum of 4 working days after receiving the data from the Department. Further, the agency was allowed to collect the charges for printing of smart cards upfront. The agreement did not include any clause for charging of penalty for any delay in services related to printing of smart cards. The Department had also not prescribed for submission of periodic returns by the agency giving details of receipt of data, position of smart cards printed, and number of days of delays in printing and cards not printed to monitor the timely printing of smart cards.

In Mumbai Region, we noticed that out of 18,77,953 smart cards which were printed by the private agency, 14,28,882 smart cards were printed beyond the period of four days. Further, that 15,234 smart card were not printed by the agency though the required data were already supplied to them by the Department prior to March 2011.

In respect of six RTOs/Dy.RTOs of the Nagpur Region, scrutiny of the smartcards data available with the contractor in regard to the registration of vehicles revealed that in issuance of 3,46,259 smartcards, the delay is beyond four days.

This indicated that there is deficiency in services by delaying the process of printing smart cards though the charges were recovered by the agency in advance from the vehicle owners.

The Government may require the Department to include a penal clause in the agreements which would act as deterrent measure for delay in services and also require the agency to submit periodic returns regarding printing of smart cards to monitor the delays.

5.2.10.3 Procurement and printing of smart cards

Smart cards for VRCs were procured by the private agency and kept in their custody. Printing of smart cards is being done by the agency and the Department has no control over the stock and utilisation of such cards.

There was no system to obtain periodical reports on procurement and utilisation of smart cards and cross verification of the same with the actual stock to enforce control over the misuse of smart card by the agency.

In the exit conference the Department stated that comprehensive system of stock taking would be implemented within a period of four months.

The Government may require the Commissionerate to call for periodic returns from the agency to ensure proper accounting of smart cards.

5.2.11 Internal Control

5.2.11.1 Lack of monitoring and Internal Control Mechanism

Though computerisation of the Transport Department commenced in the year 2006, no dedicated internal audit team for system audit was designed and internal audit was not conducted to assess the working of the Vahan system. Further there was no audit query module to enable the auditors to generate the required information.

Delayed delivery of services to citizens coupled with issuance of unauthenticated smart cards defeated the objective of Government even after charging additional fees from the citizens.

Manual interventions in the system and non-corporation of business rules have resulted in revenue leakages. The systems were not backed by proper internal control mechanism and continuous monitoring.

In the exit conference the Principal Secretary stated that an internal audit team for audit of Vahan system would be developed.

5.2.11.2 Management Information System in Vahan Application

The application system should provide for various Management Information System (MIS) reports for effective management at the level of Dy.RTOs/RTOs and TC office.

We observed that crucial MIS reports to monitor data integrity in Vahan system such as duplicate chasis number, duplicate engine number, duplicate insurance cover note number, duplicate registration of vehicle, gaps in registration numbers, VRCs issued without authentication, delay in issue of VRCs, reserved numbers lying in blocked status, mismatching of sale amount and tax recovered, modification of interest amount and data entered through backlog are not available in Vahan system. Due to non-availability of MIS reports in this regard, the Department could not monitor exceptional data entries, inaccurate data and data manipulations.

In the exit conference the Department stated that the MIS reports would be developed in consultation with NIC.

Department may identify MIS reports required for monitoring data integrity and data security.

5.2.11.3 Non-reconciliation of receipts

Government Receipt Accounting System (GRAS) is the online payment system of GoM through which a vehicle dealer deposits BMV tax relating to sale of vehicles in a lump sum amount. The RTOs/Dy.RTOs issue individual receipts in the name of vehicle owners. This amount is reflected in the accounts of Pay and Accounts Office, Mumbai for sale of all vehicles in Maharashtra.

There is no system of reconciliation of the amount actually received through GRAS and receipts issued by the RTOs and Dy. RTOs. NIC has informed that the reconciliation module is

ready for implementation.

In the exit conference the Department stated that reconciliation procedure in respect of payment through online system was under consideration.

Sarathi application system

5.2.12 Implementation

The Sarathi system has been introduced in February 2006 and implemented in all the 46 offices of RTOs and Dy. RTOs (May 2011). As per the Motor Transport Statistics of Maharashtra 2009-10, the total number of DLs issued up to March 2010 was 2,01,31,351 DLs. As per the information furnished by NIC from the State Consolidation Register of Sarathi system in respect of 39 units, the total number of driving licences recorded as on 3rd November 2011 was 59,29,270.

We noticed in audit that modules for recording prosecution cases relating to drivers have not been operationalised, moreover the module for audit has not been developed.

Due to partial implementation of Sarathi system, the Government is yet to achieve the objectives of computerisation.

In the exit conference the Department accepted the observation.

The Government may implement the systems completely.

5.2.12.1 State Register and National Register of Driving Licence

According to provision 26 of MV Act, 1988, each State Government should maintain the SR of DL, in respect of the driving licences issued and renewed by the licensing authorities of the State Government, containing the particulars, such as (a) names and addresses of holders of DLs, (b) licence numbers, (c) dates of issue or renewal of licences, (d) dates of expiry of licences, (e) classes and types of vehicles authorised to be driven and (f) such other particulars as the Central Government may prescribe.

It was noticed that NIC has created and maintained State Consolidation Register (SCR) by connecting Server of SR to RTO/DY.RTO offices. 39 out of 46 offices were connected to Server of SR and in respect of seven offices [18] connectivity is yet to be established. However, SR of DL of Maharashtra State has not been created due to problems in migrating data from DB2 database system of State Consolidation Register to the PostgreSQL database system of the State Register (November 2011). Due to non-creation of SR for DL the ultimate objective of creation of a national database of DL is yet to be achieved.

In the exit conference the Department accepted the observation.

[18] RTO: Nagpur (Urban), Panvel and Pune; Dy.RTOs: Akluj, Buldhana, Sangli and Shrirampur.

The Department may require NIC to create a State Register and National Register of driving licences.

5.2.13 Mapping of Business Rules

5.2.13.1 Licences for transport vehicles to persons not having required qualification

According to the provision of Rule 8 of the CMV Rules, 1989 w.e.f. 10th April 2007, minimum educational qualification of 8th standard pass is required for obtaining a transport vehicle licence. Section 7(1) of the motor vehicles act 1988 prescribes that no person shall be granted a learner's licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year.

In the Sarathi system the field for "Qualification" was not mandatory and option for recording qualification of "8th pass" was not available.

Scrutiny of database in nine offices of the Mumbai Region revealed that out of 6,91,435 licences for transport vehicle (issued after 10.04.2007), educational qualification of the licensee in 2,14,422 cases is shown as "not specified", in 2,52,145 cases the field is blank, in 216 cases it is "7th fail" and in 353 cases it is shown as "7th pass".

Analysis of data in six offices of the Nagpur region, we observed that an essential qualification of holding a driving license to drive a light motor vehicle for at least one year was not adhered in 72,715 cases for issuing learner's licences for driving of transport vehicles.

Absence of the necessary validation checks in the system resulted in incorrect/incomplete data.

In respect of Nagpur region the Department stated that in respect of issuing learner's licences for driving of transport vehicles that the one year criteria is not applicable in cases of LMV transport vehicles. And for MMV and HGV facts will be verified and intimated to audit. But the reply is not tenable as the definition of transport vehicle in section 2(47) is self explanatory as it includes light motor vehicle, medium motor vehicle as well as heavy motor vehicle.

In the exit conference the Principal Secretary stated that the matter would be sorted out with the help of NIC.

5.2.14 Data accuracy

5.2.14.1 Individuals holding more than one driving licence

According to the provision of Section 6(1) of the Motor Vehicle Act, 1988 no person shall hold more than one licence.

Scrutiny of the Sarathi system revealed that the validation checks for duplicate licences applied only at the time of approval with an optional message.

Analysis of 32,73,980 licence records on Sarathi system in test checked nine offices of the Mumbai Region revealed that 5,378 persons bearing same name, father/husband's name and DOB have been issued 10,756 licences and 28 persons have been issued 92 licences. In six offices in the Nagpur Region we observed that 764 licenses were issued to 382 persons.

This indicates that the optional message for duplicate licences was ignored and more than one licence were issued.

In the exit conference the Principal Secretary stated that the matter would be looked into.

The Government may enforce validation checks in the system to restrict the issue of more than one licence.

5.2.14.2 Blanks in database in Sarathi

Scrutiny of database relating to Sarathi system revealed that data in crucial fields such as blood group which is printed in the visual zone of the smart cards were not recorded in most of the cases.

5.2.14.3 Incorrect receipt numbers pertaining to recovery of licence fees

Sarathi system provides modules for recovery of licence fee. However, in respect of camp offices and in abnormal circumstances such as power failure and software errors, licence fees are being recovered manually and manual cash books are maintained for the same. The details of such recoveries are required to be entered in the system offline.

Data analysis of licence records on Sarathi system in three offices [19] in the Mumbai Region revealed that in respect of 5,262 cases, more than one DL has been issued against a single challan (fee receipt). We noticed that data in respect of manual receipts issued in various camps were not properly entered in the system. The receipt details are recorded in the manual cash book maintained in the office for the same. There is no procedure of cross verification of the data entered into the system and the manual cash book maintained in the office to ascertain the correctness of receipt details entered into the system. We observed in six offices of the Nagpur Region that out of a total of 21,56,725 records, 2,92,107 receipts entered in the field ‘challan nos’ were duplicates.

[19] RTO: Mumbai (C) and Thane and Dy.RTO : Kalyan.

5.2.15 Data security

5.2.15.1 Unauthenticated smart card based driving licences

As per the Government Resolution no: MVD-1205/CR 134/TRA-4 dated July 2005, the authentication procedure *viz.* 'Key Management System (KMS)' has to be done for the security of electronic data stored in the smart card in accordance with the technical procedure prescribed by GoI and the RTOs/Dy.RTOs were nominated to work as Regional Key Management Authority to ensure the implementation of the system.

Audit scrutiny of the database at all the nine test checked offices of the Mumbai Region revealed that 3,34,806 smart card based DLs were issued without authentication, out of that 3,00,298 and 28,138 were issued by RTO, Andheri and RTO, Pune respectively. Further, NIC has informed that smart cards issued without digital signatures using the KMS procedure were invalid smart cards.

Issue of such unauthenticated smart card based DL not only defeat the objective of computerization for more secured licences but also may cause hardship to licensee at the time of verification by the enforcement agencies.

In the exit conference Department stated that the reasons for unauthenticated cards would be verified.

The Government may consider reviewing of the system to ensure that all business rules are incorporated in the system properly and updated regularly.

5.2.15.2 Issue of Licences to underage persons

As per provision under Section 4 (2) of the CMV Act, 1988 no person under the age of 20 years shall be permitted to drive a transport vehicle in a public place. Vahan has necessary validation checks to restrict the issue of licences to the applicants less than 20 years.

Analysis of licence records on Sarathi system by us in nine test checked offices of the Mumbai Region revealed that 198 licences were issued for driving transport vehicles to persons below the age of 20 years. This indicates that the system was manually intervened and licences were issued to ineligible persons. We observed in respect of six offices of the Nagpur Region that 182 licenses were issued to persons below the prescribed age limit out of which 73 licenses pertained to transport vehicles.

In the exit conference the Department stated that the matter would be investigated case by case.

5.2.15.3 Major deficiencies in security and general access controls leading to unauthenticated driving licences issued at RTO, Mumbai (West)

Department is required to frame procedures to ensure safety and security of data. The risk of unauthorised transaction processing could be reduced with the help of controls which positively identify individual users and log actions against them.

The work relating to issue of driving licenses, such as creation of users and assigning privileges, approval of data vests with the Departmental personnel. However, no guidelines were framed for assigning jobs and responsibilities for various stages of work flow and maintenance of data in electronic form.

During test check of the driving license data recorded in the Sarathi system at RTO, Mumbai (West), Andheri in September 2011, where the work had been outsourced to a private agency, we noticed that for various periods between January 2007 and February 2009, 79,464 data records (DRs) had not been approved by the Departmental personnel, but by the personnel of the private agency, thereby the authenticity of the licenses issued was doubtful.

Further, we noticed that in respect of 10,788 DRs, for the periods between December 2006 and December 2008, the User IDs of the personnel who had approved the DRs were not available in the master table due to which it could not be ascertained whether the approval was accorded by a designated Departmental personnel.

It was also noticed by us that for the periods between November 2006 and May 2009, 42 users had been created by the personnel of the private agency, indicating that the administrative privileges of the Department for creating users had not been monitored by the Department/RTOs.

Though against a single inward and receipt number only one license is to be issued, we noticed that multiple licenses were issued under the same inward and receipt number in 352 DLs during various periods between October 2009 and August 2010.

In respect of 1686 licences issued during various periods between January 2009 and May 2011, we noticed that the names appearing in the DLs were not the same as recorded in the fee receipts. This was indicative of manual intervention and manipulation of data.

The above deficiencies were due to absence of any control mechanism in the Department over the operations of the private agency resulting in the system being compromised and rendering it vulnerable to fraud and manipulation.

5.2.15.4 Weak access controls in Sarathi system

The assignment of privileges based on job hierarchy and identification of individual users provide an audit trail to positively identify the individual users and bring accountability.

During scrutiny of the database relating to the Sarathi system in nine offices of the Mumbai Region, we noticed that user privileges were not assigned to the personnel on the basis

of the job hierarchy. The deficiencies noticed are as shown below:

Out of 31,24,179 driving licence data records, 21,97,299 (70 *per cent*) were approved by clerical staff. This includes RTO, Pune wherein 99 per cent of such records were approved by clerical staff. Further, issuing authority code printed on the smart card was not of the users actually approving the DL data. In respect of 13,99,625 DLs out of 30,91,927 DLs issued (45 *per cent*), user code recorded were of clerical staff.

Ideally, a User ID allotted to a user should identify the official. However, we noticed that users with unidentifiable IDs, such as "learner's license test", etc., had approved 27,841 driving licenses for various periods between April 2007 and May 2010 in RTO, Mumbai Central and 12,144 driving license data records for various periods between March 2006 and March 2011 in RTO, Pune.

In the exit conference the Deputy Transport Commissioner (Computer) stated that higher grade access controls such as biometric log-in and thumb impression of approving authority is being initiated in RTO, Mumbai (West), Andheri which would be subsequently implemented in other offices also. It was also stated that an FIR has been lodged in June 2011 under cyber crime provisions against individuals for unauthorised access.

It is pertinent to mention here that such violations of the system were being perpetrated since January 2007 itself. The Department is silent on how so many unauthenticated licences were issued without knowledge of the RTO officials. The Department issued detailed circular instructions as late as February 2010 regarding security measures to be taken and prevention of malpractices. However, some of the irregularities in licences continued, for DL issued beyond February 2010 and legal action was taken only in June 2011. MIS reports, an effective monitoring tool, in the hands of the management developed through the Sarathi system was not made operational; despite such malpractice being carried out over a period of time. In absence of effective monitoring of the work of licences issue repeating of such instances could not be ruled out.

5.2.15.5 Loss of data

It was informed by the Dy. RTO, Buldhana that the data was lost for the period 20 June 2007 to 17 October 2007 and recovered by entering the data through backlog entry. However, we noticed that 1629 records were missing.

In the exit conference the Department stated that the lost data would be recovered.

5.2.15.6 Antivirus

In four offices at Amravati, Yavatmal, Buldhana and Chandrapur it was observed that the data was not protected by Antivirus software and in two offices i.e. Nagpur urban and Nagpur rural only free version Antivirus software was being used.

5.2.15.7 Modification of data through Backend of Sarathi system

In order to secure the data and the system, it is essential that any modifications made through backend are required to be recorded in the database system in order to ascertain whether changes carried out were authorised.

As informed by NIC during the meeting held in November 2011, the audit log in the DB2 system for Sarathi application has not been activated and the backend modifications are not being recorded in the system as it may slowdown the system process. This led to the risk of irregular manipulation or deletion of records and made the system insecure as was noticed during scrutiny of data recorded in Sarathi system which revealed that unexplained manipulation of data such as multiple licences were created under the same inward number indicating manual intervention through backend. In the absence of such audit log, modification made in the data through backend could not be verified by us.

In the exit conference Principal Secretary stated that necessary security features would be introduced in consultation with NIC.

