

CHAPTER IV
REVENUE RECEIPTS

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4.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of the Union Territory of Puducherry and the grants-in-aid received from the Government of India during the year 2010-11 and the corresponding figures for the preceding four years are given in the following table:

(₹ in crore)

Sl. No.	Category	2006-07	2007-08	2008-09	2009-10	2010-11
I	Revenue raised by the Government					
	(a) Tax revenue	569.55	652.85	725.35	867.74	1,074.47
	(b) Non-tax revenue	549.92	625.82	628.64	642.93	742.78
	Total (I)	1,119.47	1,278.67	1,353.99	1,510.67	1,817.25
II	Receipts from the Government of India - Grants-in-aid	764.09	856.95	1,104.51	1,330.66	1,382.78
III	Total receipts of the Government (I + II)	1,883.56	2,135.62	2,458.50	2,841.33	3,200.03
IV	Percentage of I to III	59	60	55	53	57

The above table indicates that during the year 2010-11, the revenue raised by the Union Territory Government was 57 per cent of the total revenue receipts (₹ 3200.03 crore) as against 53 per cent in the preceding year. The balance 43 per cent of the receipts during 2010-11 was obtained from the Government of India.

4.1.1 The details of tax revenue raised during the year 2010-11 along with the figures for the preceding four years are given in the following table:

(₹ in crore)

Sl. No.	Heads of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1	Taxes on sales, trade, etc.	364.89	354.98	381.86	453.11	595.00	(+) 31.31
2	State excise	143.49	224.02	279.60	329.06	378.55	(+) 15.04
3	Stamp duty and registration fees	31.01	41.37	30.80	50.15	51.93	(+) 3.55
4	Taxes on vehicles	29.01	31.60	32.46	34.75	48.27	(+) 38.91
5	Land revenue	0.91	0.54	0.38	0.54	0.62	(+) 14.81
6	Others	0.24	0.34	0.25	0.13	0.10	(-) 23.08
	Total	569.55	652.85	725.35	867.74	1,074.47	

The reasons for variation in receipts in 2010-11 over 2009-10 as furnished by the Departments concerned are mentioned below:

Taxes on sales, trade, etc.: The increase (31.31 *per cent*) was due to increase in number of registered dealers and strict compliance of payment and collection of tax arrears.

State excise: The increase (15.04 *per cent*) was due to higher production of Indian Made Foreign Liquor (IMFL) and beer and increase in collection of excise duty and additional excise duty.

Taxes on vehicles: The increase (38.91 *per cent*) was due to registration of more number of new vehicles and revision of taxes on National Permit.

The other Departments did not furnish (December 2011) the reasons for variation despite being requested (July 2011).

4.1.2 The details of the non-tax revenue raised during the year 2010-11 along with the figures for the preceding four years are given in the following table:

(₹ in crore)

Sl. No.	Heads of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+) / decrease (-) in 2010-11 over 2009-10
1	Power	508.95	570.36	545.90	549.39	662.71	(+) 20.63
2	Interest receipts, dividends and profits	7.23	21.41	47.60	56.98	42.15	(-) 26.03
3	Medical and public health	7.52	7.83	6.55	6.58	10.77	(+) 63.68
4	Education, sports, art and culture	0.47	0.48	0.46	0.45	0.61	.(+) 35.56
5	Crop husbandry	0.43	0.34	0.29	0.39	0.41	(+) 5.13
6	Other receipts	25.32	25.40	27.84	29.14	26.13	(-) 10.33
Total		549.92	625.82	628.64	642.93	742.78	

The reasons for variation in receipts in 2010-11 over 2009-10 as furnished by the Departments concerned are mentioned below:

Power: The increase (20.63 *per cent*) was due to more sale of power and tariff revision.

Interest receipts, dividends and profits: The decrease (26.03 *per cent*) was due to less receipt of interest on investment of cash balance.

Medical and public health: The increase (63.68 *per cent*) was due to more receipts under Employees' State Insurance Scheme.

The other Departments did not furnish (December 2011) the reasons for variation despite being requested (July 2011).

4.2 Variation between the budget estimates and actuals

The variation between the budget estimates and actual revenue receipts for the year 2010-11 in respect of the principal heads of tax and non-tax revenue are given in the following table:

(₹ in crore)

Sl. No	Heads of Revenue	Budget estimates	Actual receipts	Variation excess (+) or shortfall (-)	Percentage of variation excess (+) or shortfall (-)
1	Taxes on sales, trade, etc.	680.78	595.00	(-) 85.78	(-) 12.60
2	State excise	475.00	378.55	(-) 96.45	(-) 20.31
3	Stamp duty and registration fees	102.00	51.93	(-) 50.07	(-) 49.09
4	Taxes on vehicles	58.00	48.27	(-) 9.73	(-) 16.78
5	Land revenue	1.15	0.62	(-) 0.53	(-) 46.09
6	Power	889.61	662.71	(-) 226.90	(-) 25.51
7	Interest receipts, dividends and profits	53.44	42.15	(-) 11.29	(-) 21.13
8	Medical and public health	7.49	10.77	(+) 3.28	(+) 43.79
9	Education, sports, art and culture	0.89	0.61	(-) 0.28	(-) 31.46
10	Crop husbandry	0.36	0.41	(+) 0.05	(+) 13.89

The Departments did not furnish (December 2011) the reasons for variation despite being requested (July 2011).

4.3 Analysis of collection

The break-up of total collection at the pre-assessment stage and after regular assessment under the Pondicherry General Sales Tax Act and Puducherry Value Added Tax Act for the year 2010-11 and the corresponding figures for the preceding two years as furnished by the Department are given in the following table:

(₹ in crore)

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	Percentage of col. 2 to 6
1	2	3	4	5	6	7
2007-08	350.30	4.43	0.37	0.12	354.98	98.68
2008-09						
ST	2.85	1.11	0.11	1.95	2.12	134
VAT	379.38	---	0.36	---	379.74	99.91
2009-10						
ST	5.68	---	0.43	0.13	5.98	94.98
VAT	232.80	---	0.39	---	233.19	99.83
Non-VAT	213.76	---	0.18	---	213.94	99.92
2010-11						
ST	4.72	---	0.43	0.04	5.11	92.37
VAT	288.64	---	0.66	---	289.30	99.77
Non-VAT	300.14	---	0.44	---	300.58	99.85

The above table shows that the collection of revenue at the pre-assessment stage ranged between 98.68 and 99.85 per cent during 2008-09 to 2010-11.

