

## CHAPTER-III

### EXECUTIVE SUMMARY

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**Trend of revenue** The actual receipts during 2007-08 to 2010-11 shows an increasing trend while for the year 2011-12, it declined considerably (17.42 *per cent*) from the previous year. The reason attributable to the decline in actual receipts was not furnished to audit.

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**Results of audits** Test check of records in the offices of Collectors, District Development Officers and *Mamlatdar* (LR) in the State during the year 2011-12 revealed under assessment of tax and other irregularities involving ₹ 183.40 crore in 136 cases.

During the course of the year, the Department accepted underassessment and other irregularities of ₹ 8.84 crore in 60 cases of which six cases involving ₹ 5.60 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 2.91 crore was recovered in 57 cases during the year 2011-12.

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**What we have highlighted in this Chapter** A performance audit report on "**Management of Government Land**" revealed the following:

- The Department did not have consolidated data of alienated and un-alienated land, the status of the alienation proposals received from the Collectors, approved, rejected and pending cases.
  - Undervaluation of Government land due to incorrect computation of market value of land and non-recovery of additional market value for allotment of grazing land resulted in short recovery of occupancy price of ₹ 36.49 crore in 29 cases.
  - Larsen & Toubro Limited was allotted Government land for manufacture of Super Critical Steam Generators and Forging Shop for Nuclear Power Plant. The price of the land was fixed by DLVC instead of SLVC rates. This resulted in loss of revenue of ₹ 128.71 crore.
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- Allotment of land at concessional price to two ineligible trusts resulted in undue benefit to the trusts and subsequent short recovery of occupancy price of ₹ 25.05 crore.
  - The delay in regularisation of encroached Government land coupled with levy of ad-hoc penalty at lesser rates in the case of Essar Steel Company Ltd. resulted in short recovery of ₹ 238.50 crore.
  - Delay in finalisation of value of Government land resulted in blocking up of revenue to the tune ₹ 23.60 crore.
  - Government land was not utilised for the purpose for which it was allotted and conditions of allotment was breached in five cases. The Departmental officials either failed to detect the cases or did not take corrective actions to vacate the land.
  - Government Resolutions/Orders/instructions were not adhered to by the Collector which resulted in non/short levy of conversion tax and stamp duty aggregating ₹ 102.95 crore.

#### **Other Observations**

- During test check of records of five Collector offices, two Dy. Collector offices and District Development office, Amreli for the period 2008-09 to 2010-11, we noticed that there was non/short levy of premium price of ₹ 8.70 crore in 10 cases.
  - During test check of records of three District Development offices for the period 2008-09 and 2009-10, we noticed that in seven cases, there was non/short levy of conversion tax amounting to ₹ 28.09 lakh.
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**Recommendations**

The Government may consider:

- developing at state level a database of the Government land (i) alienated; (ii) status of alienation proposals received, approved, rejected and pending, (iii) types and purpose of alienations and (iv) the considerations received from the alienations made so as to make the system more transparent;
  - monitoring finalisation of the price of alienated Government land by framing a time schedule for each stage and prescribing returns to ascertain the compliance of time schedule;
  - evolving a control mechanism to ensure the purpose for and the conditions under which land allotted are fulfilled and take punitive measures against the defaulters;and
  - instructing SoS to co-ordinate with the Collectors to prevent the leakage of stamp duty. This may be done by putting in place a system by way of returns or by conducting periodical inspections by SoS.
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## CHAPTER-III LAND REVENUE

### 3.1 Tax administration

The administration of Land Revenue Department vests with the Principal Secretary (Revenue). For the purpose of administration, the State is divided into 26 districts. Each district is further divided into *talukas* and villages.

The District Collectors are overall in charge and responsible for the administration of their respective districts. The *Mamlatdars* and Executive Magistrates are in charge of the administration of their respective *talukas* and exercise supervision and control on *talatis* who are entrusted with the work of collection of land revenue and other receipts including recovery of dues treated as arrears of land revenue. In addition, the Revenue Department has delegated powers to the *Panchayat* Officers (DDOs and TDOs) for recovery of dues treated as arrears of land revenue to facilitate the revenue administration.

### 3.2 Analysis of budget preparation

The Budget Estimates are furnished by the Revenue Department in the prescribed format to the Finance Department. While preparing the budget estimates, the Department is required to consider the income of previous year and the expected receipts during the financial year. The targets set by the Department are reported to the Finance Department which is responsible for preparation of the Budget estimates for the entire state.