5.2.16 Outsourcing

5.2.16.1 Incomplete infrastructure

The Government of Maharashtra (GoM) entered into an agreement with M/s United Telecom Ltd. in July 2004, for implementation of the project relating to computerisation of LL and DL on BOOT basis in the Transport Department on charges of ₹ 5.40 and ₹ 87.30 for LL and smart card DL respectively. The project envisaged for setting up and maintaining the infrastructure required including hardware, networking, issuance of licence in smart card and a central database server.

We, however, noticed that no such central database server was setup by the agency with connectivity to the RTOs/Dy. RTOs. As the private agency was permitted to take their charges directly from the customer, the charges were collected by the agency before ensuring the delivery of the desired services.

5.2.16.2 Delay in issue of smart card based driving licences

As per the 'Citizen Charter' of the Transport Department, the time frame given for service of issue of DL is one day.

Audit scrutiny of the database at nine offices of the Mumbai Region revealed that only in respect of 14 *per cent* cases of DLs issued i.e. 3,35,357 out of 24,65,246 cases, the procedures for smart card based DLs were completed and smart card based DLs were ready for issue within one day and in 34 *per cent* cases the procedures were completed in seven days after receiving application for DL.

The delay in delivery of services to the citizens resulted in deficient citizen services.

In the exit conference the Principal Secretary stated that delay in services for issue of smart cards would be brought down.

The Government may ensure prompt and efficient delivery of services to the citizens.

5.2.16.3 Delay in printing of smart card DLs

As per the terms and conditions of the agreement, the agency appointed for smart card DL has to print the smart card based DLs within four minutes of accessing the data. In the event of the services delayed, the Department had the option to recover penalty to a maximum of 5 *per cent* of the total amount payable to the private agency.

Audit scrutiny revealed that in nine offices of the Mumbai Region 9,04,428 smart card DLs out of 30,49,142 were not printed by the agency even in the same day of forwarding the data and the Department failed to use the option to charge penalty for the delayed services.

The non-charging of penalty and absence of monitoring on the part of Department to ensure timely delivery resulted in deficient services by the agency.

In the exit conference the Department stated that at present no facility was available in the system to generate reports relating to delay in printing of smart cards and the same would be incorporated with the help of NIC to monitor delays.

5.2.16.4 Procurement and printing of smart cards

Smart cards for DLs were procured by the private agency and kept in their custody. Printing of smart cards is being done by the agency and the Department has no control over the stock and utilization of such cards. It was also observed that serial numbers of the cards were not captured in the concerned applications for an effective control over the smart cards printed and issued.

There was no system to obtain periodical reports on procurement and utilisation of smart cards and cross verification of the same with the actual stock to enforce control over the misuse of smart card by the agency.

In the exit conference the Department stated that comprehensive system of stock taking would be implemented within a period of four months.

The Government may consider putting in place a system for submission of periodical returns from the agency and watching proper accounting of smart card including serial numbers smart cards.

5.2.17 Internal Control

5.2.17.1 Lack of monitoring and Internal Control Mechanism

An inspection wing is established in the TC office. Though computerisation of the Transport Department commenced in the year 2006, no internal inspection team for system audit was designated due to which the working of

the Sarathi system has not been subjected to internal inspection. Further there was no audit query module in the system to enable the auditors to generate the required information. Absence of inspection of the computer systems left it vulnerable to the risk of control failure.

In the exit conference the Principal Secretary stated that an internal audit team for audit of Sarathi system would be developed.

The Government may consider setting up an internal audit wing to audit the working of computerised systems.

5.2.17.2 Management Information System in Sarathi Application

The application system should provide for various Management Information System (MIS) reports for effective management at the level of Dy. RTOs/RTOs and TC office.

We observed that crucial MIS reports to monitor data integrity in Sarathi system such as duplicate DLs, duplicate inward number, duplicate challan number, Smart card based DLs issued without authentication, delay in issue of DLs and data entered through backlog are not available in Sarathi system. Due to non-availability of MIS reports in this regard, the Department could not monitor exceptional data entries, inaccurate data and data manipulations.

In the exit conference the Department stated that the MIS reports would be developed in consultation with NIC.

Department may identify MIS reports required for monitoring data integrity and data security.

5.2.18 Conclusion

Vahan and Sarathi systems were implemented with an objective for computerisation of vehicle registration and driving licenses and to build a comprehensive database for State Register and National Register. However, it was observed that even after four years of implementation the entire vehicle classes and offices were yet to be covered under computerisation. The entire data pertaining to the pre-implementation period were not fully captured in the system which has resulted in a deficient State Register.

Delayed delivery of services to citizens coupled with issuance of unauthenticated smart cards defeated the objective of Government even after charging additional fees from the citizens.

Manual interventions in the system and improper incorporation of business rules have resulted in revenue leakages and non-recovery of taxes. The systems were not backed by proper internal control mechanism and continuous monitoring resulting in issue of unauthenticated/bogus vehicle registration/driving licenses.

5.2.19 Recommendations

The Government may consider-

- **implementing both the systems early with complete modules in all the regional transport offices for a State Register and in turn National Register of registered motor vehicles and driving licences;**
- **ensuring the contractor should not misuse the data supplied to them and printing of duplicate smart cards without the approval of the Authority;**
- **ensuring the commissionerate to call for periodic returns from the agency to ensure proper accounting of smart cards;**
- **ensuring enforcement of validation checks in the system for data accuracy to avoid issue of more than one licence, etc.;**
- **reviewing of the system to ensure that all business rules are incorporated in the system properly and updated regularly;**
- **ensuring adequate logical access control so that safety and security of data is not compromised;**
- **ensuring proper supervisory checks over the system; and**
- **ensuring design of appropriate MIS reports to make effective use and monitoring of computer systems.**

5.3 Audit observations

Scrutiny of the records of Regional Transport Offices/Dy. Regional Transport Offices revealed several cases of non-observance of provisions of the Bombay Motor Vehicles Tax Act, 1958 as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit every year, but not only the irregularities do persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

5.4 Non-compliance of the provisions of the Acts/Rules

The Bombay Motor Vehicle Tax Act, 1958, provides for levy and collection of Motor Vehicle Taxes. The vehicle registering authorities did not observe the above provisions and prescribed procedure for maintenance of vehicle records in cases as mentioned in the paragraph 5.4 which resulted in non-recovery of tax of ₹1.53 crore.

5.4.1 Non-recovery of motor vehicle tax and one time tax (OTT)

5.4.1.1 Non-recovery of motor vehicle tax

Six Regional Transport Officers[20] (RTOs) and 13 Deputy RTOs[21]

Under Section 3 of the BMV Act, 1958, and the rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State, as per their registered laden weight (RLW) or seating capacity. The rate of tax leviable is prescribed in the notifications issued by the Government from time to time. Further, interest at the rate of two *per cent* of the amount of tax, for each month or part thereof is also payable in each case of default. The details of recoveries to be made from the vehicle owners, issue of demand notices, etc. is maintained in the cash balance review register (CBRR).

During test check of the records between August 2007 and February 2011, we noticed from the CBRR, that in respect of transport vehicles, contract carriages, school buses, heavy goods vehicles, private service vehicles, tourist vehicles, tipper, dumper and taxis, tax amounting to ₹ 1.42 crore was not paid by 760 vehicle owners for one to 24 months, during various periods between February 2006 and July 2010. It was also confirmed from the CBRR that the demand notices were not issued to the vehicle owners by the concerned RTOs/ Dy. RTOs for recovery of tax. No demand/show cause notices were issued by the concerned officers to recover the dues till it was pointed out by us. Failure of the RTOs/Dy RTOs to check the details of non-payment of tax by the vehicle owners from the CBRR and issue of demand notices for recovery resulted in

[20] RTOs: Aurangabad, Latur, Mumbai (East), Mumbai (West), Nanded and Thane.

[21] Dy. RTOs at Ahmdenagar, Beed, Hingoli, Jalna, Nanded, Navi Mumbai, Nandurbar, Osmanabad, Parbhani, Ratnagiri, Sangli, Solapur and Satara.

non-realisation of motor vehicle tax of ₹ 1.42 crore. Besides, interest at the prescribed rate was also leviable.

After we pointed out these cases to the Department/Government, between September 2007 and March 2011, the Department accepted the observations and communicated recovery of ₹ 24.97 lakh, between August 2007 and October 2010 from 238 vehicle owners. A report on recovery of the balance amount is awaited (February 2012).

We reported the matter to the Government in May and June 2011, their reply is awaited (February 2012).

5.4.1.2 Short levy of One Time Tax (OTT) on imported vehicle

Regional Transport Officer, Pune and Dy. Regional Transport Officer, Srirampur at Ahmednagar

The rate of OTT leviable on the cost of domestic vehicle was revised from 1 July 2009 to 7 *per cent* for the cost of vehicle upto ₹ 10 lakh, 8 *per cent* for the cost of vehicle between ₹ 10 lakh and ₹ 20 lakh and 9 *per cent* for the cost of vehicle above ₹ 20 lakh. The OTT rates on motor car imported into India and used or kept for use in the state is leviable at twice the rate applicable for domestic vehicles.

During test check of the records of two offices, between January 2011 and February 2011, we noticed that two vehicle models namely Montero GLS and Range Rover, registered under the non-transport category, during the year 2009-10, were actually declared as imported vehicles by the Transport Commissioner as seen from Form 20. However, these two vehicle owners had paid tax which is applicable to domestic vehicles instead of the tax applicable to imported vehicles. The differential rate of tax recoverable aggregated ₹ 11.55 lakh in respect of these two vehicles. No action was taken by the Department to recover the dues till it was pointed out by us. This resulted in non-realisation of OTT of ₹ 11.55 lakh. Besides, interest at the prescribed rate was also leviable. Failure of the Department to check the correctness of categorisation of these vehicles as determined by the Transport Commissioner and take corrective action resulted in non-realisation of tax of ₹ 11.55 lakh.

After the cases were pointed out, the concerned RTOs stated that the matter would be verified and action would be taken accordingly. A report on recovery is awaited (February 2012).

CHAPTER VI
STATE EXCISE

6.1 Results of audit

We reported under assessments, non/short levy, non-recovery, etc., of revenue and other similar cases amounting to ₹ 78.95 crore in 359 cases as shown below, on the basis of test check of the records of taxes on State excise conducted during the year 2010-11:

(₹ in crore)

Sl. no.	Nature of receipts	No. of cases	Amount
1.	**Levy and collection of state excise duty, licence fee, fines, etc. (A Performance Audit)**	1	31.36
2.	Non-recovery of transport fee	20	35.15
3.	Non/short recovery of licence/privilege fees/excise duty/application fee	225	6.15
4.	Non-recovery of compounding fees/loss of revenue due to reduction in manufacturing costs, etc.,	58	4.42
5.	Non/short recovery of supervision charges/interest/bonus	23	0.95
6.	Non-recovery of toddy instalments	32	0.92
	Total	**359**	**78.95**

In response to our observations in the local audit reports during the year 2010-11 as well as during earlier years, the Department concerned accepted the underassessment, short levy, etc. and recovered ₹ 28.33 lakh in 80 cases, out of which 8 cases involving ₹ 7.25 lakh were pointed out during the year 2010-11 and the rest during the earlier years.

A Performance Audit on **"Levy and collection of state excise duty, licence fee, fines, etc."** is featured here**,** with a total financial effect of ₹ 31.36 crore out of which the Department accepted our observations involving financial efffect of ₹ 29.89 crore and contested paras for ₹ 3.44 lakh.

6.2 Performance Audit on "Levy and Collection of State Excise Duty, Licence Fee, Fines, etc".

Highlights

In comparison to other bigger States like Andhra Pradesh, Tamil Nadu and Karnataka, the State's excise revenue collection were the lowest despite highest population. The per capita realisation of revenue from State excise duty was the lowest in the State though liquor consumption was highest when compared with these States, wherein Corporations had been established for regulating and canalising the supply of liquor.

(Paragraph 6.2.7)

Internal Audit control was inadequate and also ineffective as there were short falls in inspections, non-submission of returns and huge pendency in clearance of observations made by the Divisional Deputy Commissioners.

(Paragraph 6.2.8)

There was shortage of staff in Class II and Class III positions coupled with unequal deployment of staff, depending upon the type of licence and turnover. For instance, in Seagram Ltd., Nashik, which had three licences for manufacture of rectified spirit and the unit's revenue contribution was ₹ 329 crore, it had nine excise officials posted while United Breweries Ltd Unit I at Nashik district with similar licences and comparable revenue contribution of ₹ 358 crore had just two officials and partial supervision by a Dy. Commissioner.

(Paragraph 6.2.9)

The efficacy of functioning of flying Squads for State Excise related offences was adversely impacted with 72.77 *per cent* of cases registered against unidentified offenders. In 10 districts the confiscated goods valued at ₹ 27.35 crore were not auctioned off and in remaining 19 districts only an amount ₹ 52.11 lakh was realised from auction of confiscated goods valued at ₹ 71.28 crore.

(Paragraph 6.2.10)

The Department had not adjudicated finally on offences relating to MRP violations on sale of country liquor resulting in loss of excise duty.

(Paragraph 6.2.11.1)

In the case of Meher Distilleries Ltd. the lackadaisical attitude of the Government/Excise Department in stretching the issue of recovery for almost eight years even after the High Court had decided the issue in favour of revenue, resulted in non-recovery of even the minimum revenue of ₹ 29.10 crore.

(Paragraph 6.2.12)

Non-raising of demands for recovering differential amount of supervision charges of excise staff posted at 23 units, arising due to revision in pay had resulted in non-realisation of ₹ 1.46 crore for the period January 2006 to December 2009.

(Paragraph 6.2.13)

Granting exemption in excise duty to wine manufacturers with the objective of popularizing wine amongst consumers, did not serve its purpose in absence of any Departmental control on fixation of manufacturing cost/MRP of wine.

(Paragraph 6.2.14)

Incorrect allowance of losses on beer bottles on removal from warehouses resulted in loss of revenue of ₹ 59.36 lakh for the period January 2008 to March 2011.

(Paragraph 6.2.15)

The ban on issue of licences for retail trade of IMFL and CL (FL-II and CL-III), since 1973-74 though the State's population had doubled was unjustified as licences for sale of liquor to bars, clubs and beer shoppes were liberally granted to increase consumption of liquor. Further, 387 defunct licences were not put to use due to disputes etc. These policy issues affected Government revenue from excise duty in comparison to other large States.

(Paragraph 6.2.20)

6.2.1 Introduction

Levy and collection of excise duty, fees, fines and other receipts collected by the State excise Department are mainly regulated under the Bombay Prohibition Act, 1949, Bombay Molasses (Control) Act, 1956 and Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and Rules, notifications and circulars framed thereunder. The state excise receipts mainly comprise of excise duty leviable on Indian Made Foreign Liquor (IMFL), Foreign Liquor, Country Liquor, Beer, Wine and Medicinal preparations containing alcohol, license fees on manufacturers, wholesalers , retailers, bars and clubs for sale of alcoholic beverages in licensed premises, privilege fees for transfer of licenses from one name to another and from one site to another, supervision fees for deployment of excise officials in the premises of manufacturers and wholesalers, escort fees for escorting consignment of rectified spirit and extra neutral alcohol (ENA) and transport fees for transport of rectified spirit, ENA, IMFL and Beer.

6.2.2 Organisational set up

The Principal Secretary (Transport and State Excise)[1], Home Department is the administrative authority at the Government level for the implementation of the Acts. The Commissioner of State Excise (CSE) is the head of the Excise Department who is assisted by two Joint Commissioners, one Director (Vigilance), one Deputy Director (Computers) and four Deputy Commissioners. At the district level, the provisions of the Acts and Rules are administered by 35 Superintendents of State Excise (SPE)[2] working under six Divisional Deputy Commissioners (DDCs)[3]. The DDCs in addition to monitoring of functioning of SPEs also conduct internal audit of SPE offices, manufacturers and wholesalers functioning in his zone. The excise supervision in each distillery is entrusted to Excise Officer posted there.