4.4 Arrears of revenue

The arrears of revenue pending for collection as on 31 March 2011 under the principal heads of revenue, as reported by various Departments was ₹ 425.03 crore as indicated below:

(₹ in crore)

Sl. No.	Departments	Total arrears	Arrears outstanding for more than five years	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Commercial Taxes	201.14	6.81	The arrears related to collection of tax under PGST/CST and VAT Acts. ₹ 142.08 crore was covered under court cases. ₹ 1.54 crore was covered under Revenue Recovery Act and ₹ 0.01 crore was covered under write off proposal and ₹ 57.51 crore was pending at various stages of recovery.
2.	Electricity	198.31	37.08	The arrears comprised ₹ 46.10 crore due from the high tension (HT) consumers and ₹ 123.31 crore from the low tension (LT) consumers in Puducherry region and ₹ 28.90 crore relate to LT and HT consumers in Karaikal, Mahe and Yanam regions.

(1)	(2)	(3)	(4)	(5)
3.	State Excise	12.95	9.91	Arrears were mainly due to non payment of <i>kist</i> by the lessees of arrack and toddy shops
4.	Public Works	8.75	2.70	The arrears related to water charges due from consumers and licence fee due from Government servants.
5.	Government Automobile Workshop	2.37	--	The arrears were due from Government Departments towards sale of petrol, oil and lubricants.
6.	Port	0.57	0.01	Arrears were mainly due from M/s Container Corporation of India Limited, Government of India undertaking towards land rent.
7.	Agriculture	0.25	0.11	Arrears were mainly due from M/s. Pondicherry Agro Service and Industries Corporation towards rent and cost of seeds sold.
8.	Stationery and Printing	0.23	0.01	The arrears related to amounts due from Government Departments.
9.	Town and Country Planning	0.13	0.13	The arrears related to final cost of plots due from the allottees of various housing schemes.
10.	Information and Publicity	0.13	0.09	Arrears were mainly due from the Pondicherry Tourism Development Corporation towards canteen rent.
11.	Tourism	0.09	0.03	The arrears were mainly due from guests/Government Officials/MLAs/Hon'ble Ministers towards room rent.
12.	Co-operation	0.06	0.01	Arrears related to audit fees and other receipts due.
13.	Judicial	0.04	0.03	In some cases, the accused were undergoing imprisonment and in some cases, appeals were pending in courts, etc.
14.	Fisheries	0.01	0.01	Arrears were due from Fisheries Department, Kakinada, Government of Andhra Pradesh.
	Total	425.03	56.93	

The other Departments *viz.*, Industries, Police and Legislative Assembly Secretariat did not furnish (December 2011) the details of arrears of revenue despite being requested (May 2011).

4.5 CST/VAT administration

Number of dealers registered as on 31.3.2011 are 11,083 and 8,526 under the VAT and CST respectively. However, we required about the number of dealers who filed returns, number of returns due, number of returns actually filed and number of assessed cases during the year 2010-11, the Commercial Taxes Department did not furnish the details despite being requested.

4.6 Fraud and evasion of tax

The details of cases of fraud and evasion of sales tax detected, cases finalised and the demands for additional tax and penalty levied as reported by the Commercial Taxes Department are mentioned below:

Cases pending as on 1 April 2010	Cases detected during 2010-11	Total	Number of cases in which assessments/investigations were completed and additional tax and penalty levied		Number of pending cases as on 31 March 2011
			Number of cases	Amount demanded	
96	30	126	3	₹ 1.84 lakh	123

4.7 Failure to enforce accountability and protect the interest of the Government

Principal Accountant General (Commercial and Receipt Audit), Tamil Nadu arranges periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). Important irregularities are included in the IRs issued to the heads of offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of offices/Government are required to comply with the observations contained in the IRs, rectify the defects and omissions promptly and report compliance to the office of the Principal Accountant General within two months from the dates of issue of the IRs. Serious irregularities are also brought to the notice of the heads of the Departments by the office of the Principal Accountant General.

A review of IRs issued upto December 2010 disclosed that 604 paragraphs involving ₹ 104.42 crore relating to 188 IRs remained outstanding at the

end of June 2011. The Department-wise break up of the IRs and audit observations outstanding as on 30 June 2011 are as given in the following table:

(₹ in crore)

Sl. No.	Tax Heads	Outstanding		Amount
		Inspection Reports	Audit Observations	
1	Sales tax	40	239	89.42
2	Land revenue	32	73	2.34
3	Stamp duty and registration fees	59	121	1.88
4	Taxes on vehicles	31	126	4.14
5	State excise	26	45	6.64
	Total	188	604	104.42

4.8 Status of recovery against audit observations accepted by the Government

A review of the replies of the Government to the paragraphs of the Audit Reports for the last five years from 2005-06 to 2009-10 shows that against the revenue effect of ₹ 106.37 crore of the audit observations accepted by the Department, the actual recovery was only ₹ 25 lakh. The year-wise break up of the recovery of revenue till October 2011 is given in the following table:

(₹ in crore)

Year of Audit Report	Revenue effect of the chapter	Amount accepted by the Department	Amount recovered
2005-06	22.13	22.13	0.00
2006-07	1.13	0.00	0.00
2007-08	9.49	1.80	0.20
2008-09	73.28	73.28	0.01
2009-10	0.34	0.06	0.04
Total	106.37	97.27	0.25

It is recommended that the Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

4.9 Results of audit

Test check of the records of sales tax, state excise, stamp duty and registration fees and taxes on vehicles conducted during the year 2010-11 revealed under assessment/short levy/loss of revenue amounting to ₹ 13.65 crore in 70 audit observations. During the course of the year, the

Departments accepted ₹ 14.84 lakh in eight audit observations, of which, ₹ 4.23 lakh pertaining to three cases were pointed out during the year and the rest in earlier years. ₹ 13.92 lakh was recovered by the Department.

This Chapter contains two Performance Audits viz., “Utilisation of declaration forms in inter-state trade” involving money value of ₹ 58.85 lakh; “Stamp Duty and Registration Fees” involving money value of ₹ 7.85 crore and one case with a money value of ₹ 1.10 crore. The Government accepted the audit observation in one case amounting to ₹ 3.60 lakh and collected the amount.