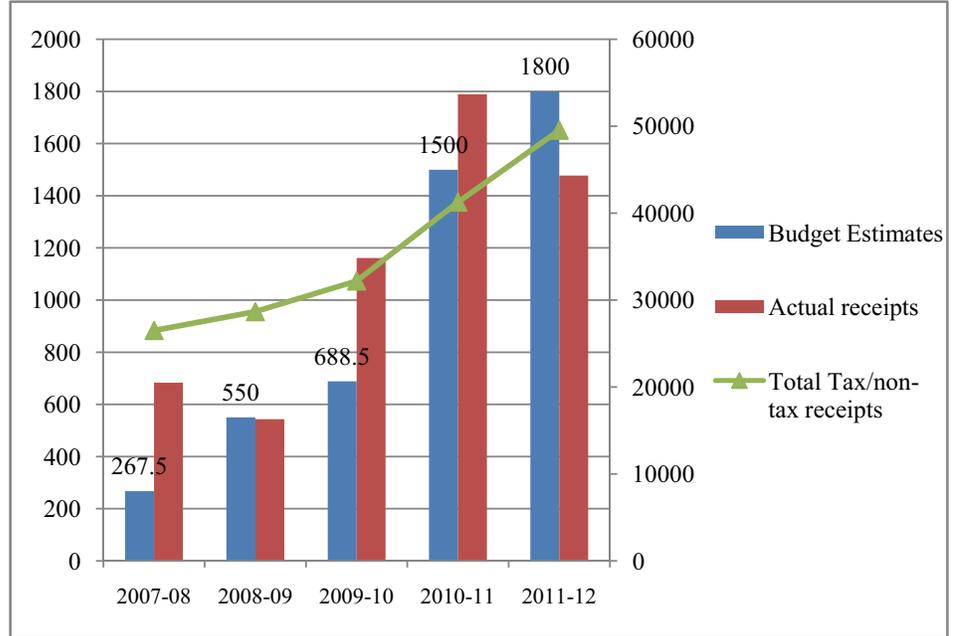
### 3.3 Trend of revenue

Actual receipts from Land Revenue during the last five years 2007-08 to 2011-12 along with the total tax and non-tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall (-)	Percentage of variation	Total tax and non tax receipts of the State	Percentage of actual receipts vis-à-vis total tax and non-tax receipts
2007-08	267.50	683.09	(+)415.59	(+)155.36	26,494.88	2.58
2008-09	550.00	543.50	(-) 6.50	(-) 1.18	28,656.35	1.90
2009-10	688.50	1,161.20	(+)472.70	(+)68.66	32,191.94	3.61
2010-11	1,500.00	1,788.78	(+)288.78	(+)19.25	41,253.65	4.34
2011-12	1,800.00	1,477.18	(-) 322.82	(-) 17.93	49,528.81	2.98

Sources: Budget publications and Finance Accounts.



It could be seen from the above that there was substantial variation between the actual receipts and the budget estimates except in 2008-09. This indicates that the budget estimates were not prepared on realistic and scientific basis. Further, the actual receipts during 2007-08 to 2010-11 shows an increasing trend while for the year 2011-12, it declined considerably (17.42 per cent) from the previous year. The reason attributable to the decline in actual receipts was not furnished to audit.

### 3.4 Results of audit

Test check of records in the offices of Collectors, District Development Officers and *Mamlatdar* (LR) in the State during the year 2011-12 revealed under assessment of tax and other irregularities involving ₹ 183.40 crore in 136 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1.	Performance Audit on Management of Government Land	1	142.18
2.	Non/short recovery of occupancy price/premium price	18	33.34
3.	Non/short recovery of NAA, non/short levy of NAA at revised rate, non-raising NAA demand	21	1.65
4.	Non/short recovery of conversion tax	30	4.06
5.	Other irregularities	50	1.88
6.	Non-levy of measurement fee	16	0.29
	<b>Total</b>	<b>136</b>	<b>183.40</b>

During the course of the year, the Department accepted underassessment and other irregularities of ₹ 8.84 crore in 60 cases of which six cases involving ₹ 5.60 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 2.91 crore was recovered in 57 cases during the year 2011-12.

A performance audit report on "**Management of Government Land**" involving ₹ 142.18 crore and a few illustrative cases involving ₹ 9.52 crore are mentioned in the following paragraphs:

### **3.5 Performance Audit on "Management of Government Land"**

#### **Highlights**

The Department did not have consolidated data of alienated and un-alienated land, the status of the alienation proposals received from the Collectors, approved, rejected and pending cases.