6.2.3 Scope of audit

A test check of records for the period 2005-06 to 2009-10 was conducted by us between February 2011 and May 2011. For test check we selected all the districts (i.e. ten districts) contributing revenue of more than ₹ 100 crore and 25 *per cent* of the remaining districts i.e. six by random sampling method. We selected 17 country liquor manufacturers, 10 IMFL manufacturers and seven breweries, each contributing revenue of ₹ 25 crore and above during 2009-10 and 25 *per cent* of remaining distilleries i.e. five country liquor and 10 IMFL manufacturers by random sampling method. We selected five *per cent* of the units manufacturing rectified spirits from molasses and grain i.e. five distilleries based on random sampling method. Four DDCs, who oversee the collection of more than ₹ 500 crore revenue and records of CSE, Mumbai were test checked to ascertain the monitoring and internal control mechanism.

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1 Presently under the Principal Secretary (Tourism, Culture and State Excise).

2 Ahmednagar, Akola, Amaravati, Aurangabad, Beed, Bhandara, Buldhana, Chandrapur, Dhule, Gadchiroli, Gondia, Hingoli, Jalna, Jalgaon, Kolhapur, Latur, Mumbai (City), Mumbai (Suburban), Nagpur, Nanded, Nandurbar, Nashik, Osmanabad, Parbhani, Pune, Raigad, Ratnagiri, Sangli, Satara, Sindhudurg, Solapur, Thane, Wardha, Washim and Yavatmal.

3 Aurangabad, Kolhapur, Konkan (Thane), Nagpur, Nashik and Pune.

6.2.4 Audit objectives

We conducted the review to ascertain whether:

- the levy and collection of excise duty, fees, supervision charges, etc., under various Acts and Rules administered by the Excise Department are being done correctly and efficiently;
- an internal control mechanism is in existence in the Department and is adequate and effective;
- there are system deficiencies which impede the optimum collection of revenue and proper enforcement of the various Acts and Rules;
- the licencees comply with all the Rules and Regulations; and
- exemptions/concessions from payment of excise duty was correct.

Audit Criteria

We adopted the following criteria in conducting the Performance Audit:

- Bombay Prohibition Act, 1949
- Maharashtra Potable Liquor (Fixation of Maximum Retail Price), Rules, 1996
- Bombay Rectified Spirit (Transport in Bond) Rules, 1977
- Maharashtra Foreign Liquor (Import and Export) Rules, 1963

6.2.5 Acknowledgement

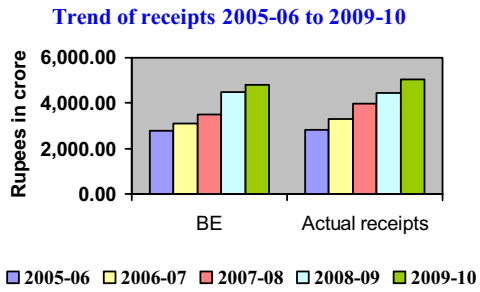
The Indian Audit and Accounts Department acknowledges the co-operation of the Home Department and its subordinate offices for providing necessary information and records for audit. An entry conference for the review was held on 31 January 2011 with the CSE and the executive was informed about the scope, objective and methodology of audit. The Commissioner explained the various aspects of levy and collection of State Excise duty and licence fees and also its administration and implementation. The draft review report was forwarded to the Government and the Department in July 2011 and the audit conclusions and recommendations were discussed in the exit conference held in October 2011. The Principal Secretary (Excise), Dy. Secretary (Excise Department), Jt. Commissioner of State Excise and other senior officers of the Excise Department attended the meeting. The replies given during the exit conference and at other times have been appropriately included in the relevant paragraphs.

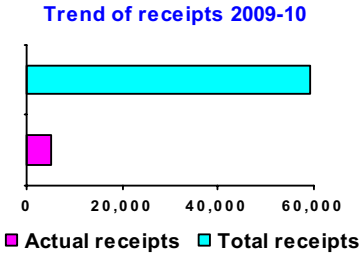
6.2.6 Trend of revenue

The actual receipts from State excise duty, licence fee, fines, etc, during the period 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graphs:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage increase in collection over the previous year[4]	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	2,800.00	2,823.85	(+) 23.85	27.26	33,540.24	8.42
2006-07	3,100.00	3,300.70	(+) 200.70	16.89	40,099.24	8.23
2007-08	3,500.00	3,963.05	(+) 463.05	20.07	47,528.41	8.34
2008-09	4,500.00	4,433.76	(-) 66.24	11.88	52,029.94	8.53
2009-10	4,800.00	5,056.63	(+) 256.63	14.05	59,106.33	8.56





As seen from the above table, though the revenue collection increased from 2005-06 to 2009-10 the percentage rate of collection with reference to the earlier year showed a declining trend. Further, the revenue collections when compared with the total revenues of the State were stagnant at eight *per cent*.

The State Excise Department did not have any database of arrears of revenue.

6.2.7 Excise policy- Comparison of revenue with other States

The following table presents the details of the population, liquor sold, excise duty and sales tax collected and the total tax receipts in respect of the States of Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu for the period 2005-06 to 2009-10.

[4] The actual receipts for 2004-05 was ₹ 2218.87 crore.

(₹ in crore)

Year	IMFL sold#	Beer sold#	Excise duty	Sales Tax	Total of (4) + (5)	Total tax receipts	Percentage of (6) to (7)
Maharashtra – population 968.78 lakh*							
2005-06	358.01[@]	185.18	2,823.85	N.A	2,823.85	33,540.20	8.42
2006-07	388.23[@]	218.88	3,300.7	N.A	3,300.70	40,099.20	8.23
2007-08	419.35[@]	236.54	3,969.05	N.A	3,969.05	47,528.40	8.35
2008-09	446.23[@]	265.54	4,433.76	1,402	5,835.76	52,029.90	11.22
2009-10	480.63[@]	310.44	5,056.63	1,795	6,851.63	59,106.30	11.59
Andhra Pradesh –population 762.10 lakh*							
2005-06	266.85	180.80	2,684.57	2,040.30	4,724.87	19,207.41	24.60
2006-07	313.16	252.62	3,436.63	2,585.29	6,021.92	23,926.20	25.17
2007-08	338.00	291.66	4,040.69	3,331.64	7,372.33	28,794.05	25.60
2008-09	365.64	292.43	5,752.61	3,874.93	9,627.54	33,358.29	28.86
2009-10	412.55	249.93	5,848.59	4,606.71	1,0455.3	35,176.68	29.72
Tamil Nadu - population 624.06 lakh*							
2005-06	228.67	132.27	3176.65	2,854.12	6,030.77	23,326.03	25.85
2006-07	270.79	177.33	3986.41	3,487.20	7,473.61	27,771.15	26.91
2007-08	306.07	196.04	4764.05	4,057.11	8,821.16	29,619.10	29.78
2008-09	356.56	224.37	5755.42	4,846.08	10,601.50	33,684.37	31.47
2009-10	409.08	243.26	6733.90	5,757.63	12,491.53	36546.66	34.18
Karnataka - population 528.50 lakh*							
2005-06	143	114	3,396.79	Nil	3,396.79	18,631.55	18.23
2006-07	154	118	4,495.47	Nil	4,495.47	23,301.03	19.29
2007-08	325	143	4,766.57	Nil	4,766.57	25,986.76	18.34
2008-09	366	154	5,749.56	Nil	5,749.56	27,645.66	20.80
2009-10	390	142	6,946.32	Nil	6,946.32	30,578.60	22.72

[@]includes country liquor # in lakh cases * Population figures based on Census Report 2001

As can be seen from the above the percentage of excise duty receipts to the total receipts in respect of States of Andhra Pradesh, Karnataka and Tamil Nadu for the period 2008-10 were almost more than double the percentage of excise revenue collection in Maharashtra, though the population of the State was highest.

The *per capita* realisation of revenue from State excise duty and VAT was also the lowest in the State when compared with other three States as shown in the following table:

Sl. No.	Name of the State	Year	
		2008-09	2009-10
1	Tamil Nadu	170	200
2	Karnataka	109	131
3	Andhra Pradesh	126	137
4	Maharashtra	60	71

The high *per capita* revenue realisation in other States indicates revenue maximization policies in those States.

Our analysis revealed that the States of Andhra Pradesh, Karnataka and Tamil Nadu had benefited significantly by canalising the entire supply of IMFL/Beer whether domestically manufactured or received from other States through setting up of State Beverage Corporations for selling alcoholic beverages. . This finding is also supported by the study report published by ICRA Management Consulting Services Ltd., in October 2009 in respect of liquor manufacture and trade in the whole country which indicated that Andhra Pradesh, Karnataka and Tamil Nadu had benefited significantly by setting up State Corporations for sale of liquor.

As Article 47 of the Constitution of India ordains that the State shall endeavour to bring about prohibition of consumption of liquor, being a demerit commodity, it was expected that the tax on liquor would be high enough to discourage its consumption and at the same time result in augmentation of revenue. However it was seen that though the consumption of liquor in Maharashtra was high the comparative revenue yield was unfavourable.

In the exit conference the Principal Secretary stated that any decision in the matter would be taken after due diligence.

The Government may like to study the excise policies and procedures in these States for augmentation of its excise revenues.

6.2.8 Internal Controls

6.2.8.1 Non-submission of periodic returns by excise offices

Internal controls help in creation of reliable financial and management information system for adequate safeguards against non/short collection or evasion of taxes. The internal control mechanism should also be reviewed and updated from time to time to keep it effective. In order to collect and compile the data in a systematic and scientific manner a Deputy Director (Statistics) is posted in the office of the CSE, Mumbai. The SPEs are required to furnish returns every month in forms (MS 1 to MS 9) to the CSE, Mumbai and DDCs based on the returns furnished by the licensees to it. The returns *inter-alia* indicate the revenue of the district sub-head-wise and manufacturer-wise, quantity of liquor traded, position of breach/ criminal cases, illegal activities, departmental targets and achievements thereof, etc..

During test check of records at the DDC, Pune we noticed that SPEs at Ahmednagar, Pune and Solapur did not submit any of the returns from September 2006 to March 2010 and SPEs at Raigad and Thane submitted only returns in form MS 1 to MS 3 to CSE, Mumbai. Compilation of data relating to collection of revenue and its analysis is an important requirement of internal monitoring system. Hence, in the absence of submission of periodic returns, the Department could not reconcile the revenue realised with the Finance Accounts, recover the differential licence fees based on actual production and sale, monitor the breach cases/ registered crime cases, auction of seized materials. The Department was also not able to publish its annual publication on basic statistics since 2006.

6.2.8.2 Arrears of revenue

The SPE officers at district level are required to maintain a database of arrears of revenue. This information is required to be sent to the Commissioner's office for monitoring the arrears of recovery so that the amount to be recovered is not lost sight of.

During test check of the offices of the SPEs, information on arrears pending recovery as on 31 March 2010 was requisitioned. However, majority of the SPEs indicated the arrears recoverable are 'nil'. In view of this the data was requisitioned from the CSE office, but no information has been furnished till date (October 2011).

In exit conference the matter was discussed and the Department stated that the details of arrears have not been compiled and efforts are being made to compile the same after which it would be furnished to audit.

6.2.8.3 Internal Audit

There is an Internal Audit Wing functioning under Chief Accounts Officer (CAO) of the CSE, Mumbai as well as six DDC at the divisional level. The audit at the CAO level was started in the year 2008. Though CAO had

conducted the audits no reports were prepared by him and no registers were maintained giving details of the nature of observations made, etc.

6.2.8.4 Internal audit by DDC

The positions of internal audits as per the Register of audit in respect of three DDCs[5] for the period from 2005-06 to 2009-10 were as under:

Year	Units due for audit	No. of units actually audited	Shortfall	Percentage shortfall
2005-06	251	98	153	60.96
2006-07	251	119	132	52.59
2007-08	251	125	126	50.20
2008-09	251	175	76	30.28
2009-10	303	177	126	41.58

As can be seen from the above, percentage of shortfall in inspections ranged from 30 to 61 *per cent*. DDC, Nashik had completed all the audits during the above period but DDC, Aurangabad had not carried out any inspections during the period 2005-06 to 2007-08. In DDC, Pune though audits were being conducted and inspection reports issued, no register giving details of units audited, observations made, cleared, recoveries effected, etc., was maintained.

The position of objections raised and clearance as per the Register of objections in respect of three DDCs were as follows:

(₹ in lakh)

Year	Opening balance		Addition of		Total paras in		Clearance of		Balance	
	LAR paras	Amt	LAR paras	Amt	LAR	Amt	LAR paras	Amt	LAR paras	Amt.
2005-06	1	3.82	236	17.07	237	20.89	72	14.74	165	6.15
2006-07	165	6.15	139	64.38	304	70.53	64	8.07	240	62.46
2007-08	240	62.46	142	18.94	382	81.40	59	11.32	323	70.08
2008-09	323	70.08	496	209.39	819	279.47	158	14.19	661	265.28
2009-10	661	265.28	364	41.83	1,025	307.11	25	4.97	1,000	302.14
			1377	**351.61**			**378**	**53.30**		

As seen from the above table for the period 2005-06 to 2009-10 out of 1,378 paras involving ₹ 3.55 crore about 1,000 paras (72.57 *per cent*) involving ₹ 3.02 crore (85.07 *per cent*) were pending clearance as on 31 March 2010. Failure of the officers concerned in taking prompt action had rendered Internal Audit efforts ineffective.

Thus, internal controls with reference to internal inspections were inadequate and ineffective due to short fall in inspections, non-submission of returns and pendency in clearance of observations. No system was also put in place in the CSE, Mumbai office to deliberate upon the audit observations for speedy clearance of observations and ensuring that the coverage was as prescribed.

After we pointed out the deficiencies in internal control, the CSE Mumbai accepted (September 2011) the observations and stated that necessary

[5] Aurangabd, Nashik and Konkan.

measures for restructuring of the internal control mechanism would be carried out.

In the exit conference the Principal Secretary while reiterating the views of the CSE also stated that action would be taken to computerize various functions of the Department and streamline the submission of returns by making it online. He further stated that a special cell would be formed to take action on all observations raised in audit.

6.2.9 Human Resources

For efficient functioning of the State Excise Department a proper manpower planning to meet its objectives and optimum deployment of manpower is of prime importance. The recruitment policies and practices have to be geared up to meet the available vacancies. Section 58A of the Bombay Prohibition Act, 1949 empowers the State Government to recover the cost of staff deployed for supervision from the persons engaged in manufacturing, importing and exporting of liquor.

Our scrutiny of the file of Staff position maintained in the office of CSE Mumbai revealed that there was huge shortage of staff in Class II and Class III. The position of the sanctioned and filled up strength was as follows:

Class	Sanctioned strength	Men in position	Vacancy	Percentage of vacancy
I	52	42	10	19.23
II	65	29	36	55.38
III	3,354	2,175	1,179	35.15

We collected the data of the staff position from the CSE, Mumbai which was submitted to it by the SPEs of 27[6] districts. The analysis of the data revealed that the staff in the Range Offices (at Government expense) such as Dy. Superintendent, Inspectors, Sub-Inspectors, Asst. Sub-Inspectors and Constables in SPEs office and similar staff deployed at licencees premises as on 31 March 2010 were as follows:

	At Government expense	At licencees expense
Sanctioned Strength	1,527	992
Filled up Strength	1,161	344
Vacancy position	366	648
Percentage of vacancy	24	65

It could be seen from the above that the major vacancies were in the personnel deployed in the premises of the Licensees such as manufacturers and wholesalers who are subject to physical control for movement of excisable goods and the expenses incurred on such personnel is recoverable from the licencee. Absence of adequate personnel, affects the proper control of

[6] Ahmednagar, Akola, Aurangabad, Beed, Bhandara, Buldhana, Chandrapur, Dhule, Gadchiroli, Hingoli, Jalna, Jalgaon, Kolhapur, Latur, Nagpur, Nanded, Nandurbar, Nashik, Osmanabad, Parbhani, Pune, Raigad, Ratnagiri, Sangli, Sindhudurg, Thane, and Yavatmal.

movement of excisable goods hence there is a possibility of leakage in revenue due to inadequate supervision. In the major revenue earning districts such as, Nagpur, Pune, Raigad and Sangli the shortage of staff deployed in the licenced premises of manufacturers/wholesalers of liquor were 85 *per cent*, 83 *per cent*, 79 *per cent* and 73 *per cent*, respectively.