SALES TAX / VALUE ADDED TAX

4.10 Results of Audit

Test check of the records of departmental offices during the period from April 2010 to March 2011 revealed incorrect grant of exemption, application of incorrect rate of tax, incorrect computation of taxable turnover, non-levy of penalty/interest amounting to ₹ 4.53 crore in 26 cases as detailed below.

(₹ in lakh)			
Sl. No.	Category	No. of cases	Amount
1	Performance Audit on ‘Utilisation of declaration forms in Inter State Trade’	1	58.85
2	Incorrect grant of exemption	6	29.63
3	Incorrect rate of tax	6	335.93
4	Incorrect computation of taxable turnover	1	2.31
5	Non levy of penalty/interest	9	23.23
6	Other Irregularities	3	3.27
	Total	26	453.22

During the year 2010-11, the department accepted underassessment of ₹ 14.81 lakh in 7 cases; of which ₹ 4.20 lakh involved in two cases was pointed during the year and the rest in earlier years. The Department recovered ₹ 13.89 lakh based on our objections.

After the issue of draft paragraph, the Department collected an amount of ₹ 3.60 lakh.

The findings on the Performance Audit on “Utilisation of declaration forms in Inter State Trade” and one draft paragraph are discussed in the following paragraphs.

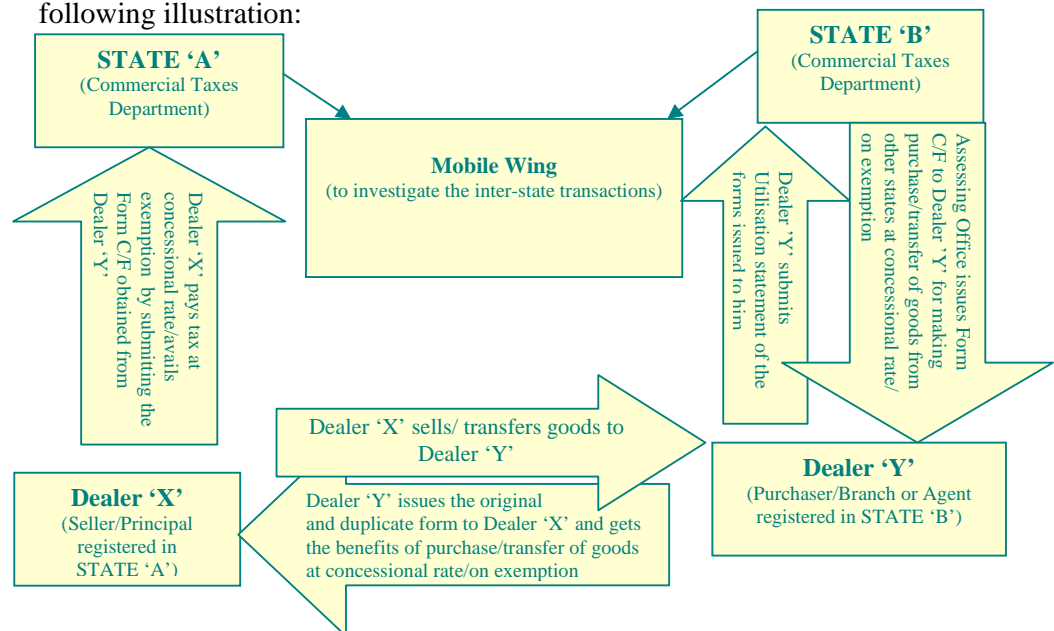
4.11 Performance Audit on “Utilisation of declaration forms in Inter State Trade”

Highlights

- There was delay in uploading of details of issue/utilisation of declaration forms in TINXSYS website, and the same was made operational only from July 2011, adversely impacting monitoring/checking of Inter State Trade. *(Paragraph 4.11.8.2)*
- Understatement of the value of purchases by three dealers in their accounts resulted in non levy of tax and penalty of ₹ 58.85 lakh on the corresponding sales turnover. *(Paragraph 4.11.10.1)*

4.11.1 Introduction

Under the Central Sales Tax Act, 1956, (CST Act) and the Rules made thereunder, every dealer who sells goods to a registered dealer in the course of Inter State Trade or commerce shall pay tax at a concessional rate, if such sales are supported by declarations in form ‘C’ obtained from the purchaser. The dealers can purchase goods at concessional rate of tax which are specified in their certificate of registration. Transfer of goods claimed otherwise than by way of sale made by a registered dealer to any other place of his business located outside the state is exempted from tax on production of the declarations in form ‘F’ duly filled in and signed by the principal officer of other place of his business or his agent as the case may be. Form ‘F’ declarations are issued for receiving goods on stock transfer from their depot/branch in other states or on consignment basis from the principal for eventual sale in the respective states. These concessions are given to the dealers for furtherance of trade and commerce. The steps involved in these transactions are shown in the following illustration:



It is the responsibility of the Commercial Taxes Department to ensure proper accounting of declaration forms and to take adequate safeguard against misuse of declaration forms. The Government of India designed a website called “Tax Information Exchange System (TINXSYS)”, as a repository of Inter State transactions. It helps the Department to effectively monitor the Inter State Trade.

4.11.2 Organisational set up

The Secretary, Commercial Taxes Department is the head of the Department at the Government level. The Commissioner of Commercial Taxes is the head of the Commercial Taxes Department and is assisted by one Deputy Commissioner and two Assistant Commissioners. The Commercial Tax Officers, Deputy Commercial Tax Officers and Assistant Commercial Tax Officers are the assessing authorities. They are the custodians of the declaration forms and competent to issue the forms to the dealers. There is a ‘Mobile Wing’ in the Department, which has been formed to facilitate cross verification of the local and also the Inter State transactions.

4.11.3 Audit Objectives

The Performance Audit was conducted with a view to ascertain whether

- There exists a foolproof system for custody and issue of the declaration forms;
- Exemptions/concessions of tax granted by the assessing authorities were supported by valid declaration forms;
- There is a system for ascertaining genuineness of the forms to prevent evasion of tax; and
- There is a system of uploading the particulars in the TINXSYS website and the data available therein are utilised for verifying the correctness of the forms.

4.11.4 Scope and Methodology of audit

The Performance Audit was conducted in three phases, in December 2010 and September 2011, to ascertain the accounting of the declaration forms and correctness of the concessions and exemptions allowed to the dealers under the CST Act. The scope of the Performance Audit was limited only to ‘C’ and ‘F’ forms.