*(Paragraph 3.5.8)*

Undervaluation of Government land due to incorrect computation of market value of land and non recovery of additional market value for allotment of grazing land resulted in short recovery of occupancy price of ₹ 36.49 crore in 29 cases.

*(Paragraph 3.5.9.1)*

Larsen & Toubro Limited was allotted Government land for manufacture of Super Critical Steam Generators and Forging Shop for Nuclear Power Plant. The price of the land was fixed by DLVC instead of SLVC rates. This resulted in forgoing of revenue of ₹ 128.71 crore.

*(Paragraph 3.5.9.4)*

Allotment of land at concessional price to two ineligible trusts resulted in undue benefit to the trusts and subsequent short recovery of occupancy price of ₹ 25.05 crore.

*(Paragraph 3.5.9.5)*

The delay in regularisation of encroached Government land coupled with levy of ad-hoc penalty at lesser rates in the case of Essar Steel Company Ltd. resulted in short recovery of ₹ 238.50 crore.

*(Paragraph 3.5.9.7)*

Delay in finalisation of value of Government land resulted in blocking up of revenue to the tune ₹ 23.60 crore.

*(Paragraph 3.5.10.1)*

Government land was not utilised for the purpose for which it was allotted and conditions of allotment was breached in five cases. The Departmental officials either failed to detect the cases or did not take corrective actions to vacate the land.

*(Paragraph 3.5.11.8)*

Government Resolutions/Orders/instructions were not adhered to by the Collector which resulted in non/short levy of conversion tax and stamp duty aggregating ₹ 102.95 crore.

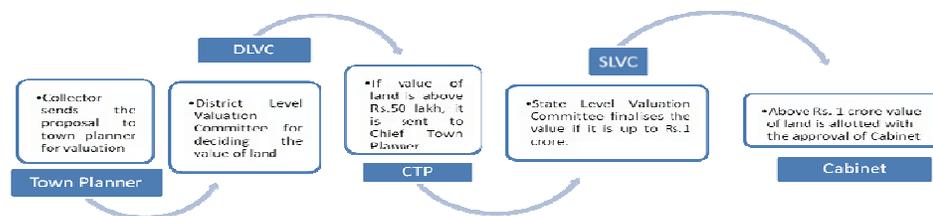
*(Paragraph 3.5.11.9)*

### 3.5.1 Introduction

The Bombay Land Revenue (BLR) Code, 1879 as applicable to Gujarat read with the Gujarat Land Revenue (GLR) Rules, 1972 provides for allotment of Government land on occupancy or leasehold rights either as revenue free or at the rates decided by the Government from time to time. The allotment of Government land is made by the Revenue Department on an application before the District Collector.

Further clause 12 of the Second Schedule under Rule 9 of the Gujarat Government Rules of Business, 1990, stipulates that where the value of the Government property exceeds the limit prescribed from time to time by the Government, the proposals for alienations by way of sale, grant or lease of Government property shall be placed before the Council of Ministers. The guidelines for assessment of value of Government land intended to be allotted/granted for non agricultural purposes prepared by the Urban Development and Urban Housing Department (UDUHD) were adopted from September 2002.

The process of assessment of value of land was modified in October 2008. The Government constituted two committees for assessment of market value of Government land: the District Land Valuation Committee (DLVC) and State Land Valuation Committee (SLVC). In case the value of land as determined by the DLVC exceeds ₹ 50 lakh, the Revenue Department refers the case to SLVC for finalisation of value of the land. After finalisation of market value of the land by the SLVC, the case is put up before the Cabinet for approval. The limit of ₹ 50 lakh for the Cabinet approval was increased to ₹ one crore in 2010. The assessments of the land are made on the reports (called valuation reports) prepared by the concerned Town Planner and the Chief Town Planner. The hierarchy of valuation system is as depicted below:



### 3.5.2 Organisational set up

The administration of Land Revenue Department vests with the Principal Secretary (Revenue). For the purpose of administration, the State is divided into 26 districts. The District Collectors are responsible for the administration of their respective districts. Each district is further divided into *talukas* and villages. The *Mamlatdars* and Executive Magistrates are in charge of the administration of their respective *talukas* and exercise supervision and control

on *talatis* who are entrusted with the work of collection of land revenue and other receipts including recovery of dues treated as arrears of land revenue.

### **3.5.3 Audit objectives**

The performance audit was conducted with a view to ascertain whether:

- the records relating to the Government land were properly maintained and were reliable;
- allotment/grant of land was as per the existing procedures and policies framed by the Government;
- the assessment and collection of conversion tax etc. were finalised according to the provisions of the Act/Rules issued from time to time;
- there exists appropriate monitoring and evaluation mechanism after allotment of land;and
- proper mechanism exists for timely detection and prevention of encroachment of Government land.