Further, there was unequal deployment of staff, depending upon the type of licence and turnover. For instance, in Seagram Ltd., Nashik, which had licences like MI, PLL and RS II and the unit's revenue contribution was ₹ 329 crore, it had nine excise officials posted while United Breweries Ltd Unit I at Nashik district with similar licences and comparable revenue contribution of ₹ 358 crore had just two officials and partial supervision by a Dy. Commissioner. Similarly GM Breweries Ltd, at Virar, District Thane with revenue contribution of ₹ 294 crore had only two officials.

After we pointed out the matter, Department did not agree with the contention that absence of personnel had undermined or compromised revenue of the State, considering the increase in revenue during the five year period. They said that recruitment drive for all posts has been going on for the past three years and the delay was due to procedural aspects of recruitment through neutral agencies. The Government had also banned new recruitments in June 2010 which was lifted in February 2011.

The fact remains that huge shortage in manpower resulted in inadequate supervision of movement of excisable goods leading to a possible leakage of revenue.

6.2.10 Cases filed by flying squads and executives

For detection of offences under the BPA Act, 1949 flying squads have been put in place by the Department. At present there are 45 flying squads working in the State, out of which one is at State level, six are at divisional levels and 38 are at the district levels.

The data furnished by 29[7] out of 35 SPEs, to CSE, Mumbai and the scrutiny of the crime registers maintained in the SPE offices revealed the following position:

Year	Total cases registered	No of persons arrested	Total vehicles seized	Cases disposed by the court	Convicted cases	No of acquitted cases
2005	23,160	9,680	282	4,779	505	1,246
2006	22,176	6,102	329	3,830	244	1,013
2007	43,576	11,418	727	7,390	206	2,081
2008	25,338	6,082	461	4,150	172	847
2009	25,567	6,037	459	2,965	93	9,924
2010	5,880	1,493	77	650	0	214
Total	**1,45,697**	**40,812**	**2,335**	**23,764**	**1,220**	**15,325**

[7] Ahmednagar, Akola, Aurangabad, Beed, Bhandara, Buldhana, Chandrapur, Dhule, Gadchiroli, Gondia, Hingoli, Jalna, Jalgaon, Kolhapur, Latur, Nagpur, Nanded, Nandurbar, Nashik, Osmanabad, Parbhani, Pune, Raigad, Ratnagiri, Sangli, Sindhudurg, Thane, Wardha, and Yavatmal.

Out of the 1,45,697 cases detected and registered during the calendar years 2005 to 2010, 39,667 were claimed cases (relates to person who had committed crime and were identified) whereas 1,06,030 i.e. 72.77 *per cent* were unclaimed cases (offenders not identified). As per the crime register, the value of the materials seized in the above detected cases was ₹ 98.63 crore while the amount realised from auction of the material seized during the corresponding period was ₹ 52.11 lakh. Out of the above in 10 district offices (SPEs)[8] as against 39,530 cases detected, in which value of seized material was ₹ 27.35 crore, it was seen that the material auctioned was 'nil'. Among the seized goods there were 2,335 vehicles which were yet to be auctioned. The delay in auction of the seized goods indicated that though the value of the seized goods appear to be substantial on paper the realisation was meagre and auctioning of these goods may be difficult as the value of the goods would deteriorate due to the passage of time.

According to the Performance Budget 2009-10, 2,29,211 cases filed by the Flying Squad for the entire State were pending in the court of law. The Department did not have yearwise breakup of the cases pending in the court of law. During the period 2005 to 2010, out of 23,764 cases decided by the courts 1,220 cases (0.5 *per cent*) resulted in conviction.

After we pointed out the matter, the Department stated that the majority of the cases booked are unclaimed and the value of the seized material constitutes value of illicit wash which requires to be destroyed. Further rusted barrels etc., used by the offenders fetch little price, hence the contention of audit that the value of the seized material is more is not tenable. In respect of the detection cases which are pending in the courts it was stated that the sample analysis report to confirm whether alcohol was found in the detected cases is not received from the Government Chemical Analyser in time resulting in the cases being disposed off by the lower courts due to lack of evidence. Hence the rate of conviction cases is less. The matter regarding non-availability of sample analysis report from the Government Chemical Analyser will be taken up and matters pending in court would be pursued.

The CSE office stated (September 2011) that necessary steps for faster disposal of the cases would be taken and measures for obtaining sample analysis reports and follow up of booked cases would be taken.

In the exit conference the Principal Secretary stated that the low rate of conviction was serious cause for concern and asked the Department officials to take immediate action in the matter and stated that the cases would be pursued by the qualified personnel in the Department to increase the conviction rate.

[8] Ahmednagar, Akola, Buldhana, Dhule, Gadchiroli, Latur, Nandurbar, Parbhani, Thane and Wardha.

Manufacturing

6.2.11 Manufacture and sale of country liquor

6.2.11.1 Loss of revenue due to sale of country liquor above MRP

The Maharashtra Potable liquor (Fixation of Maximum Retail Prices) Rules, 1996 does not define Manufacturing cost (MC). The rates of excise duty are regulated by the notifications issued by the Home Department from time to time. The Government in January 1997 introduced *advalorem* based duty. As per this system duty was payable at the prescribed rate on Manufacturing cost or specified rate of duty based on proof litre whichever is more.

Our scrutiny of the records of the records of the CSE, Mumbai relating to the authentication approval of the MRP fixed by the manufacturers, we noticed that the manufacturers were fixing the MC in such a way that the excise duty payable was never more than the specific rate payable on the proof litre[9] of country liquor. The commissioner had approved the MRP as submitted by the manufacturers. All the 35 country liquor manufacturers were uniformly declaring the same manufacturing cost and MRP, irrespective of their brand and sale price, by revising the MC and MRP whenever there were changes in the rate of excise duty. The rate of excise duty and MRP are shown in the following table:

Date of change in rates	Advalorem rate as a percentage of MC	Specific rate per proof litre (₹)	Cost and MRP declared for 180 ml bottle	
			MC (₹)	MRP (₹)
29.5.2003	200	50.20	1.88	7.72
13.4.2006	200	55.00	3.71	7.43
30.3.2007	200	60.00	4.05	16.20
1.7.2009	225	65.00	3.90	21.94*

*MRP included sales tax from 1.7.2009 prior to that MRP was excluding sales tax

Further, analysis of the data collected from the wholesalers in respect of 12 country liquor manufacturers, for the year 2009-10, revealed that as against the uniform MRP of ₹ 1053 per case of 180 ml (i.e. 21.94 x 48 bottles), the sale price of the manufacturers to wholesalers ranged between ₹ 963.30 and ₹ 1,047.80 per case. As against this the corresponding sale price of the wholesalers/retailers to the ultimate consumers ranged between ₹ 1,107.80 and ₹ 1,204.97 per case. This resulted in sale of country liquor above MRP by the wholesalers/retailers ranging between ₹ 54.80 and ₹ 151.97 per case. The above situation was due to the fact that a lower MRP fixed by the manufacturers and as approved by the Department was such that it left very

[9] 1 proof litre is equal to 100° London Proof litre or 57.1 *per cent* Volume/Volume. Normally the potable alcohol sold in India is of 75° Proof litre or 42.82 v/v strength. Hence if the specified rate of duty is ₹ 65 per proof litre then the effective specified rate of duty for 1000 ml (i.e. 1 bulk litre) of country liquor of 75° would be ₹ 48.75.

little margin for the wholesalers and retailers thereby forcing the wholesalers and retailers to irregularly sell at higher rate as compared to the approved MRP.

The MRP violations were in the knowledge of the Department as evident from one such order (February 2006) of the CSE, wherein it was observed that manufacturers were selling country liquor at higher rate to the wholesalers leaving very little margin for the wholesalers and as a result the end consumer pays more than the MRP and is therefore cheated. So also the Government is deprived of additional revenue which otherwise it would have earned, had the manufacturing cost and MRP increased by these manufacturers.

From the above it is clear that the Department was aware of the deliberate declaration of low MC/MRP but no concerted action was taken against the manufacturing units to stem the loss of excise duty.

The Show cause notice (SCN) issued to wholesalers for violation of MRP is adjudicated by the CSE. We observed that SPE, Mumbai Suburban District had issued SCN to fourteen wholesalers of country liquor in July 2009 and December 2009 for recovery of Excise duty of ₹ 7.40 crore due to sale of Country liquor above MRP by the wholesalers to retailers. These SCN had not been entered in the Breach Register by CSE nor adjudicated till date (September 2011). After we brought this fact to the notice of the CSE as also that there were several more cases which were not entered in the Breach Register escaping adjudication and imposing of penalty the Department intimated that the Breach Register had been updated. Scrutiny of the updated register revealed that 105 breach cases for sale of country liquor above MRP was issued to wholesalers from 2005 onwards but they had not been adjudicated by CSE. This shows that the Department had been taking a very lenient view on violation of MRP by the manufacturing wholesalers/retailers which has resulted in loss of excise revenue to the Government.

In case of violation of MRP by retailers the Department merely recovers compounding fees ranging from ₹ 5,000 to ₹ 20,000 but does not take any action to recover the excise duty lost due to under declaration of MRP even though the proviso to Section 104 of BPA, 1949 mandates recovery of excise duty in addition to compounding fees.

After we pointed out the case, the Dy. Commissioner (Inspection) stated that the *advalorem* duty structure for levy of excise duty was introduced replacing the system of specific rate. The aim of the Government is to protect the specific rate of excise duty and violation of MRP at retail level cannot be termed as evasion of excise duty. However, the Department accepted that in view of the audit observation incidence of violation of MRP cases would be looked into and breach cases booked against culprits.

The main reasons for violation of MRP by retailers were due to unrealistic MRP declared by the manufacturers who have declared a very low MC and at the same time selling the country liquor at a higher cost to the wholesalers with the intention to avoid excise duty. No action has been taken against the manufacturers for recovery of excise duty in case of violation of MRP by wholesalers and retailers. The show cause notices issued by the Department to the wholesalers for selling the country liquor above MRP and cases noticed in

audit where it was found that wholesaler themselves are selling to retailers above MRP also bear evidence that the problem cannot merely be addressed at the retailers stage and Government has to ensure that the MRP and MC, which are interlinked, declared by the country liquor manufacturers are realistic/true, since excise revenue is involved in an *advalorem* duty rate structure.

The fact remains that if the Department overlooks the process of under-declaration of MRP by the manufacturers, the very purpose of introducing the *advalorem* based duty structure would be defeated.

The Department may adjudicate finally on the MRP violations occurring at all stages.

6.2.11.2 Reduction of manufacturing cost of country liquor

The Home Department vide its notification dated 26 June 2009 had increased the excise duty on country liquor from 200 *per cent* of the manufacturing cost or ₹ 60 to 225 *per cent* of manufacturing cost or ₹ 65 per proof litre whichever is higher with effect from 1 July 2009. Since the manufacturers realised that *advalorem* excise duty payable would be higher, all the manufacturers reduced the manufacturing cost from 1 July 2009 in unison from ₹ 16.875 per bottle of 750 ml to ₹ 16.25 per bottle of 750 ml. However, simultaneously the manufacturers increased the basic sale price (excluding all taxes) of the liquor bottles. This was done to ensure that the cost of manufacture of liquor bottle as worked out by the rate (₹ 16.25 per bottle) did not exceed the revised ceiling limit of ₹ 65 per proof litre and also does not affect the profit margin adversely. In effect, the cost of manufacture declared by the manufacturers is the derived cost rather than the actual cost with a view to pay less excise duty. We worked out the possible short realisation of excise duty in respect of 11 distilleries in seven test checked districts[10] which worked out to ₹ 13.04 crore.

After we pointed out this matter, the concerned excise authorities stated that the matter would be referred to the higher authority for guidance.

In the exit conference the Principal Secretary stated that in case of any impropriety, effective steps to ensure that no revenue loss is caused would be taken.

The Government may evolve a mechanism to ensure that the MC *vis a vis* MRP declared by the country liquor manufacturers is correct and realistic so a to ensure that the Government's own *advalorem* duty structure provided for is implemented in letter and spirit.

[10] Ahmednagar, Aurangabad, Kolhapur, Nashik, Osmanabad, Solapur and Thane.

6.2.12 Blockage of Government revenue due to inept handling of recovery in the case of M/s.Meher Distilleries Pvt. Ltd.

The levy and collection of excise duty on production, manufacture, possession, transport, purchase and sale of alcoholic liquors for human consumption are governed by the Bombay Prohibition Act, 1949 and the rules made thereunder. The rates of excise duty are regulated by the notifications issued by the Home Department from time to time.

The rate of excise duty on country liquor manufactured from *mhowra* flowers was increased by notification, issued by the Home Department in July 1987, from ₹ 13 to ₹ 26 per proof litre. M/s. Meher Distilleries Pvt. Ltd. (MDPL) who was in the process of manufacturing country liquor had challenged this notification in the Bombay High Court in August 1987 on the grounds that the cost of production of the country liquor from *mhowra* flowers was much more than the liquor manufactured with molasses as a base and this aspect had not been taken into consideration by the State Government while issuing the notification. The Department contended in its submission to the Court that MDPL was making excess profit by resorting to blending 80 *per cent* of molasses with *mhowra* and that the price of country liquor was not controlled and therefore they were charging their own price on sale. The Bombay High Court accepted the contention of the Department and in its judgment dated 18 June 2001 ordered that the Government was entitled to recover ₹ 35.35 crore with interest of 15 *per cent* per annum upto 18 May 1998 and at two *per cent* per month thereafter till realisation. As of May 2009 the total amount recoverable was ₹ 160.61 crore. During pendency of the judgment licences in Form I and CL I were granted (September 1995) to the family members of the partners of Meher Distilleries to set up another company viz. M/s. South Seas Distilleries and Breweries Pvt. Ltd. (SSDBPL), though there was ban on issue of such licences at the given point of time upto the year 1999. We noticed in audit that during the period of ban the Government issued two (M/s.Oceanic who subsequently sold the licence to M/s.Seagram and M/s. Karan Distilleries) other licences.

As M/s. MDPL did not pay the excise duty, the matter relating to recovery of dues as arrears of land revenue was referred to the Collector, Thane in February 2002. The Collectorate estimated the property of the company at ₹ 80 lakh and concluded that the amount was insufficient for recovery of dues.

To look into this aspect, the Government appointed a High Power Committee (HPC) in May 2004 consisting of the Principal Secretary (Transport and Excise), Commissioner of State Excise, Dy. Commissioner of State Excise, Additional Chief Secretary (Finance) and Principal Secretary (Law and Judiciary) after a lapse of more than two years from which recovery proceedings were initiated. In its final report (January 2005), the HPC recommended recovery of ₹ 9 crore though the Additional Chief Secretary (Finance) and the Principal Secretary (Law and Judiciary) had expressed their dissent on the recommendations of the HPC. Our scrutiny of the files of the Home Department revealed that the Finance Department (May 2006) did not accept the HPC's recommendation contending that it was not in the financial interest of the State and also due to the fact that it could not be treated as an

HPC report as the officers of the Excise Department were the only signatories to the final recommendations.

Subsequently after more than four years since the HPC had submitted its report, the Chief Secretary to whom the matter was referred, decided in a meeting held in May 2009 that an amount of ₹ 15 crore could be recovered from the company in five equal installments. The decision was based on the opinion of the Advocate General that since it was a company whose legal entity is distinct from its members, the latter are not liable to pay the dues. However, our scrutiny of records revealed that the manufacturing licence (CL 1) continued to be in the name of Meher Distilleries, a partnership firm and not in the name of the company (MDPL). As the liabilities of the partners in the firm are unlimited, the arrears of duty should have been recovered from the assets of the partners.

In absence of any records being available either with the Home Department or with the CSE for the period under dispute i.e. 1984 to 1992, the extent to which firm had alienated its assets, so as to preempt their attachment by the Government could not be ascertained from the records.

The then CSE, in his letter addressed to the Principal Secretary, Home (Transport and Excise) on 5 December 2003 had stated that the Department had taken the case lightly during the period 1988 to 1992 and woke up only after massive arrears had accumulated and no security or bank guarantee was obtained from M/s. Meher Distilleries.

As of May 2009 the total recoverable dues as worked out by us amounted to ₹ 160.61 crore including the excise duty recoverable of ₹ 35.35 crore and interest leviable thereon of ₹ 125.26 crore. Out of this, the Department had recovered only ₹ 6.25 crore as against ₹ 15 crore as determined by the Chief Secretary.