In the first phase, details of 269 declaration forms pertaining to 52 dealers in respect of assessments finalised during the period from 2007-08 to 2009-10 were collected from the assessment circles in Puducherry, segregated with reference to States/ Union Territories to which they relate and forwarded to the concerned Accountants General offices for verifying

the genuineness/ correctness of the transactions with their respective Sales Tax Departments.

In the second phase, details of 2,214 declaration forms received from other Accountants General Offices were verified with reference to purchase details available in Puducherry in respect of 227 dealers in the respective assessment circles of the Commercial Taxes Department.

In the third phase, based on the verification reports received from other Accountants General offices, observations were made by verifying the assessment records of the assesseees in Puducherry.

4.11.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing the necessary information and records for the Performance Audit. An entry conference was held in December 2010 with the Commissioner of Commercial Taxes in which the audit objectives and methodology of audit were explained. The draft Performance Audit Report was forwarded to the Government in October 2011. The exit conference was held on 3 November 2011 with the Commissioner of Commercial Taxes. The replies furnished by the Department at the time of exit conference have been incorporated in the respective paragraphs.

4.11.6 Trend of revenue

The trend of revenue relating to Central Sales Tax during the period of Performance Audit is as follows:

(₹ in crore)

Year	CST collection	Increase/decrease over the previous year	Percentage Increase (+) / decrease(-)
2006-07	164.42	---	---
2007-08	180.47	(+) 16.05	(+) 9.76
2008-09	179.08	(-) 1.39	(-) 0.77
2009-10	183.67	(+) 4.59	(+) 2.56
2010-11	238.44	(+) 54.77	(+)29.82

The Department stated that they do not prepare the Budget Estimates with regard to Central Sales Tax.

Audit Findings

4.11.7 System Issues

4.11.7.1 Printing, custody and issue of declaration forms

The declaration forms are printed at the Government Printing Press, Puducherry. Details of requirements are received from the assessment circles and based on the stock position, the Commissioner of Commercial Taxes places orders on the printing press for the supply of declaration forms. During the years from 2007-08 to 2009-10, 3.77 lakh 'C' forms and 44,500 'F' forms were printed. It is incumbent upon the Commercial Taxes Department to ensure proper receipt, custody and issue of forms so as to obviate the possibility of misuse of the forms and loss of revenue. Physical verification is carried out by the Assistant Commercial Tax Officers of the assessment circles periodically and counter checked by the heads of the circles.

4.11.7.2 Issue and accounting of declaration forms

- Rule 14(16) of the CST (Pondicherry) Rules, 1967, provides that the Government may, by notification to be published in the official gazette, declare that declaration forms of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date as may be specified in the notification. The Government may also furnish information regarding such declaration to other State Governments for publication in their gazettes.

The Government of Puducherry introduced a new system of issue of 'C' and 'F' declaration forms online with effect from 23 July 2010. It was introduced initially for covering transactions effected from April 2010 and subsequently this facility was extended for the transactions effected from July 2007. However, it was noticed that the old system of issue of declarations in physical form was continued even after introduction of issue of forms online. Though, the Principal Secretary, Finance, Government of Puducherry, addressed to the Secretaries/Commissioners of Commercial Taxes Departments of all the States to accept the computer generated declaration forms, no notification was issued to the effect that the declaration forms issued in physical form were invalid for the transactions effected from July 2007.

- Whenever a dealer indented for supply of less than 25 leaves of forms, one book (25 leaves) was allotted in the name of the dealer and actual quantity of forms indented were issued to the dealer. The remaining forms allotted in favour of a particular dealer but not issued were kept in the custody of the assessing officer concerned for future issue to the same dealer. This gives scope for misuse of the forms. This was already pointed out and included in the Audit Report for the year ended

31 March 2008. However, the same procedure is being followed by the Department even now.

During the exit conference, the Commissioner of Commercial Taxes, Puducherry informed that instructions were given to destroy the forms kept in the custody of the assessing officers.

4.11.8 TINXSYS

4.11.8.1 The Empowered Committee of State Finance Ministers authored a website named TINXSYS as a repository of Inter State transactions. This is mainly aimed at helping the Commercial Taxes Department to effectively monitor the Inter State trade.

The dealers information, *viz.*, name, CST number, TIN, address, date of registration under the CST Act and status of registration under the CST Act are entered into the system. Further, details of issue/utilisation of forms are also being entered. Apart from verification of dealers profile, the Department officials use TINXSYS for verification of statutory forms issued by other State Commercial Taxes Departments to their assesseees and used by the dealers in Inter State transactions.

4.11.8.2 Delay in uploading of data in the TINXSYS

A scrutiny of the details regarding the number of ‘C’ and ‘F’ declaration forms issued to the dealers and the information regarding utilisation of those forms as available in the TINXSYS website revealed that no details were uploaded in the TINXSYS till June 2011 and only from July 2011 the details were uploaded. As on 31 December 2011 details regarding issue of 3,61,190 declaration forms and details of utilisation of 2,64,613 forms were uploaded in the website. The delay in uploading the details of utilisation of forms would defeat the very purpose of the creation of the website, *viz.*, effective monitoring of Inter State trade.

After we pointed this out, the Department replied that due to mismatch and non compatibility in the database, majority of the records could not be uploaded in TINXSYS and further stated that the issue was discussed in the Empowered Committee and as per their directions, the data originally uploaded in the TINXSYS were removed totally and the details were uploaded afresh from July 2011. The delay in streamlining the procedure for uploading the details in TINXSYS could have been avoided had the Department coordinated with the service provider, *viz.* M/s 3i Infotec Ltd, at the initial stage itself, as suggested by the Empowered Committee.

4.11.9 Mobile Wing

A Mobile Wing was formed in the Union Territory of Puducherry in 1997 to verify the genuineness of the transactions based on the references received from other States and from the assessment circles in Puducherry.

The Wing is functioning with one Deputy Commercial Tax Officer and two Assistant Commercial Tax Officers. The verifications are made with reference to the records available in the assessment circles and also by forwarding references to other States. As per the information furnished by the Department, the Mobile Wing received 120 references both from other States and the assessment circles in Puducherry and cleared 98 references during the years 2008-09 and 2009-10. The Department stated that they did not notice any case of evasion of tax during their verification.