The above position made it amply clear that the lackadaisical approach of the Government/Excise Department in stretching the issue of recovery for almost eight years after the High Court had decided the issue, and misrepresenting the fact that the amount is recoverable from a company and not the firm in whose name the licence still exists, resulted in non-recovery of even the minimum duty of ₹ 29.10 crore (₹ 35.35 crore excise duty less ₹ 6.25 crore paid) despite a favorable decision from the High Court.

In the exit conference, the Principal Secretary was seized of the issue and stated that the case of M/s. Meher Distilleries would be reopened for recovering the dues. This did not explain their inaction for actual recovery, all these years.

6.2.13 Non-recovery of supervision charges

As per the provisions of section 58(A) of the Bombay Prohibition Act, 1949, all transactions relating to the receipts, manufacture, storage, transport, export, etc., of excisable goods are required to be supervised by the State excise staff and the cost of deputing the departmental staff at the premises of the licencee is recoverable at the rates prescribed by the CSE from time to time. The rates of supervision charges are revised as and when there is revision in the pay scale/ dearness allowance. The Government vide its GR dated 28 February 2009 had adopted the report of the Sixth pay Commission.

During test check of the Supervision charges register maintained in the Excise Offices attached to 23 manufacturers/ distilleries in eight districts[11], we noticed that though the State Government had adopted the revision of pay structure as per the Sixth pay commission in February 2009, the revised supervision charges in respect of the excise staff deployed at the premises of the licensees for the period from January 2006 to December 2009 had not been recovered. This resulted in short recovery of supervision charges of ₹ 1.46 crore. Scrutiny of records in the office of CSE, Mumbai revealed that the circular communicating the revised rates was issued after a lapse of 20 months on 31 October 2010. Further, the concerned excise officers had also not computed the differential supervision charges for issue of demand notices to recover amounts aggregating ₹ 1.46 crore, though four to seven months had passed after the issue of the circular by the CSE. Failure of the CSE to communicate the revised rates in time and further delay by the excise officers to compute the differential supervision charges resulted in non-recovery of ₹ 1.46 crore.

After we pointed out these cases, in six districts[12] wherein ₹ 69.23 lakh was to be recovered, 10 Excise Offices accepted the observations and stated that demand notices would be issued for recovery. Remaining 13 Excise Officers of four districts[13], wherein ₹ 76.48 lakh was to be recovered stated that action would be taken after verification.

The Department accepted (September 2011) the audit observation and stated that recovery of the differential amount is being carried out. As far as delay in raising demand is concerned it was stated that same was caused as initially guidance was sought from the Government but latter it was realised that no guidance was required.

[11] Ahmednagar, Jalna, Kolhapur, Latur, Nashik, Pune, Raigad and Thane.
[12] Ahmednagar, Jalna, Kolhapur, Latur, Raigad and Thane.
[13] Kolhapur, Nashik, Pune, and Thane.

6.2.14 Non-passing of benefit of exemption on wine to consumers

According to the notification issued by the Government, wine without addition of alcohol is subject to excise duty at 100 *per cent* of the manufacturing cost with effect from 15 January 1997. The MRP admissible was four times the manufacturing cost inclusive of excise duty in case the manufacturing cost does not exceed ₹ 40 and four times the manufacturing cost increased by an amount equal to the manufacturing cost in excess of ₹ 40 per litre of wine. The Government of Maharashtra had exempted wines manufactured from grapes within the State from excise duty partially in 2001 and fully from 2004. However, the MRP is regulated by the Government/ Department, since the exemption is subject to certain terms and conditions.

During test check of MC and MRP approval files in SPE offices and in the office of the CSE, Mumbai, we noticed that during the period 2005-06 to January 2009 wineries had got its MRPs approved at four times the manufacturing cost which clearly implies that the manufacturers had recovered excise duty from consumers, as excise duty is a part of MRP. Since exemption from excise duty is granted to specified wine manufacturers it amounted to indirect recovery of excise duty from the whosalers vis-à-vis consumers.

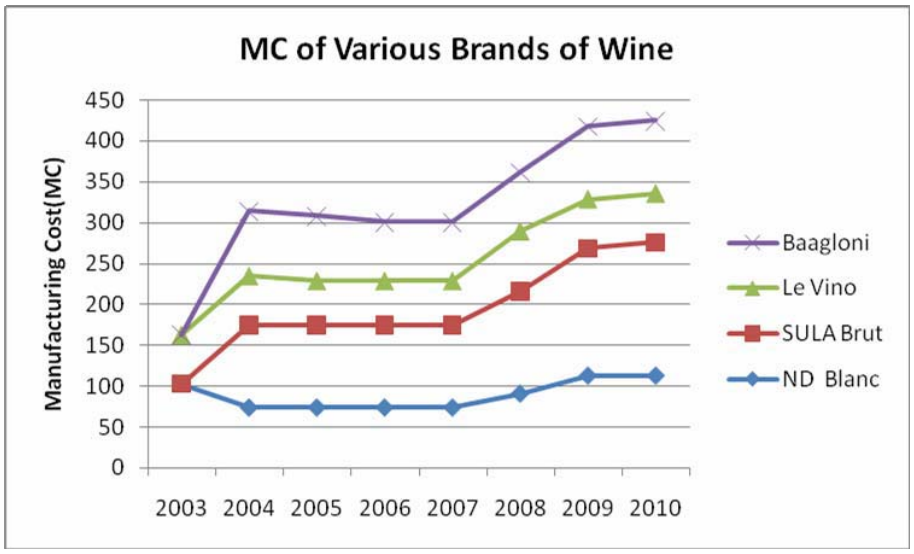
The MC and MRP fixed by the four manufacturers[14] for 750 ml bottles was as follows:

Sl. No.	Brand Name		2003	2004	2005	2006	2008	2009	2010
1	ND Sauvignon Blanc	MC	103	74	-	-	91	113	-
		MRP	485	340	-	-	510	509	-
2	Sula Brut Methode Champenoise	MC	-	101	-	-	125	156	163
		MRP	-	475	-	-	714	714	750
3	Le Vino Red Wine	MC	60	-	54	-	74	60	-
		MRP	210	-	240	-	315	250	-
4	Baagloni Red/Rose/ White Wine	MC	-	79	-	72	-	89	-
		MRP	-	365	-	330	-	395	-

(-) in the table indicates that either the manufacturer have not revised the rates or the information is not available.

Analysis of the above data shows that there were wide variations from year to year in fixing the MC. The basis for the same were also not found on the record as the manufacturers were also not obliged to give any details or breakup of the MC. There was no uniformity/consistency in fixing the MC on different brands as would be seen from following graph:

[14] ND Wines Pvt. Ltd, Nashik Vintners Pvt. Ltd, Rajdheer Wines Pvt Ltd and Prathmesh Wines Pvt. Ltd.



The Government issued a notification in February 2009, whereby the MRP admissible was reduced to three times the manufacturing cost. This was in pursuance of Hon'ble Bombay High Court decision[15] which had held that recovery from consumers of of MRP at four times the MC amounted to collection of excise duty from consumers and unjust enrichment by wine manufactures. However, it was noticed that except for one manufacturer other three manufacturers increased the MC and maintained the same MRP defeating the purpose of the notification issued in pursuance of the High Court judgment. Thus due to absence of the parameters in Rules for fixing the MC, manufactureres could reap the benefit of exemption of excise duty without passing it on to the consumers. The Department also approved the MRP without details of the manufacturing cost.

We recommend that the Government may fix the parameters for defining the MC and define MC in the Rules so that the manufacturers are required to furnish details/break up of the manufacturing cost.

[15] The Aurangabad bench of Bombay High Court (writ Petition No. 7033 of 2007) in the case of Vilas Dongarlal Jaiswal v/s State of Maharashtra.

6.2.15 Exemption from payment of excise duty on losses allowed in warehousing of beer

According to the provisions of the Bombay Prohibition Act, 1949, the quantity of beer manufactured after pasteurization is entered in the register (BR VI). Losses upto 6 *per cent* is allowed on the quantity of beer finally accounted for in the above register. The Act does not specifically provide for losses in warehousing and as per the circular issued by the CSE, Mumbai in July 1987 no losses could be allowed in manufacture of beer after pasteurization.

During scrutiny of the records in CSE, Mumbai in August 2007, we noticed that the Joint Commissioner (Alcohol and Molasses) had in the case of M/s. Fosters India Pvt. Ltd. exempted the levy of excise duty on the beer bottles which had broken during removal from the warehouse for distribution. The exemption was based on the letter received from the Home Department in July 2007. Similar exemption from excise duty was also allowed to six other breweries[16] that approached the Department with a similar request as made by M/s. Foster India Pvt. Ltd.

In the case of Millennium Beer Industries Ltd losses in storage of beer was allowed for the period January 2008 to March 2011 involving excise duty of ₹ 59.36 lakh. Though the Excise authority posted in the brewery had regularly pointed out to the SPE, Aurangabad that the brewery was recovering the full cost of the beer including excise duty from the contractors handling the material for which they had evidence in support of their contention, no action was taken by the Department in this regard. This amounted to unjust enrichment to the brewery of ₹ 59.36 lakh. Similar losses in respect of the other breweries could not be ruled out.

After we pointed out these cases, the Department stated that as per the provision of Bombay Prohibition (BP) Act, 1949, excise duty is leviable on any alcoholic liquor for human consumption. Further, it was stated that in the case of M/s.Maharashtra Distilleries Ltd. v/s State of Maharashtra (W.P. No. 401 of 1982) the Bombay High Court in its order dated 17 April 1988 had held that as per clause d(1) of Section 106 of BP Act, 1949, no excise duty is leviable on wastages. In view of this the Government had conveyed its decision that excise duty is not chargeable on wastages of beer occurring in warehouse.

We do not find the reply tenable, since in the subsequent case of M/s. Mohan Meakin Ltd v/s State of Maharashtra [(1993) 95 BOMLR 49] a full bench of the Bombay High Court in its order dated 8 September 1992 had held that as per section 106 of BP Act, 1949, "where payment is made upon issue for sale from a licensed warehouse, such payment shall be at the rate of duty in force at the date of issue from the warehouse. Therefore, by an express provision in

[16] M/s Skol Breweries Ltd., M/s Hindustan Breweries and Bottling, M/s Bombay Breweries, M/s Asia Pacific Breweries Ltd., M/s Lilason Industries Ltd. and M/s Millenium Beer Industries.

the statute, when facility of paying at a later date is given to a person liable to pay excise or countervailing duty, he has to pay the rate prevailing at the date when he actually releases the goods from the licensed warehouse for sale. The contention of the petitioners that the excise duty becomes leviable under Section 106 on articles when they are issued from a bonded warehouse for sale does not appear to be correct". In view of this it was adjudged that the petitioners had no right in contending that duty cannot be levied in transit or while in storage.

In the exit conference, the Principal Secretary stated that action would be initiated to withdraw the order, if found incorrect.

6.2.16 Non-recovery of excise duty

As per the provisions of Maharashtra Foreign Liquor (Import and Export) Rules, 1963, every exporter has to execute a bond for the amount of duty and fees payable on the excisable goods which are to be exported outside the State. The exporter is issued a pass for the purpose of export by the excise authorities on execution of the bond. Further, as per Rule 25(3) the exporter is required to produce a certificate within three months from the date of issue of the export pass in confirmation of the excisable goods having reached the destination and the importer having paid the excise duty prevailing in that State. As per Section 25(4) of the said Act, the officer in-charge of the distillery is required to calculate the excise duty and fees payable on the quantity of liquor which is not delivered.

During test check of Export Register of the Excise Officer attached to one licensee, we noticed that permits had been issued to him for export of seven consignments of Extra Neutral Alcohol (ENA). The licencee had exported the consignments during various periods between June 2008 and January 2011 but had not furnished the requisite certificates to the Excise Officer, even after lapse of four to 35 months from the date of issue of export permits. The aggregate excise duty involved in these cases amounted to ₹ 2.95 crore. The Department had not taken any follow-up action in this regard.

After we pointed out these cases, the CSE office stated (September 2011) that, export verification certificates are being obtained.

6.2.17 Excess transit losses of rectified spirit transported under bond

Superintendent of State Excise, Nashik

As per Rule 8 of the Bombay Rectified Spirit (Transport in Bond) Rule 1997, transport losses of 0.3 *per cent* per 100 kilometer (km) or actual whichever is less is admissible when alcohol is being transported from one place to another under bond.

During test check of the ENA Transport Passes of the Excise Officer, Unit No. I posted at M/s.United Spirits Ltd. Nashik, we noticed that the licencee had purchased 25,000 bulk litres of extra neutral alcohol (ENA) in July 2008 under bond from

M/s.Sagar Distilleries Pvt. Ltd. Scrutiny of the transport pass for receipt of excisable goods with M/s.United Spirits Ltd., Nashik revealed that only 20,496 bulk litres of ENA was received. This indicated that the transit loss was to the extent of 4,504 bulk litres. However, as the distance between the above two units was less than 100 kms, the admissible transit loss was 75 bulk litres. Thus, the excess transit loss over and above the permissible limit was 4,429 bulk litres on which excise duty involved/recoverable was ₹ 9.27 lakh. This amount was recoverable from the purchaser which is still pending.

After we pointed out this case, the CSE office stated (September 2011) that the loss of spirit was due to a mishap during transit and the write off of the quantity of the spirit lost was pending with the CSE.

6.2.18 Short levy of excise duty

Superintendent of State Excise of Thane

Under the provisions of the Section 105 of the Bombay Prohibition Act, 1949 excise duty is leviable on the manufacturer/importer at the rate notified by the Government from time to time. On beer, the rate of excise duty is dependent on the alcoholic strength. In respect of beer whose alcoholic strength of proof spirit exceeds 8.75° (five *per cent* v/v) the rate of excise duty applicable during the period from March 2007 was 125 *per cent* of manufacturing cost or ₹ 20 whichever is more.

During test of the Import Register in Thane district during October 2008, we noticed that M/s. Wine Enterprises had imported 66,000 bottles (650 ml. each) of beer with strength exceeding 8.75° (five *per cent* v/v) proof spirit in November and December 2007 at manufacturing cost of ₹ 20.825 per bottle. On this the licencee had paid ₹ 13.74 lakh at the rate applicable for mild beer instead of ₹ 17.18 lakh at the prescribed rate for fermented beer. This resulted in short payment of excise duty of ₹ 3.44 lakh. No action was taken by the Department to recover the differential amount.

After we pointed out the case, SPE, Thane accepted the observation and stated that the recovery would be made. However, in the compliance received (September 2011) from the CSEs office it is stated that excise duty had been correctly levied as mild beer had been imported and not strong beer, and this was due to a clerical mistake in preparing the import pass which led audit to believe that fermented beer was imported.

The reply is not tenable as the applicant Wine Enterprises had applied for import of fermented beer (Armstrong Beer of strength 8 *per cent* volume/volume*)*.

6.2.19 Yield of alcohol from molasses and grain

The Maharashtra Distillation of spirit and manufacture of potable liquors rules, 1966 provides that the distillery officer shall furnish a statement in Form XII to the CSE giving details of distilleries where in the out-turn of spirit is less than 42.5 and 36.5 proof litres per quintal of mhowra flowers and molasses, respectively. The form XII also includes details of fermentation and distillation processes, percentage of sugar content in raw materials and yields. The minimum yield of rectified spirit (of strength 1.66 proof litres) for one metric tonne of molasses is 220 bulk litres. For the manufacture of grain based spirit licences were being issued from 1995 onwards.

Our analysis of yield of rectified spirit from molasses for a period of over three to four years (2006-07 to 2009-10) in respect of 16 manufacturers' revealed that the average yield of spirit was to the extent of 243 to 283 bulk litres. The higher yield was probably due to more efficient and modern plants and better manufacturing techniques. Under the circumstances it is necessary to have a relook at the prescribed yield (220 bulk litres) fixed way back in 1966 so that the standard fixed is realistic and the monitoring process is also effective.

We also made an analysis of the yield of grain based rectified spirit in respect of seven manufacturers and found that the average yield ranged from 330 bulk litres in case of South Seas Distilleries and Breweries Pvt. Ltd. and 425 bulk litres in the case of Seagram Distilleries Ltd. However no parameters for yield of rectified spirit (based on the type of grain used) have been prescribed in the rules to ensure better monitoring of the yield and production in the grain based distilleries. There is an urgent need to prescribe the yield for better monitoring.

Licencing

6.2.20 Licencing policy of FL-II (IMFL shop) and CL-III (Country Liquor Shop)

In Maharashtra various types of licences for sale or storage of imported foreign liquor/IMFL (FL I, FL II, FL III), country liquor (CL II, CL III) and retail sale of country liquor in sealed bottles (FL/CL/TOD III) are issued on payment of fee under the provisions of Bombay Foreign Liquor Rules, 1953, and Maharashtra Country Liquor Rules, 1973. These licences are required to be renewed annually by payment of fee. Transfer of licences is also permissible from one name to another under the provisions of the Bombay Prohibition (Privileges Fees) Rules, 1954. The State Government has imposed a ban on issue of fresh licences in respect of FL-II and CL-III in the year 1973-74.

We saw that as per the basic statistics prepared by the CSE, Mumbai in 2005, there were 1,613 FL-II and 3,975 CL-III licencees in existence in September 2005. We noticed that there was a ban on issue of FL-II and CL-III licences from 1973-

74 and no further licences had been issued even though the population of Maharashtra had increased from five crore in 1973-74 to 10 crore in 2001. The Government stated (30 September 2011) that the files relating to imposition of ban on issue of FL II and CL III licences were not available and the ban was continued due to public pressure. The reply is not tenable as licences in respect of sale of IMFL/beer in bars, clubs and beer shoppe were liberally granted during the period. Thus the ban on issue of retail licenses was not in revenue interests of the Government.

Information furnished to audit during the entry conference revealed that there were approximately 65 (FL-II) and 322 (CL-III) defunct licences, due to the dispute among the legal heirs, pending decision of the Government, etc. Due to this 387 retail licences could not be put to use though the population in Maharashtra had increased two fold from 1973 to 2010.

Analysis of the available data received from the CSE, Mumbai, in respect of 31 districts, revealed that during the year 2009-10, the population served per retail outlet in the districts varied from (in respect of FL-II and CL-III) 10,176.92 (Mumbai City) to 34,720.80 (Parbhani). In Sindhudurg district with population of 8,68,825 as per census 2001, there was only one IMFL shop for the entire district during the year 2009-10. As this district is adjacent to Goa where the price of alcoholic beverages is half that of Maharashtra, illegal movement of liquor across the border into Sindhudurg district could not be ruled out as the traders enjoy a huge arbitrage advantage.

We noticed that in 1989 the Minister of Prohibition has stated in Legislature that as long as shops are not opened in Nagpur they shall not be opened elsewhere in the State. This ban was to be reviewed after a year but was not reviewed.

In this regard it is pertinent to mention that in States like Andhra Pradesh (AP) there is a system of auctioning of the licences with a validity period of two years. It was seen that during the year 2010-11 the AP Government had received ₹ 6,904 crore from auction of 6,505 licences. In Maharashtra the revenue realised from issue of all types of licences was ₹ 340.47 crore only, during the year 2009-10. Since imposition of ban on issue of licence for retail trade (FL II and CL III) the population in Maharashtra had increased two fold there would have been a huge demand for retail shops for sale of liquor which would also yield substantial revenue to the Government. Hence,

- The ban on issue of retail licence has not yielded commensurate revenue with the growth of population
- Inaction to allot the defunct licences to new licencees deprived the government of the revenue.
- Shop coverage was not commensurate with size of the district and its population

After we pointed out the above issues, the CSE office stated that ban on grant of new retail licences (FL II and CL III), was a Government policy. It was also stated that fresh retail licences in the nature of FL III, FL IV, FL/BR II, E and

E2 are continued to be issued. However, a suggestion to the Government to overhaul the retail licensing policy has been made.

In the exit conference the Principal Secretary stated issuing new retail licences was highly unpopular move which would meet resentment from all quarters.

The stand of the Government is not tenable firstly because the State Government has not implemented a prohibition policy for the entire state (except Wardha and Gadchiroli). Secondly the licences for bars and clubs were continued to be granted. Thirdly the intention of the government was not to curb or restrict consumption of alcohol. Since the licences were issued way back in 1973-74 the rights are being transferred by way of inheritance or sale and the Government earned meager revenue by way of privilege fee for such transfers.

Government may consider lifting the ban and auctioning of the retail licences as it would be a viable alternative to obviate the situation of defunct licences and at the same time optimize the revenue collection through issue of licences.

6.2.21 Non/short recovery of privilege fees

Under the provisions of the Bombay Prohibition (Privileges Fees) Rules, 1954, privilege fees are payable by the licensees for transfer of licence from one place to another as per Rule 4 or for the admission/ withdrawal of partner or partners as per Rule 5 and 6 of above mentioned Rules. The fees chargeable are regulated through notifications issued by the Government from time to time.

6.2.21.1 During test check of the records of three Excise Officers attached to the Distilleries in Aurangabad and Nashik districts, we noticed that privilege fees for transfer of licence from one name to another, for the periods 2005-06 and 2007-08 to 2008-09, was paid at ₹ 47.63 lakh instead of ₹ 83.43 lakh. This was due to the fact that the privilege fees were paid at the rate applicable to the lower slab. This resulted in short payment of privilege fees of ₹ 35.80 lakh. No demand notices were issued by the concerned excise officers to recover the differential amount.

6.2.21.2 During test check of the challans for payment of privilege fee in two Excise Officers attached to the Distilleries in Aurangabad and Kolhapur districts and the endorsement made in the licence of the manufacturers, we noticed that privilege fees for the year 2008-09 was paid at ₹ 34.43 lakh instead of ₹ 53.11 lakh. This was due to the fact that the privilege fees were paid at the rate applicable to the lower slab. This resulted in short payment of privilege fees of ₹ 18.68 lakh. No demand notices were issued by the concerned excise officers to recover the differential amount.

6.2.21.3 During test check of the Licence Renewal Register of the SPEs at Mumbai City and Nashik, we noticed that privilege fees in three cases for the periods 2008-09 and 2009-10 was paid at ₹ 12.15 lakh instead of ₹ 23.26 lakh, for transfer of licence from one site to another resulting in short payment of

privilege fees of ₹ 11.11 lakh. This was due to the fact that licence fees at higher rate were applicable at the site where the transfer of licences had taken place. In another case in SPE, Pune, there was non-payment of privilege fees of ₹ 1.64 lakh in year 2008-09, for shifting of licence from one place to another. This resulted in non/short levy of privilege fees aggregating to ₹ 12.75 lakh.

After we pointed out these cases, the Department stated that the matter would be verified and necessary action would be taken.

6.2.22 Short recovery of licence fees

Under the provisions of Maharashtra Potable Liquor (Periodicity and Fees for Grant, Renewal or Continuance of Licence) Rules, 1996, the rates of licence fees are notified annually by the Commissioner of State Excise (CSE). In respect of manufacture of country liquor (CL-I) the rate of licence fees depended upon the quantity of bulk litres desired to be manufactured and for wholesale trade of foreign liquor (FL-I) or Country Liquor (CL-II) the rates of licence fees depended upon the quantity of bulk litres desired to be sold. The licence fee was payable in advance. These rates were revised periodically for the years 2005-06 to 2009-10. In case of default in payment of dues, interest at the rate of two *per cent* per month was chargeable on the amounts from the date they became due. In respect of CL-I and FL-I Licence, the manufacture/ trade is subject to physical control by the Excise Officers who are posted in the premises of the country liquor manufacturers and IMFL wholesalers and in respect of CL-II licence the concerned SPEs are required to monitor the sales through the monthly/annual returns filed by the Country Liquor wholesalers.

During test check of Licence Renewal Register and Licence files in of SPEs in six districts[17] along with the sales statement furnished by the manufacturers and wholesalers, we noticed that one manufacturer and seven wholesalers had renewed their licenses during the period 2006-07 to 2008-09 for the subsequent years based on a desired quantity to be manufactured or sold. However, our scrutiny of the database maintained by the SPEs revealed that the actual quantity manufactured/ sold by these licencees (one CL I, four CL II and three FL I) had exceeded the slabs for which licences were renewed during the corresponding previous years. The figures in the database were also cross checked with the concerned excise officers/ range officers for correctness of the data. This resulted in short payment of licence fees aggregating ₹ 9.46 lakh by these eight licensees. No action was taken by the Department to recover the differential amount. Failure of the concerned SPEs to monitor the short payment of licence fees despite the availability of the requisite data with them resulted in short recovery of licence fees.

[17] Akola, Aurangabad, Buldhana, Mumbai (Suburban), Nashik and Pune.

After we pointed out these cases, the CSE office accepted these cases and stated (September 2011) that the recoveries were being effected immediately

6.2.23 Non-recovery of compounding fees

Superintendent of State Excise, Mumbai (Suburban)

Under the provisions of the Section 104 of the Bombay Prohibition Act, 1949, The Government may sanction the acceptance from any person; whose licence, permit, pass or authorization is liable to be cancelled or suspended under the provisions of this Act, a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed as the case may be. For this purpose a register (breach) is maintained in office of the SPE. The District Collector is vested with the powers to adjudicate the case and levy compounding fees based on the presentation of the case made by the concerned SPEs.

During test check of the breach register maintained by SPE, Mumbai Suburban District (MSD), we noticed that as on 31 March 2010, there were 190 cases in respect of which breaches were committed by the licencees during various periods between August 1999 and March 2010. Out of these cases, though compounding fees of ₹ 6.85 lakh were imposed in 50 cases, no recovery has been effected, in 61 other cases the action is pending at the Collectorate level to adjudicate the cases and levy penalty and in remaining 79 cases action has not been initiated.

After we pointed out these cases the CSEs office stated (September 2011) that necessary action for recovery of compounding fees would be taken.

6.2.24 Conclusion

The receipts from State excise constituted third largest component of the tax revenue receipts of the State. We noticed in audit that there was no canalizing body in the State similar to Corporations setup in the Southern States for streamlining the supply of liquor and regulating the MRP. Though the government was aware of MRP violation on sale of country liquor, they ignored the same/took a lenient view by not finally adjudicating on the offences. There were 387 defunct licences (FL-II/CL-III) which could not be put to use. There were cases of non-submission of periodic returns, inadequate internal audits and lack of action on observations made in internal audit. There was inadequate action on cases detected by the flying squads and absence of follow-up with the Government Chemical Analyser for reports leading to the cases being decided by the courts against the Government. There were cases relating to inadmissible exemption from payment of excise duty, non/short recovery of privilege fees, licence fees and non/short levy of excise duty.

6.2.25 Recommendation

The Government may consider:

- ***putting in place a system to regulate the sale of liquor, fixing MRP and eliminating sale of illicit, spurious and non-duty paid liquor, thereby augment the Government revenue.***

- ***strengthening the internal control mechanism of departmental inspections and internal audit for adequate safeguards against non/short realization, evasion of duty, fees, etc.***

- ***final adjudication of offences of sale of country liquor above approved MRP.***

- ***lifting the ban on retail licenses and auctioning of the licences which would be a viable alternative to obviate the situation of defunct retail licences and at the same time optimize the revenue collection through issue of licence.***

CHAPTER-VII : OTHER TAX AND NON-TAX RECEIPTS

7.1 Results of audit

We reported short levy, excess grant of refund, loss of revenue etc., amounting to ₹ 343.99 crore in 3,993 cases as mentioned below, on the basis of test check of the records relating to entertainment duty, electricity duty, state education *cess*, employment guarantee *cess*, tax on buildings (with larger residential premises), repair *cess* and profession tax conducted during the year 2010-11:

(₹ in crore)

Sl. No.	Nature of receipts	No. of cases	Amount
1.	Non/short recovery of electricity duty, inspection fees and excess refund	1,076	252.44
2.	State education *cess* and employment guarantee *cess*	220	45.35
3.	Entertainment duty	1,134	3.68
4.	Tax on buildings (with larger residential premises)	477	1.24
5.	Profession tax	1,044	0.88
6.	Repair *cess*	15	0.04
7	Other Receipts	27	40.36
	Total	**3,993**	**343.99**

In response to our observations made in the local audit reports during the year 2010-11 as well as during earlier years, the concerned Departments accepted underassessment, short levy, etc. and recovered ₹ 259.21 crore in 1,368 cases of which 244 cases involving ₹ 37.05 lakh related to 2010-11 and the rest to earlier years.

A few audit observations involving ₹ 2.06 crore are included in the succeeding paragraphs, against which ₹ 21.86 lakh had been recovered upto May 2011.

SECTION A
ENTERTAINMENTS DUTY

7.2 Audit observations

During scrutiny of records in the offices of the Dy. Collectors/Resident Deputy Collectors/Taluka Magistrates/Entertainment Duty Officers, we noticed cases of non-observance of provisions of the Acts and Rules as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. The Government may evolve a suitable mechanism so that mistakes can be avoided, detected and corrected.

7.3 Non/short recovery of entertainment duty

The Bombay Entertainments Duty (BED) Act, 1923, provides for levy and collection of entertainment duty (ED) from cable operators at the prescribed rates. The Entertainment Duty Officers did not take any action for recovery of ED from the cable operators which resulted in non-realisation of entertainment duty of ₹ 1.76 crore.

7.3.1 Non/short recovery of entertainment duty from cable operators

Deputy Collectors (DCs)/Resident Deputy Collectors (RDCs)/Taluka Magistrates (TMs)/ Entertainment Duty Officers (EDOs)

Under Section 3(4) of the BED Act, 1923, ED was payable by the cable operators at flat rates of ₹ 30, ₹ 20 or ₹ 10 per television set per month with effect from 1 April 2000 depending on whether the area is a municipal corporation (MC), A and B class municipality or other area. The rates were revised to ₹ 45, ₹ 30 or ₹ 15 per television set per month with effect from June 2006. These cable operators are required to file monthly returns in form 'E' alongwith the payment of ED with the Collector. ED is payable on or before the 10th of the subsequent month to which it relates. Interest at the rate of 18 *per cent* per annum for the first 30 days and 24 *per cent* thereafter is to be levied in case of default in payment.

During test check of recovery registers of 17 units[1] in seven districts[2], between January 2009 and September 2010, we noticed that ED amounting to ₹ 1.72 crore was not paid by 435 registered cable operators. However, 10 registered cable operators had not paid ED amounting to ₹ 4.39 lakh for part of the periods

[1] Deputy Collectors: Mumbai-Zone VI, VIII and X; Resident Deputy Collectors: Akola, Amravati, Chandrapur, Gondia and Nashik; Entertainment Duty Officers: Zone B, M and O Pune and Taluka Magistrate: Andheri-Zone I, II and IV; Borivali- Zone V; Mulund-Zone IX and X: at Mumbai.

[2] Akola, Amravati, Chandrapur, Gondia, Mumbai, Nashik and Pune.

between April 2007 and March 2010. These cable operators had not paid/submitted the returns in Form 'E'. The concerned officers had neither kept track non-receipt of returns in form 'E' nor reviewed the recovery register. Due to this no demand notices for recovery of ED from cable operators were made by the concerned DCs, RDCs, EDOs and TMs. This resulted in non-recovery of ED aggregating ₹ 1.76 crore from 445 cable operators. Besides, interest at the prescribed rates was also leviable.

After we pointed out these cases, between February 2009 and October 2010, the Department accepted the observations and recovered ED amounting to ₹ 21.86 lakh from 75 cable operators, between March 2009 and December 2010. A report on recovery of the balance amount has not been received (February 2012).

The Dy. Collector (Entertainment Duty), Mumbai City stated (June 2011) that on the basis of the audit observations the prescribed returns (Form'E') were called for from the cable operators and payment of ED was demanded. This clearly indicates that the control mechanism was weak as action was not taken till it was pointed out by us.

The Government in response to our letters in May 2011 and June 2011 on this issue stated (July 2011), that all the Divisional Commissioners had been instructed to ensure that demand notices for recovery of ED are made and also initiate action to institute a mechanism to ensure that recoveries are effected.

SECTION B
ELECTRICITY DUTY

7.4 Electricity Duty

Non-observance of the provisions of the Bombay Electricity Duty Act, 1958, resulted in non-remittance of electricity duty and non-levy of interest of ₹ 5.45 crore on delayed remittance of electricity duty.