Compliance Issues

4.11.10 Results of cross verification

With a view to ascertain the accountability and genuineness of declaration forms issued by the dealers in the Union Territory of Puducherry for the Inter State purchases as well as for the sales/stock transfers effected by them against declaration forms to other State dealers, cross verification was conducted by audit. The results of such cross verification are discussed in the following paragraphs:

4.11.10.1 Misuse of declaration forms

- A cross verification of the details of four 'F' forms received from Andhra Pradesh for consignment sales of vegetable oil for ₹ 25.50 lakh made by the dealers of that State, with the assessment records relating to three dealers pertaining to Mahe and Puducherry-I assessment circles revealed that the declaration forms were not issued by the Commercial Taxes Department to these assesseees/dealers in Puducherry. These cases need to be examined by the Department in the interest of revenue.
- Under section 18(1) of the Pondicherry General Sales Tax Act, 1967, and under section 30 (1) of the Puducherry Value Added Tax Act, 2007, where, for any reason, the whole or any part of turnover of business of a dealer has escaped assessment to tax, the assessing authority may determine the turnover which has escaped assessment and assess the tax payable on such turnover.

As per section 18(3) of the Pondicherry General Sales Tax Act, and section 30(3) of the Puducherry Value Added Tax Act, while making such assessment the assessing authority may direct the dealer to pay a penalty not exceeding 150 *per cent* and 200 *per cent* of the tax so assessed respectively.

It was noticed in Intelligence Wing (assessment circle) and Puducherry I and II assessment circles, that three assesseees who purchased wall clock, paint and automobile spares, taxable at 8, 10, and 12.5 *per cent* respectively had stated the value of goods in utilization certificates/counterfoil of 'C' form as ₹ 89.92 lakh. However, our cross verification revealed that the selling dealers of Gujarat and Tamil Nadu had

claimed value of goods sold as ₹ 319.33 lakh as per the ‘C’ forms. Thus the purchasing dealers had understated the value of goods to a tune of ₹ 2.29 crore for the assessment years 2004-05, 2005-06 and 2007-08 finalised during the period between February 2006 and December 2007. This resulted in non levy of tax and penalty of ₹ 58.85 lakh on the corresponding sales turnover.

During the exit conference, the Department agreed to cross verify the transactions and take appropriate follow up action, wherever necessary.

4.11.10.2 Non-receipt of unused declaration forms

Rule 14(11) and 14 (12) of the CST (Pondicherry) Rules, 1967, stipulates that a dealer who discontinues his business during the course of the year shall submit the details of utilisation of declaration forms and any unused declaration forms remaining in stock with the registered dealer on cancellation of his registration certificate (RC) shall be surrendered to the registering authority.

The details produced to audit by the registering authority of the Union Territory of Puducherry revealed that 322 dealers discontinued their business during the period from April 2007 to March 2010. When the details of utilisation of declaration forms by the dealers and surrendering of unutilised forms by the dealers whose RCs were cancelled was sought for by audit, it was replied that such details were not readily available. In the absence of any such details, audit could not ensure the existence of proper mechanism to monitor the utilisation/surrender of declaration forms at the time of discontinuance of their business.

During the exit conference the Department stated that after introduction of online issue of declaration forms, the Commercial Taxes Department in other States were intimated not to accept manual declaration forms for the purchases made from 1 July 2007. This measure would invalidate the manual forms available with the dealers who have discontinued their business.

The action of the Department would not prevent misuse of declaration forms, not surrendered by the dealers at the time of cancellation of their RCs, for the transactions effected prior to July 2007 unless they are invalidated.

4.11.11 Conclusion

There was delay in uploading the details of utilisation of declaration forms in the TINXSYS website. The Department did not enforce surrender of declaration forms of those dealers whose registration certificates were cancelled/ who have discontinued their business. There were few instances of suppression of Inter State sales observed by us.

4.12 Application of incorrect rate of tax

As per Section 8(1) of the Central Sales Tax Act, 1956, on Inter State sale of goods (other than declared goods) to registered dealers, tax was leviable at the rate of four *per cent*, subject to production of C forms.

As per Government Order dated 30 March 1989, tax payable on Inter State sales of goods manufactured by any dealer having his place of business at Puducherry or Yanam region and registered as Small Scale Industries (SSI) with the Directorate of Industries, Puducherry, shall be at the concessional rate of one *per cent*, subject to certain conditions.

The Ministry of Commerce and Industry in its order dated 24 December 1999 had reduced the ceiling limit of investment in plant and machinery by an industry from ₹ three crore to ₹ one crore for becoming eligible for SSI status.

During the audit in Industrial Assessment Circle, Puducherry, it was noticed that though investment in plant and machineries by an assessee in his industry had exceeded ₹ one crore, it was treated as small scale industry and the Inter State sales effected by it were assessed to tax at the rate of one *per cent*. The incorrect application of concessional rate of tax at one *per cent* on the turnover of ₹ 36.53 crore, during the year 2005-06, resulted in short levy of tax amounting to ₹ 1.10 crore.

After we pointed this (February 2009) out, the Department contended (December 2009) that units with investment in “plant and machinery” not exceeding ₹ three crore registered as SSI unit with reference to earlier order dated 10 December 1997 would still continue to be SSIs, despite the reduction in investment limit notified in order dated 24 December 1999, in terms of a subsequent clarification issued by the Government of India on 14 March 2000.

The reply of the Department was not accepted since the assessee’s investment in plant and machinery had exceeded rupees three crore in the year 2004-05, as seen from the annual accounts available in the ‘Tax Holiday Extension File’ and therefore, the industry was not eligible to be classified as small scale industry. Further report is awaited from the Department (December 2011).

The matter was reported to the Government (April 2011) and their reply is awaited (December 2011).

STAMP DUTY AND REGISTRATION FEES

4.13 Results of Audit

Test check of the records of Departmental offices conducted during the period from April 2010 to March 2011 revealed under-assessments, misclassification and other observations amounting to ₹ 8.98 crore in 39 cases, which broadly fall under the following categories.

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	Performance Audit on ‘Stamp duty and registration fees’	1	7.84
2	Under valuation of properties	9	0.50
3	Misclassification of instruments	13	0.60
4	Other observations	16	0.04
	Total	39	8.98

During the course of the year 2010-11, the Department accepted and collected underassessment amounting to ₹ 2,534 in one case which was pointed out during the year.

A Performance Audit on ‘Stamp Duty and Registration Fees’ involving money value of ₹ 7.84 crore is mentioned in the following paragraphs.

4.14 Performance Audit on Stamp Duty and Registration Fees

Highlights

- Remission of stamp duty of ₹ 25.93 lakh was incorrectly granted on documents registered by women.
(Paragraph 4.14.10)
- Exemption of stamp duty of ₹ 2.59 crore was incorrectly granted on sale/mortgage deeds executed by or in favour of co-operative societies.
(Paragraph 4.14.11)
- Misclassification of documents resulted in short levy of stamp duty and registration fees of ₹ 30.58 lakh.
(Paragraph 4.14.12)
- Under-valuation of properties resulted in short levy of stamp duty and registration fees of ₹ 2.78 crore.
(Paragraph 4.14.13)

- Incorrect adoption of guideline value resulted in short levy of stamp duty and registration fees of ₹ 46.40 lakh.

(Paragraph 4.14.15)

- Incorrect allocation of Transfer Duty Surcharge of ₹ 27.53 lakh to local bodies.

(Paragraph 4.14.18)

4.14.1 Introduction

The Indian Stamp Act, 1899 (IS Act) and the Registration Act, 1908 as amended from time to time and the rules made thereunder regulate the levy of stamp duty and registration fees on the instruments registered by the Registration Department in Puducherry.

4.14.2 Organisational Set up

The Secretary, Revenue and Disaster Management Department, who is also the Inspector General of Registration is the head of the Department. He is assisted by the Additional Secretary, Revenue Department. Under his control, there is one District Registrar and 10 Sub-Registrars. In addition, there are five Deputy Collectors for determination of market value of properties in certain classes of documents under Section 47A of the IS Act.

4.14.3 Audit Objectives

The Performance Audit was conducted with a view to ascertain whether:

- the system in place for levy and collection of stamp duty was functioning efficiently and effectively;
- proper system was available to record the grant of remission of stamp duty at the apex level; and
- the instruments were correctly classified for the purpose of levy of stamp duty and registration fees.

4.14.4 Scope and Methodology of Audit

The records for five years from 2005-06 to 2009-10 of the offices of the District Registrar and eight offices¹ of the Sub Registrars in Puducherry and Karaikal region and three offices² of Deputy Collector (Revenue) were test-checked from January 2010 to March 2010 and from January 2011 to February 2011. Further, observations featured in local audit reports were also included in the performance audit report.

¹ DR Puducherry, SR Oulgaret, SR Villianur, SR Bahour, SR Thirukkanur in Puducherry Region; SR Karaikal, SR Thirunallar, SR Niravy in Karaikal

² Deputy Collector (North), Deputy Collector (South) in Puducherry Region and Deputy Collector in Karaikal region.

4.14.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Revenue and Disaster Management Department in providing the necessary records and information to audit. An entry conference was held with the Secretary to the Government, Revenue and Disaster Management Department in April 2010, in which the audit objectives, scope and methodology were explained. The findings of the performance audit were forwarded to the Department and the Government in July 2011. The exit conference was held with the Special Secretary to the Government, Revenue and Disaster Management Department on 6 July 2011. The views of the Department have been incorporated in the respective paragraphs.

4.14.6 Trend of Revenue

The budget estimates and the revenue earned by the Registration Department for the year 2010-11 along with the corresponding figures for the last five years are mentioned in the following table:

(₹ in crore)

Year	Budget estimates	Actuals	Percentage of increase (+)/ decrease(-)
2005-06	22.50	23.97	(+) 6.53
2006-07	17.09	31.01	(+) 81.45
2007-08	26.00	41.37	(+) 59.12
2008-09	38.49	30.79	(-) 20.01
2009-10	54.23	36.91	(-) 31.94
2010-11	102.00	51.93	(-) 49.09

The Government stated during the exit conference that the reasons for lesser collection than the budget estimate in 2008-09 and 2009-10 was due to allowing of various concessions.

4.14.7 Position of arrears

Arrears amounting to ₹ 1.58 crore are pending from 1985 onwards, of which ₹ 0.80 crore is pending for more than ten years. Out of the arrears, an amount of ₹ 0.12 crore is pending before various courts and ₹ 0.99 crore is covered under the Revenue Recovery Act. An amount of ₹ 0.48 crore is pending to be referred for collection under Revenue Recovery Act.

The Department stated (July 2011) that necessary action would be taken in consultation with the concerned Deputy Collector.

4.14.8 Internal control mechanism

4.14.8.1 Lack of monitoring

Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, safeguarding resources against irregularities, adhering to laws, regulations and management directives and developing and maintaining reliable financial and management data.

However, we enquired whether any periodic returns (monthly, quarterly etc.) were prescribed for submission to the competent higher authority to facilitate monitoring of receipts and collection of duty and fee and overall functioning of the Registration Department, the Sub-Registrar, Office of the District Registrar, Puducherry, replied that monthly periodic returns are received from the Sub-Registrar Offices, but no periodic returns are received from the Sub-Registrar Offices. But no periodic reports were submitted to higher authorities. In view of this, efficacy of monitoring at higher level could not be ascertained in audit.

4.14.8.2 Internal Audit

The internal audit is an effective tool in the hands of the management of an organisation to assure itself that it is functioning in an efficient manner in terms of its stated objectives.

It was observed that the Registration Department had not established an internal audit system. Further, it was also observed that no manual was prescribed for internal control and internal audit.

After this was pointed out, the Government replied (July 2011) that necessary action would be taken in future.

4.14.9 Absence of consolidated database in respect of revenue foregone

The Government while extending concessions, decides to forego revenue in pursuance of certain defined objectives. A reliable database of revenue foregone is, therefore, a pre-requisite for informed decision making.

It was observed during audit that though computerised database of the duty concessions granted at the time of registration of instruments was available at the Sub-Registrar Offices, there is no consolidated database with the District Registrar. Thus the concessions pointed were not available at one place.

After we pointed this out (July 2011), the Government stated (July 2011) that necessary action would be taken to maintain the consolidated data in future.

4.14.10 Incorrect remission of duty granted on documents registered by women

The Government issued a notification in December 2004 whereby remission of 50 per cent of stamp duty was granted to women who acquire property through conveyance, exchange or gift either individually or severally and the sole object of granting the concession was to empower women. With effect from 31 August 2009, the Government of Puducherry withdrew the concession on duty in respect of women not residing in the Union Territory of Puducherry.