7.4.1 Non-levy of interest on delayed remittance of electricity duty

Chief Engineer (Electrical), Chembur, Mumbai and Electrical Inspector (EI) (Duty) Mumbai Central, Mumbai

Under Section 4 of the Bombay Electricity Duty Act read with Rule 2 of the Bombay Electricity Rules, 1962, every licensee who supplies electricity to consumers is required to collect duty from the consumers and pay it to the State Government on or before the last date of the succeeding calendar month in which the bills are raised. Further, as per Section 8 of the said Act, in case of default, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment. The Government/private companies are required to submit monthly and quarterly returns giving details of payment made into the treasury and outstanding dues to the EIs who in turn is required to submit the return to the Superintendent Engineer and therefrom to the Chief Engineer (Electrical), Mumbai. The Department keeps a watch on recovery of dues through these returns.

During test check of the records of the unit in October 2010, we noticed that between April 2009 and March 2010, the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected electricity duty aggregating ₹ 1,476.68 crore from the consumers, out of which ₹ 482.46 crore collected in April 2009, September to December 2009 and February 2010 were remitted into the Government treasury after delays ranging from one to 38 days. Interest amounting to ₹ 5.45 crore on the delayed payment of electricity duty was neither levied nor demanded by the Chief Engineer (Electrical), Mumbai from MSEDCL. Failure of the office of the Chief Engineer (Electrical) to scrutinise the returns to detect delayed remittance of electricity duty resulted in non-levy of interest amounting to ₹ 5.45 crore.

After we pointed out the matter in October 2010, the Chief Engineer, Electrical, Mumbai stated (October 2011) that MSEDCL has been informed to pay the interest on delayed remittance and also intimated the Energy Department about the recoverable amount in September 2011. Further progress in the matter is awaited (February 2012).

We reported the matter to the Government/Department in June 2011; their reply is awaited (February 2012).

7.4.2 Non-remittance of electricity duty

During test check of the records in November 2010, we noticed from the return 'C' submitted by M/s. Tata Power Company Ltd. (TPCL) to the EI, for the quarter ending January to March 2010, that out of electricity duty of ₹ 32.37 crore collected during the said quarter (aggregating to ₹ 41.99 crore after considering the unpaid amount of the earlier quarter), only ₹ 25 crore was paid. This resulted in non-payment of electricity duty of ₹ 16.99 crore. The matter regarding non-payment of electricity duty was not taken up with TPCL by the EI, Mumbai. Further, interest at prescribed rates are also leviable.

After we pointed out the case in June 2011, the Chief Engineer (Electrical) Mumbai stated that the concerned EI, Mumbai had issued letters to TPCL in January and February 2011. In response to these letters TPCL reported (June 2011) that the outstanding electricity duty is ₹ 9.32 crore instead of ₹ 16.99 crore. The TPCL had also furnished the details in August 2011 but the same did not tally with the records of EI, Mumbai, hence, the records have been called for from TPCL for verification, a report of which was awaited (February 2012).

It is pertinent to mention here that though 23 months have elapsed since the quarterly returns were received and eight months have passed since audit brought this matter to the notice of the Department, the exact amount of electricity duty due to be paid by TPCL was not known. Failure to verify the returns submitted by the Company by the concerned EI had resulted in this situation.

We reported the matter to the Government in June 2011; their reply is awaited (February 2012).

7.5 Tax on sale of electricity

Non-observance of the provisions of the Maharashtra Tax on Sale of Electricity (TOS) Act, 1963, resulted in non-levy of interest of ₹1.09 crore of tax on sale of electricity.

7.5.1 Non-levy of interest on delayed remittance of tax on sale of electricity

Chief Engineer (Electrical), Chembur, Mumbai

Under Section 3 and 4 of the Maharashtra Tax on Sale of Electricity Act, 1963, every bulk licencee shall pay tax on or before the last date of the succeeding calendar month in respect of all his sales of energy in bulk. Further, in case of failure to pay the tax on sale of electricity collected by the due date, interest at the rate of 18 *per cent* per annum for the first three months at 24 *per cent* per annum thereafter is chargeable on the amount of tax for remaining unpaid till the date of payment.

During test check of the records of the unit in October 2010, we noticed that between April 2009 and March 2010, the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected tax on sale of electricity aggregating ₹ 258.02 crore from the consumers,

out of which ₹ 86.83 crore collected in April 2009, September to December 2009 and February 2010 were remitted into the Government treasury after delays ranging from one to 38 days. Interest amounting to ₹ 1.09 crore on the delayed payment of tax on sale of electricity duty was neither levied nor demanded by the Chief Engineer (Electrical), Mumbai from MSEDCL.

After we pointed out the matter in October 2010, the Chief Engineer, Electrical, Mumbai stated that the interest on delayed payment of tax on sale of electricity would be recovered. Further reply is awaited (February 2012).

We reported the matter to the Government in June 2011, their reply is awaited (February 2012).

7.6 Non-recovery of inspection fees

Electrical Inspectors (EI) at Bandra (East), Mumbai, Beed, Chandrapur, Hingoli, Latur, Parbhani and Solapur

Under Rule 4 of the Indian Electricity Rules (IER), 1956, Inspection fees are required to be paid by the consumers prior to or at the time of or within 10 days from the date of Inspection, examination, or test of electrical installations. As per notification No. IEA-2008/CR-79/NRG-4 dated 4.2.2010, the fee payable for inspection, examination or test of any electrical installation, appliance or apparatus, etc. should be paid prior to or at the time of or within 20 days from the date of such inspection. If for any reason the fee is not paid by the consumer upto or within 20 days from the date of inspection, examination or test, the EI may direct the licencee to disconnect the supply to the installation of such consumer or recover the same along with the energy bills. The position of recovery of inspection fees are watched through quarterly returns sent by the EIs to the Superintending Engineer (SE) and therefrom to the Chief Engineer.

During test check of the records of seven offices in seven[3] districts, between July 2010 and December 2010, we noticed that inspection fees aggregating ₹ 30.26 lakh for the inspection of electrical installation carried out during 2009-10 were not paid by 134 consumers. The Electrical Inspectors had not recovered the amount from the consumers. Failure of the Department to periodically review the register to detect non-payment of inspection fees by the consumers and ineffective monitoring at the level of SE and CE resulted in non-realisation of inspection fees amounting to ₹ 30.26 lakh.

After we pointed out these cases, the EIs accepted the observation and stated that the recovery would be made. A report on recovery is awaited (February 2012).

Similar observation was made in para 6.10 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 wherein the

[3] Beed, Chandrapur, Hingoli, Latur, Mumbai, Parbhani and Solapur.

Chief Engineer (Electrical) had stated that the recoveries were being watched through the returns submitted by the EIs as well as the instructions given by the Superintendent Engineer in the review meeting as well as inspection of the offices of the EIs. A recommendation was also given to devise a suitable mechanism to strengthen the existing system to ensure that inspection fees are recovered in time. However, recovery process continues to be slow.

We reported the matter to the Government in April 2010 and January 2011, their reply is awaited (February 2012).

(Mala Sinha)
Principal Accountant General (Audit)-I,
Maharashtra

Mumbai,
The

Countersigned

(VINOD RAI)
Comptroller and Auditor General of India

New Delhi,
The

ANNEXURE-I

Statement showing auditable units, units planned and audited during the year 2011

(Reference : Paragraph 1.4)

Sr. No	Nature of receipts	Total No. of auditable units					No. of units planned for audit					No. of units audited				
		A	B	T	Q	Total	A	B	T	Q	Total	A	B	T	Q	Total
1	Sales tax, VAT	317	407	23	0	747	317	78	0	0	395	309	85	0	0	394
2	Motor Vehicle Tax	47	2	0	0	49	47	1	0	0	48	47	1	0	0	48
3	Land Revenue	34	120	772	0	926	34	68	30	0	132	33	68	37	0	138
4	Stamp duty	181	97	98	0	376	181	51	10	0	242	181	51	3	0	235
5	State Excise	34	0	143	0	177	34	0	67	0	101	34	0	62	0	96
6	Entertainments duty	74	0	3	310	387	74	0	0	87	161	74	0	0	87	161
7	Profession tax	0	0	75	0	75	0	0	37	0	37	0	0	37	0	37
8	Repair Cess	1	0	10	0	11	1	0	6	0	7	1	0	6	0	7
9	Education Cess and Employment Guarantee Cess	3	0	51	0	54	2	0	27	0	29	2	0	27	0	29
10	Residential Premises Tax	2	0	42	0	44	1	0	24	0	25	1	0	24	0	25
11	Electricity Duty	46	0	0	0	46	46	0	0	0	46	46	0	0	0	46
	Total	739	626	1,217	310	2,892	737	198	201	87	1,223	728	205	196	87	1,216

A- Annual, B-Biennial, T- Triennial, Q-Quadrennial

ANNEXURE - II

Cross-verification of declaration forms

(Reference : Paragraph 2.2.10.1 to 2.2.10.14)

Mumbai Office				(₹ in lakh)
Form type	Paragraph no	No of dealers	No of forms	Potential tax revenue involved
'C'	2.2.10.1	3	3	8.78
'C'	2.2.10.2	4	4	
'C'	2.2.10.3	9	9	51.88
'C'	2.2.10.4	34	50	383.00
'C'	2.2.10.5	2	2	4.08
'C'	2.2.10.6	12	13	
'C'	2.2.10.7	3	3	
'C'	2.2.10.8	22	28	
Total C' Form		**89**	**112**	**447.74**
'F'	2.2.10.9	2	6	10.11
'F'	2.2.10.10	3	18	
'F'	2.2.10.11	5	8	21.01
'F'	2.2.10.12	1	5	7.28
'F'	2.2.10.13	2	3	
Total F Form		**13**	**40**	**38.40**
Total Mumbai		**102**	**152**	**486.14**

Nagpur Office				(₹ in lakh)
Form type	Paragraph no	No of dealers	No of forms	Potential tax revenue involved
'C'	2.2.10.1	4	6	74.28
'C'	2.2.10.2	111	218	
'C'	2.2.10.3	1	1	5.68
'C'	2.2.10.5	1	1	6.20
'C'	2.2.10.7	6	8	
'C'	2.2.10.8	77	88	
Total C' Form		**200**	**322**	**86.16**
'F'	2.2.10.9	1	12	52.67
'F'	2.2.10.10	14	28	
'F'	2.2.10.14	2	2	69.02
Total F Form		**17**	**42**	**121.69**
Total Nagpur		**217**	**364**	**207.85**

Consolidation

(₹ in lakh)

Form type	Paragraph no	No of dealers	No of forms	Potential tax revenue involved
Total 'C' Form (Mumbai)		89	112	447.74
Total 'F' Form (Mumbai)		13	40	38.40
Total Mumbai		**102**	**152**	**486.14**
Total 'C' Form (Nagpur)		200	322	86.16
Total 'F' Form (Nagpur)		17	42	121.69
Total Nagpur		**217**	**364**	**207.85**
Grand total		**319**	**516**	**693.99**

ANNEXURE -III
Government Resolutions applicable to the Performance Audit
(Reference: Paragraph 4.2.3)

Sr. No.	G.R. Date	Subject
1	21-11-1957	Regarding sale/allotment of Class-II land and levy and recovery of unearned income
2	4/2/1983	Policy of grant of Government lands to Local Bodies, Government undertakings and Corporate bodies
3	8/2/1983	Policy on allotment of Government Lands at Revenue free/concessional rates
4	8/9/1983	Persons holding agriculture land as occupant class-II seeking permission to sell agriculture land.
5	11/5/1984	Occupancy rate for school education society at 25 *per cent* of the market value as on 1st February 1976
6	30-06-1992	Occupancy rate for college education society at 50 *per cent* (urban)/25 *per cent* (rural) of the market value which existed five years back.
7	22-02-1996	Maintenance of land distribution register containing the details of allotment of Government land by Collector.
8	8/7/1999	The annual lease rent shall be calculated at prime lending rate declared by the State Bank of India from time to time on full market value of land
9	9/7/1999	Directives for allotment of Government land to various Co-operative Housing Scheme
10	5/10/1999	Policy for fixation of lease rent and extension of lease period for Mumbai City and Mumbai Suburban District
11	29-05-2006	Mandatory adoption of Ready Reckoner rates for computing the value of land for all purposes related to levy of revenue on allotment of land
12	4/8/2006	Permission to Gymkhana & Sports Institution for use of hall and open space for marriage, reception functions, exhibition
13	25-07-2007	Grant of land at concessional rate, the occupancy price of land shall be 20 *per cent* of the market value of land determined as per rate prescribed in the Ready Reckoner

ANNEXURE IV

Non-resumption of Government land involving breach of conditions

Reference Para 4.2.13

Sr. no.	Name of Allottee/ Place	Area (in sqmtrs.)/ Location	Purpose/ date of allotment	Occupancy price/ Lease rent	Present position	Market value (₹ in crore)	Date of *Talathis* report
1.	Bharti Vidyapeeth, Pune	19,200/ Lohgaon, Taluka-Haveli	Education/ 3-11-2004	Revenue free/ occupancy rights	Vacant land (not yet developed) for 6 years.	4.80	1-06-2011
2.	Defence Personnel Co-operative Housing Society, Pune	18,600/ Lohgaon, Taluka-Haveli	Housing/ 3-10-2005	Concessional rate/ occupancy rights	Vacant land (not yet developed) for more than 5 years.	4.65	1-11-2010
3.	Trimurthi Adivasi Sahakari Gruhrachana Sanstha, Pune	4,691/ Dighi, Taluka-Haveli	Housing/ 16-04-2001	Concessional rate/ occupancy rights	Vacant land (not yet developed) for 10 years.	0.82	1-11-2010
4.	Kannad Sangh, Pune	33,600/ Lohgaon, Taluka-Haveli	Education/ 3-10-2005	Revenue free/ occupancy rights	vacant land (not yet developed) for more than five years	8.40	1-11-2010
5.	District Judge Society, Pune	34,700/ M. Karve Nagar, Taluka-Haveli	Housing/ 19-05-1965	Revenue free/ occupancy rights	vacant land (not yet developed) for 45 years	50.32	27-10-2010
6.	Pune International Marathon Trust, Pune	15,600/ Dhayari, Taluka-Haveli	Other purpose/ 17-04-2003	Revenue free/ occupancy rights	vacant land (not yet developed) eight years	4.68	----
7.	Bharat Dalit Sewa Sangh, Pune	9,712/ M. Karve Nagar, Taluka-Haveli	Educational/ Ladies hostel /3-05-1961	Revenue Free	vacant land (not yet developed) for 49 years	14.08	27-10-2010
8.	Defence Civilian Co-operative Housing Society, Thane	5,780/ Kolshet, Taluka-Thane	Construction of house/ 7-08-93	₹ 60,471/	vacant land (not yet developed) for 17 years	4.47	As per reply to audit query
9.	Mahatma Gandhi Vidya Mandir, Malegaon, Nashik	10,800/ Soygaon, Taluka-Malegaon	Garden and Swimming Pool/ 07-02-57	₹ One per annum	Not used for the purpose. No development and land is lying vacant 54 years.	0.14	14-02-2011
10.	The School Board, Nashik	24,090/ Mohadi, Taluka-Dindori	Agricultural School/ 30-9-58	₹ One for 5 years	Not used for the purpose. No development and land is lying vacant for 42 years.	0.72	13-06-2011
11.	Karmaveer Kakasaheb Wagh Education Society, Nashik	1,54,500/ Kasbe Sukene, Taluka-Niphad	Engineering College/ 17-2-87	Revenue Free	Used for farming and agriculture college for 23 years.	0.38	15-06-2011
	Total	**3,31,273**				**93.46**	

ANNEXURE-V
Non-recovery of unearned income
Reference Para 4.2.16.2

Sr. No.	Plot no.	Original Allotee	Present Allotee	Area (In sq mtrs.)	Market Value* (Amount in crore)	Unearned Income (50 *per cent* of market value)
1.	58AB/	Frasan Turner and Company	The Health Product Pvt. Ltd.	770	2.45	1.23
2.	40,41 ABCD	M/s Maltican Pvt. Ltd.	Jai Processing Product Pvt. Ltd.	3,853	12.25	6.12
3.	143 BCD	M/s Fabrica and Company	Gupta Motors and Newtech Engineering	1,180	3.75	1.88
4.	36A	Datta Metal Industries	ILL Guard India Pvt. Ltd.	315	1.00	0.50
5.	92D	M/s Bombay Spring Works Pvt. Ltd.	Rexnord Electronics and Control Ltd.	532	1.69	0.84
6.	92 AB	M/s Sunrise Electrical Corporation	Wallkover Industries and Royal TY Industries	856	2.72	1.36
7.	35A	Society Watch Company	Eleesa Products	546	1.74	0.87
8.	29AB	M/s Alcon Plastics Pvt. Ltd.	Leelavati Overseas Company	818	2.60	1.30
9.	8ABCD	M/s Forako	Trinity Consortium Development Pvt. Ltd.	1,900	6.04	3.02
10.	14ABC	M/s Kanti Thermo Ekvi Pvt. Ltd.	Alf Engineering Pvt. Ltd.	1,213	3.86	1.93
11.	29CD	M/s Eastern Industrial Corporation	Jet Pack Machine Pvt. Ltd.	975	3.10	1.55
12.	20ABCD	M/s M.S.N.Engineer	Fashion Fantasy	1,719	5.47	2.74
13.	26ABCD	Protecto Engineering Pvt. Ltd.	Sovelo Apliance India Ltd.	1,803	5.73	2.86
14.	132D	M/s M.S.N.Engineer	Altop Industries	532	1.69	0.85
15.	32ABCD	HTC Diesel Pvt. Ltd.	Mangal Richlinense Pvt. Ltd.	1,712	5.44	2.72
16.	7ABCD	M/s Kisko Mills Pvt. Ltd.	Hello Baby Pvt. Ltd.	1,928	6.13	3.06
17.	16ABCD	Fan Manufacturing Company	Angel Containers Pvt. Ltd., Alparu Containers Pvt. Ltd., Aryan Metal Pvt. Ltd. and Aolan Engineering Pvt.Ltd.	2,192	6.96	3.48
Total				**22,84**	**72.62**	**36.31**

* Rate for open land: ₹ 31,800 per sq. mtrs. (Zone no. 79/354, page no. 90 and 91, ready reckenor–2011/Rate applicable to CTS No. 440 is considered for valuation treated that above properties fall near to this CTS No.