As per the conditions of the above notification, the beneficiary who availed the concession is barred from creating/executing any instrument, within five years from the date of registration, in favour of any male member including power of attorney except mortgage to Government/nationalised banks/registered co-operative societies.

It was observed during test check of concerned documents in all registration offices of Puducherry that there was incorrect allowance of remission of stamp duty of ₹ 25.93 lakh as detailed in the following table:

(₹ in lakh)

Sl. No.	Name of the Sub-Registry	No. of documents/ year of registration	Nature of irregularity	Amount involved
1	Bahour, Oulgaret and Puducherry	16 / between the years 2007 and 2010	Women who purchased the property, executed sale agreement/power document/sale in favour of male members subsequently within five years. Since, the act of the executant violates the condition laid down in the notification, the original concession availed in the previous documents was required to be withdrawn and to be collected at the time of registration of the above documents.	18.08
After this was pointed out, the Government replied (July 2011) that the case would be examined and necessary action would be taken.				
2	District Registrar, Puducherry	One/ 2005	The remission allowed was not correct as the woman member has executed the document in the capacity as the head of the institution and not in her individual capacity. This resulted in short-levy of stamp duty.	2.25
After this was pointed out, the Government stated (July 2011) that the case would be examined on its merit and deficit stamp duty, if any, will be collected.				
3	Oulgaret	Five/ 2009	Properties situated in Puducherry were conveyed to women who were not residents of Puducherry and hence the documents were not eligible for rebate/concession as applicable to women. This resulted in short levy of stamp duty.	5.60
After this was pointed out, the Government stated (July 2011) that the matter would be examined and action would be taken.				
	Total			25.93

4.14.11 Incorrect grant of exemption

By a notification issued in May 1969, under the Pondicherry Co-operative Societies Act, 1965, the Government of Puducherry exempted the levy of stamp duty in respect of sale and mortgage documents executed by or in favour of co-operative societies.

It was observed during test check of data relating to sale and mortgage deeds in seven offices³ that for the period from 2005-06 to 2009-10 in respect of 657 sale deeds and 1,577 mortgage deeds executed by or in favour of co-operative societies, exemption was granted as per the notification. However, as the notification issued under the Pondicherry Co-operative Societies Act does not cover the provisions of the Indian Stamp Act, the exemption granted was not in order. This resulted in non-levy of stamp duty of ₹ 2.59 crore.

After this was pointed out, the Government replied (July 2011) that necessary action would be taken to rectify the omission.

4.14.12 Misclassification of documents

As per the IS Act, Settlement means any non testamentary disposition in writing, of movable or immovable property made – (a) in consideration of marriage, (b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or (c) for any religious or charitable purpose without consideration. As per the provisions of Article 23 of the Schedule-I to the IS Act, in the case of conveyance of immovable property, stamp duty including surcharge is leviable at the rate of 10 *per cent* on the market value of the property.

As per Article 18, a deed executed by a civil or revenue court or Collector or other revenue officer should only be classified as certificate of sale.

It was observed from the concerned documents of one District Registry and five Sub-Registries that in respect of eight documents registered between the years 2007 and 2010, there was short levy of stamp duty and registration fees due to misclassification of instruments to the tune of ₹ 30.58 lakh as detailed below:

³ Bahour, Karaikal, Oulgaret, Puducherry, Thirukkanur Thirunallar and Villianur

				(₹ in lakh)
Sl. No.	Name of the Sub-Registry	No. of documents/ year of execution	Nature of irregularity	Amount short levied
1	Bahour, Oulgaret, Puducherry and Villianur	Five/2008 and 2010	Certificate of sale issued by Nationalised banks for properties conveyed by them do not come under the meaning of certificate of sales provided in Article 18. As such the sales should have been classified as conveyance deeds and stamp duty levied accordingly. The misclassification resulted in short collection of stamp duty and registration fees.	25.63
2	Karaikal	One/ 2007	A property consisting of land and building was settled by a mother, in favour of her daughter. However, it was noticed from the recitals that the settlement was made after receiving a consideration of ₹ 20 lakh. As the property was transferred with a consideration, it should have been treated as conveyance deed and stamp duty levied accordingly. The market value of the property was ₹ 50 lakh. This resulted in short collection of stamp duty and registration fees.	4.95
Total				30.58

After the above cases were pointed out, the Government stated (July 2011) that the matter would be examined on merit of the cases and deficit stamp duty if any would be collected.

4.14.13 Undervaluation of property

As per the provisions of Article 23 of the Schedule-I to the IS Act, in the case of conveyance of immovable property, stamp duty including surcharge is leviable at the rate of 10 *per cent* on the market value of the property. According to Section 27, the consideration, the market value and all other facts and circumstances affecting the chargeability of the instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. There is no provision in the system for the department to reclassify the nature of land based on the existing nature of the property.

We observed from the concerned documents in five offices that in 12 cases of conveyance deeds registered during 2006-07 to 2009-10, there was undervaluation of properties by ₹ 31.93 crore and consequent short levy of stamp duty and registration fees of ₹ 2.78 crore as detailed in the following table:

				(₹ in lakh)
Sl. No.	Name of the Sub-Registry	No. of Documents/ Date of execution	Nature of irregularity	Amount short levied
1	Bahour, Thirukkanur and Villianur	Nine conveyance deeds/ 2006-07 to 2009-10	Properties were registered at the rates applicable to agricultural lands and stamp duty levied accordingly. However, it was observed from the recitals that the boundary, area and purpose for which the properties were conveyed revealed that the properties were residential/commercial in nature and the rates available in the same village should have been adopted for these kinds of properties. This resulted in under valuation of properties by ₹ 30.27 crore and consequent short levy of stamp duty and registration fees	268.00
The Government replied (July 2011) that necessary action would be taken to instill a mechanism to ascertain the actual nature of land for fixation of the correct market value of the property in future.				
2	Villianur	One sale deed/ 2009	In a sale deed registered in 2009, the market value of a property was stated as ₹ 62 lakh. However, a scrutiny of the sale agreement registered in 2008, revealed that for the same property, the market value was stated as ₹ two crore. The incorrect adoption of market value in the sale deed resulted in undervaluation of property and consequent short levy of stamp duty and registration fees.	7.59
3	DR, Puducherry	Two sale deeds / 2009	In the sale deeds, the rate adopted for undivided share of land was ₹ 8,333 and ₹ 8,772 instead of ₹ 10,000 per square foot adopted for other documents in the same address. This resulted in undervaluation of the property by ₹ 19 lakh and consequent short levy of stamp duty and registration fees	1.04
The Government replied (July 2011) that matter would be examined and action will be taken.				
	Total			2019.63

4.14.14 Non/short collection of Stamp duty and Registration fee

According to Section 5 of the IS Act, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

The Government of Puducherry by an order issued in August 2004 exempted the stamp duty and registration fee payable in respect of mortgage deeds executed by the lessees of arrack and toddy shops in favour of Government in the Union Territory of Puducherry.

It was observed during test check of the lease documents in eight offices⁴, that 796 mortgage deeds were executed by the lessees of arrack and toddy shops in favour of Government in the Union Territory of Puducherry during the period from 2005-06 to 2009-10. However, it was also observed that in the same document, surety/surities for equal amount were also given

⁴ Bahour, Karaikal, Oulgaret, Niravy, Puducherry, Thirukkanur, Thirunallar and Villianur

as security. The Government order does not cover mortgage deeds executed by security owners in favour of Government. Hence, as per the provisions of the IS Act, stamp duty and registration fee is leviable on the amount of mortgage secured by the surities. This resulted in non collection of stamp duty and registration fee of ₹ 87.61 lakh.

After this was pointed out, the Government replied (July 2011) that suitable rectification action would be taken in consultation with the Excise Department.

4.14.15 Incorrect adoption of market value

As per the provisions of the IS Act and the Registration Act, stamp duty and registration fees are leviable on the market value of the property prevailing on the date of execution of deed.

It was observed during test check of the concerned sale deeds in five offices⁵, that in respect of 12 cases, sale was effected by Court on account of specific performance suit preferred by the purchasers. However in the sale documents registered during the years from 2006 to 2009, the market value which prevailed at the time of execution/presentation of sale deed was not adopted. This resulted in short levy of stamp duty and registration fees of ₹ 46.40 lakh. Further, the value of the building in the land conveyed may be worked out by the department in the interest of revenue.

The Government stated (July 2011) that the matter will be examined on merit and deficit stamp duty, if any, will be collected.

4.14.16 Non registration of lease agreements

As per the provision of the Registration Act, leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent are compulsorily registerable. As per the provisions of the IS Act, all instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution. As per Section 33(1)(a) of the Act *ibid*, every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty is produced, shall, if it appears to him that such instrument is not duly stamped, impound the same. Further as per Section 33(3)(a) & (b), the State Government may determine what offices shall be deemed to be public offices and who shall be deemed to be persons in charge of public offices. However, the State Government has not notified so far which are the public offices and who are the persons in charge of public offices.

It was observed that 32 mining lease agreements of Deputy Collector (Revenue) (South), Puducherry, executed during the period from 2005-06

⁵ Bahour, Oulgaret, Puducherry, Thirukkanur and Villianur

to 2009-10 were not registered. As the State Government is yet to notify public offices, inspection by the Sub-Registrar could be made. The non registration of lease deeds resulted in loss of revenue by way of stamp duty and registration fee amounting to ₹ 26.13 lakh.

The Government stated (July 2011) that necessary action would be taken.

4.14.17 Non inclusion of Service Tax element in the calculation of lease rent

As per explanation under Article 35 to the Indian Stamp Act, 1899, when a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses or owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.

It was observed during test check of the lease deeds in Sub-Registry, Villianur, that in four deeds registered in 2007 and 2008, the lessees had agreed to bear the expenses in connection with Service Tax payable on the lease rent. However, the same was not included in the calculation of lease rent of these documents. This resulted in short levy of stamp duty of ₹ 3.63 lakh.

The Government stated (July 2011) that action will be taken to collect the stamp duty and registration fees on service tax component in future. However the reply is silent about the cases mentioned in audit.

4.14.18 Incorrect allocation of transfer duty surcharge

As per Schedule VII under Section 158 of the Pondicherry Municipalities Act, 1973 and Schedule IV under Section 149 of the Pondicherry Village and Commune Panchayat Act, transfer duty surcharge at the rate of five *per cent* on the market value of the property is collected and allocated to the local bodies.

We observed during test check of the surcharge registers in three offices⁶ with monthly statements for the period between May 2007 and September 2007 that though no transfer duty surcharge was collected that in respect of three documents, an amount of ₹ 27.53 lakh was allocated to local bodies. The Government stated (July 2011) that necessary action would be taken.

⁶ Karaikal, Thirunallar and Villianur

4.14.19 Other points of interest

4.14.19.1 Non provision for field inspection for correct valuation of building

The Government of Puducherry adopted the PWD rate as applicable to Tamil Nadu State in respect of buildings conveyed in the Union Territory of Puducherry (Puducherry and Karaikal region).

It was observed that for the years 2007-08 and 2009-10, the rate as applicable to the State of Tamil Nadu was not correctly adopted. In Tamil Nadu, for municipal areas, an addition of five *per cent* over and above the PWD rates is adopted for valuation of buildings. However, this was not followed for municipal areas, namely, Puducherry and Karaikal.

After this was pointed out, the Government stated (July 2011) that the audit observation will be noted for future guidance.

4.14.19.2 Short levy of registration fee

As per the provisions of the Registration Act, registration fee at the rate of half *per cent* on the value of property is required to be collected.

It was observed in the offices of Sub-Registries, Bahour and Thirukkanar, that in respect of eight documents registered between the years 2007 and 2009 immovable and movable properties were held by trusts in its name at the time of registration. However, the same were not valued, and instead, registration fee on the corpus fund only was levied which was not in order.

After this was pointed out, the Government stated (July 2011) that the case will be examined and action will be taken.

4.14.20 Conclusion

The internal control mechanism is not adequate and also there is no internal audit in the department. The Department does not have a consolidated database in respect of revenue foregone on the remission/exemption of stamp duty. The remissions granted to women have not been properly monitored.

4.14.21 Recommendations

The Government may consider:

- maintaining a consolidated data of revenue earned and revenue foregone for effective control;

- introducing internal control system/internal audit wing for effective monitoring of the functions of the Department through periodical inspections; and
- issuing instructions to other Departments concerned for ensuring registration of documents requiring compulsory registration.