ANNEXURE-VI
Short realisation of revenue due to reduction of rates in ready reckoner
Reference Para 4.2.17

Sr. No.	Survey No.	Area (In sqmtr.)	Rates as per R.R 2018 (₹)	Valuation as per R.R. 2018 (₹ in lakh)	Rates as per R.R 2000 (₹)	Valuation as per R.R. 2000 (₹ in lakh)	Amount to be considered (₹ in lakh)
Village Kolshet							
1	156/1	1,880	21,000	394.80	22,150	416.42	416.42
2	157/2	2,070	21,000	433.23	22,150	456.95	456.95
3	159/1	7,710	7050	422.79	8100	485.76	485.76
4	165/2	3,110	7050	211.43	8100	242.92	242.92
5	172/2	2,200	7050	153.69	8100	176.58	176.58
6	173/1	7,970	7050	435.62	8100	500.50	500.50
7	177/1	860	7050	60.63	8100	69.66	69.66
8	180/1	6,900	7050	382.82	3200	173.76	382.82
9	180/4	1,090	7050	76.85	3200	34.88	76.85
10	182/1	4,560	7050	285.38	3200	129.54	285.38
11	182/4	5,210	7050	322.04	3200	146.18	322.04
12	183/4	602	7050	42.44	3200	19.26	42.44
13	188/5	630	7050	44.42	3200	20.16	44.42
14	136/15	2,000	7050	141.00	8100	162.00	162.00
15	168/2	7,060	7050	390.71	3200	177.34	390.71
16	168/3	1,060	7050	74.73	3200	33.92	74.73
17	198/2	2,100	7050	147.35	8100	169.29	169.29
18	215/1	1,960	7050	138.18	3200	62.72	138.18
19	215/3	530	7050	37.37	3200	16.96	37.37
20	215/4	741	7050	52.24	3200	23.71	52.24
21	218/3	450	7050	31.73	3200	14.40	31.73
22	218/4	514.57	7050	36.28	3200	16.47	36.28
23	218/6	530	7050	37.37	3200	16.96	37.37
24	218/8	430	7050	30.32	3200	13.76	30.32
25	221/2	350	7050	24.68	3200	11.20	24.68
26	279	30,760	7050	1,371.65	8100	1,575.94	1,575.94
27	298/3	22,910	7050	1,039.59	3200	471.87	1,039.59
28	299	25,440	7050	1,146.61	3200	520.45	1,146.61
Total		**1,41,627.57**		**7,965.95**		**6,159.56**	**8,149.78**

(Contd.)

ANNEXURE-VI (Contd.)
Short realisation of revenue due to reduction of rates in ready reckoner
Reference Para 4.2.17

Sr. No.	Survey No.	Area (In sqmtr.)	Rates as per R.R 20 (₹)	Valuation as per R.R. 20 (₹ in lakh)	Rates as per R.R 200 (₹)	Valuation as per R.R. 200 (₹ in lakh)	Amount to be considered (₹ in lakh)
Village Kvesar							
1	58/1	510	7950	40.55	4500	22.95	40.55
2	58/3	1,010	7950	80.30	4500	45.45	80.30
3	58/4	1,590	7950	126.41	4500	71.55	126.41
4	63/3	6,320	7950	399.41	4500	226.08	399.41
5	66/7	2,940	7950	226.26	4500	128.07	226.26
6	66/9	860	7950	68.37	4500	38.70	68.37
7	280	3,500	7950	266.33	6500	217.75	266.33
8	281	5,100	7950	356.16	6500	291.20	356.16
9	312	3,280	7950	250.58	3200	100.86	250.58
10	313	10,080	7950	560.32	3200	225.54	560.32
11	314	3,870	7950	292.80	3200	117.86	292.80
12	315	23,995	7950	1,224.06	4500	692.87	1,224.06
13	316	28,380	7950	1,433.23	4500	811.26	1,433.23
14	317	30,050	7950	1,512.89	4500	856.35	1,512.89
15	318	22,260	7950	1,141.30	4500	646.02	1,141.30
16	319	28,860	7950	1,456.12	4500	824.22	1,456.12
17	320	25,620	7950	1,301.57	4500	727.02	1,301.57
Total		1,98225		10736.66		6,03.75	10736.66

(₹ in lakh)

	Area (In sqmtr.)	Valuation as per R.R. 20	Valuation as per R.R. 200	Amount to be considered	Actually Paid	Loss of Government Revenue
Total for Kshet Village	141,627.57	7,965.95	6,159.56	8449.78	6,735.14	1,714.64
Total for Kvesar Village	198225.0	10736.66	6,03.75	10736.66	6,03.99	4,642.67
Grand Total	30,522.57	1870.61	12,20.31	19,16.44	12,89.13	6,357.31

Annexure-VII
Chronology of events relating to Development of hill station at Lavasa, Pune

(Reference: Paragraph 4.3.2)

Date	Sanction / GR / Order	Details
26-11-1996	No.TPS1896/1231/CR-123/96/UD-13 dated 26-11-1996 of UDD	Special regulations for development of tourist resorts / holiday homes / township in hill station type areas. (One of the regulations being that area should be developed between 400 and 2000 ha)
25-11-1997	No.TPS1895/227/CR-26/95/UD-13 dated 25-11-1997 of UDD	Approval for Regional Plan of Pune District by UDD
7-4-1999	GR No.MTC-0399/CR-201/Tourism dated 7-4-1999	Status of 'industry' for 'tourism'
8-7-1999	GR No.MTC-0399/CR-142/Tourism dated 8-7-1999 of Tourism Department	New Package Scheme of Incentives for tourism projects 1999 (Activity of development of hill station added)
21-1-2000	Application from M/s Aqualand (India) Ltd. to Chief Secretary, GOM	Permission sought to acquire land for development of hill station around village Vegare (Tal.Mulshi)
15-3-2000	Application of M/s Pearly Blue Lake Resorts Pvt Ltd to Collector, Pune	Permission sought to acquire 2000 ha of land around villages Dasave, Gadle, Moshe, Pathanshet, Tav and Sakhare in Tal.Mulshi
17-3-2000	Application of M/s Pearly Blue Lake Resorts Pvt Ltd to Pr.Secretary, UDD	Permission sought to acquire 2000 ha of land around villages Dasave, Gadle, Moshe, Pathanshet, Tav and Sakhare in Tal.Mulshi
21-6-2000	M/s Pearly Blue Lake Resorts Pvt. Ltd. letter to Pr. Secretary, UDD	Requested that 18 villages (Warasgaon, Saiv Badruk, Mose Badruk, Patharshet, Bembatmal, Palse, Admal, Padalghar, Dasave, Bhoini, Mugaon, Bhode, Ugawali, Dhamanhol, Koloshi, Gadle, Sakhri and Wadawali) be notified as hill station type areas.
15-7-2000	Notice No. TPS-1800/1004/CR106/2000/UD-13 dated 15-7-2000 of UDD	Notice to designate land in 20 villages which include Lavharde and Vegre in addition to 18 villages as requested on 21-6-2000 (by modifying Pune Regional Plan) issued by UDD
12-12-2000	Registrar of Companies, Pune	Certificate of incorporation of "The Lake City Corporation Private Limited" from "Pearly Blue Lake Resorts Private Limited"

Contd..

Date	Sanction / GR / Order	Details
19-12-2000	M/s Pearly Blue Lake Resorts Pvt. Ltd. letter to Secretary, UDD	Informing change in name to "The Lake City Corpn. Pvt. Ltd."
8-2-2001	M/s Pearly Blue Lake Resorts Pvt. Ltd. letter to Secretary, UDD	Reminded for permission
3-3-2001	M/s Lake City Corpn. Pvt Ltd. letter to Secretary, UDD	Submitted Environmental Report prepared by their consultant (Oasis Environmental Consultants)
29-3-2001	M/s Lake City Corpn. Pvt Ltd. letter to Secretary, UDD	Reminder to the Government for the project approval
30-5-2001	No.TPS/18961/1231/CR-123A/96/UD-13 dated 30-5-2001	Sanction of modification in special regulations (limit of 2000 ha removed etc.) by UDD
31-5-2001	No.TPS-1800/1004/CR-106/2000/UD-13 dated 31-5-2001 of UDD	Approval of modification of Regional Plan designating 20 villages as mentioned in notice dated 15-7-2000 by UDD
1-6-2001	No.TPS-1800/1004/CR-106/2/2000/UD-13 dated 1-6-2001 of UDD	Declared 18 villages as requested by M/s Pearly Blue Lake Resorts on 21-6-2000 as land suitable for development of hill station as per Regulation No.1 of UDD
27-6-2001	No.TPS-1800/1004/CR 106-1/2000/UD-13 dated 27-6-2001	Approval in principle to M/s Lake City Corporation Private Limited by UDD
Mah 24 of 2002	UDD	Addition of Section 40(1B) in MRTP Act, 1966 authorising State Government to appoint any authority, agency Company or Corporation as SPA for any notified area by UDD
28-5-2002	Minister of Irrigation Department, GOM	Proposal for approval of construction of bandharas in the catchment area as well as in the submergence area which was cleared by irrigation minister
30-5-2002	No.BO/TB/RO(HQ)/Pune-163/444 dated 30-5-2001	NOC in respect of pollution by MPCB
20-6-2002	Resolution in meeting No.28 dated 20-6-2002	Approval of construction of bandharas by MKVDC
22-8-2002	Lease agreement	Lease agreement between "The Lake City Corporation Private Limited" and Executive Engineer, Khadakwasla Irrigation Division for 141.15 hectares of MKVDC land
5-12-2002	No.DI/land permission/255/2002/C-16983 dated 5-12-2002	Permission for purchase of 400 hectares of agriculture land granted by Directorate of Industries under MTAL Act, 1948 as Tourism is an industry in the State

Contd..

Date	Sanction / GR / Order	Details
11-12-2002	No.DI/land permission/255/2002/C-1732 dated 11-12-2002	Corrigendum increasing the area of agricultural land (to be purchased) from 400 hectares to 4000 hectares under MTAL Act, 1948 issued by Director of industries
16-6-2004	M/s Lavasa Corpn. Ltd to Pr. Secretary, UDD	Intimated change in name from M/s Lakecity Corporation Pvt. Ltd. to M/s Lavasa Corporation Ltd.
12-6-2008	No.TPS-1808/449/CR-93/08/UD-13 dated 12-6-2008	Notification appointing LCL as SPA issued by UDD
25-11-2010	No.F.No.19-58/2010-IA-III dated 25-11-2010	Show cause notice from MoEF, Government of India to LCL for violations of provisions of EIA notification 1994 (as amended in 2004 and 2006)
22-12-2010	Writ Petition No.9448 of 2010	Writ Petition by LCL in Bombay High Court
5 to 7 -1-2011	Period of visit	Visit of experts from the State Environment Impact Assessment Authority, Central Environment Appraisal Committee and MoEF to Lavasa City
17-1-2011	No.F.No.19-58/2010-IA-III dated 17-1-2011	Show cause notice from MoEF, Government of India to LCL for violations of provisions of EIA notification 1994 (as amended in 2004 and 2006)
10-6-2011	No.F.No.21-9/2011-IA-III dated 10-6-2011	Direction from MoEF, Government of India to GOM to initiate necessary action under Environment (Protection) Act, 1986
9-11-2011	No.F.No.21-9/2011-IA-III dated 9-11-2011	Environmental clearance from MoEF, Government of India to LCL with certain terms and conditions.

ANNEXURE VIII
Short levy of unearned income
(Reference :- Paragraph 4.5.1)

(₹ in lakh)

Sr.. No.	Name of landholder (Seller)	Commissioner's order No.	Market value (MV)	Sale deed document no./year	Price realised through sale (conside-ration)	Amount considered (highest of col. 4 &) minus occupancy price paid	Use of land (A/ NA)*	*per cent* for Unearned Income on column 7	Unearned Income		
									Leviable (col. 7 x 9)	Levied	Short levy (col. 11-10)
1	2	3	4	5	6	7	8	9	10	11	12
1	Mudhit Gupta	CR 119/07– 18-04-07	15.52	2575/2007	175.00	161.24	A	50%	80.62	0.88	79.74
2	Tukaram L. Kotekar	CR-42 /04– 11-06	0.66	1099/2007	7.50	7.50	NA	75%	5.63	0.50	5.13
3	Bhimabai L. Patil & seven others;	CR-42 /04– 11-06	0.66	1100/ 2007	7.50	7.50	NA	75%	5.63	0.50	5.13
4	Santosh N. Patil	CR-42 /04– 11-06	0.66	1101/ 2007	7.50	7.50	NA	75%	5.63	0.50	5.13
5	Yashwant N. Patil	CR-42 /04– 11-06	0.66	1102/ 2007	7.50	7.50	NA	75%	5.63	0.50	5.13
6	Kausalya D. Juikar	CR-42 /04– 11-06	0.66	1103/ 2007	7.50	7.50	NA	75%	5.63	0.50	5.13
7	Govardhan J. Patil	CR-42 /04– 11-06	1.75	1104/2007	15.00	15.00	NA	75%	11.25	1.31	9.94
8	Rajnikant E. Rathod	5634 / 02-01-089	15.40	415 / 2008	5.80	15.40	NA	75%	11.55	4.34	7.21
9	Kamal A. gaikwad & Ujjawala B. Giakwad	4941 / 08-08-05	7.34	6641 & 6642/2005	31.78	31.78	NA	75%	23.84	5.50	18.34
10	Laxman R. Giakwad	5246 / 15-01-07	4.25	2415, 2416 & 2375 of 2007	18.80	18.80	NA	75%	14.10	2.81	11.29
11	Laxman G. Jadhav & others	5337 / 08-10-2007	12.18	2833/ 2008	12.18	12.18	A	50%	6.09	3.30	2.79
12	Bhimrao Y. Khomne & others	5423 / 22-05-2007	9.37	3445/2007	9.37	9.37	A	50%	4.69	3.74	0.94
13	Smt. Leela N. Bade	5793 / 07-06-08	11.60	3004/2008	11.70	11.70	A	50%	5.85	4.63	1.22
	Total		**87.1**		**317.13**	**312.97**			**16.14**	**29.0**	**157.12**

*A – Agricultural, NA- Non-Agricultural.