### **3.5.4 Audit criteria**

The audit criteria are derived from the following Laws and the Rules made there under to govern the management of the Government land:

- the provisions of Bombay Land Revenue (BLR) Code, 1879 as applicable to the Gujarat ;
- Gujarat Land Revenue Rules, 1972;
- Gujarat Government Rules of Business, 1990;and
- The Notifications/Resolutions/Circulars/Orders issued by the Government.

### **3.5.5 Scope of audit, methodology and reasons for selection of the topic**

We conducted the Performance Audit (PA) of the land records maintained in the office of the Pr. Secretary, Revenue Department and eight<sup>56</sup> out of 26 offices of District Collectors for the period from 2006-07 to 2010-11. Further, in order to ascertain the level of compliance at the *taluka* and village levels, we test checked the records in 16 *Mamlatdar* offices and 32 village *Talatis* of the eight District Collectors.

The districts were selected on the basis of their geographical location, topicality and maximum number of allotment of land made by the Government. One district was selected from each of the East, West, North, South and Central regions. In addition Gandhinagar being the capital and Rajkot falling in Saurashtra were selected. Dang was selected for having the

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<sup>56</sup> Ahmedabad, Dang, Gandhinagar, Kutch, Amnagar, Palanpur, Rajkot and Surat.

maximum number of cases relating to tribal and weaker section. The PA was conducted from October 2011 to May 2012.

Land is a premium asset, the value of which always shows an increasing trend due to which it has an important impact on the economy of the State. The State has an important role to play in the land management and ensure that land is made available only for the purposes for which it was intended for and the grant is beneficial to the Government. A Review on Allotment of land for non-Governmental activities' was included in the Report of Comptroller and Auditor General of India (Civil) for the year ended 31 March 2006. The PA of this topic had not been done during the last six years. As such we thought it fit to conduct a PA on the subject.

### 3.5.6 Audit constraints

We obtained information from the office of the Pr. Secretary, Revenue Department and found that in 1,262 cases of allotment of land and regularisation of encroachment were approved by the Government during the period from 2006-07 to 2010-11. We called for all the case files, but only 594 case files were produced. The remaining 668 cases were not produced to audit. Reasons for non production, though called for (April 2012), were not furnished to us.

The category wise allotment and regularisation of cases produced are mentioned in the following table:

Sl. No.	Category of allotment/grant/regularisation	Number of cases produced by the office of the Pr. Secretary	Number of cases produced by the District Collectors
1	Industrial use	93	59
2	Commercial use	31	18
3	Charitable institutions/trust	104	39
4	Government Departments/ Boards/ Corporations	55	68
5	Residential/other purposes	62	65
<b>Total</b>		<b>345</b>	<b>249</b>

It would be seen from the above that 53 *per cent* of the cases were not produced to audit including a file relating to a company "GIFT". The matter relating to non-production of records was taken up with the Department and Government.

The above cases were examined by us and the results are mentioned in the succeeding paragraphs:

### 3.5.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Department in completing the audit. We held an Entry Conference' with the Principal Secretary, Revenue Department in September 2011 to appraise the Department about the objectives, scope, criteria and methodology of audit. The performance audit report was sent to the Government in July 2012 for their response. The report was discussed with the Department in the Exit Conference held in July 2012. The replies furnished by

the Department have been considered and appropriately incorporated in the relevant paragraphs.

### **Audit findings**

#### **3.5.8 Inadequate maintenance of records**

The software called 'E-dhara' developed by National Informatics Centre (NIC) used in the computerisation of the land records (Government as well as private lands) in the Department started working in May 2005.

As per Section 53 of BLR Code, 1879, a register shall be kept by the Collector in such form as may from time to time be prescribed by the State Government of all lands, the alienation of which has been established or recognised under the provisions of any law for the time being in force.

**3.5.8.1** We found in the offices test checked that the land records namely Village Forms "6" (i.e. Record of rights<sup>57</sup>), "7/ 12" (i.e. Mutation entries<sup>58</sup>) and "8A" (i.e. land account of landowners<sup>59</sup>) were computerised at the village level only. However, the database of the Government land was not consolidated by the Department at the district level as such the consolidated database of the entire state was not available with the

Department.

We also noticed that "Register of alienated lands" containing the details of the alienations<sup>60</sup> of Government land were maintained manually only in two districts Dang and Palanpur but these registers were not updated from time to time. Even some of the allotment cases pertaining to 2006-07 to 2010-11 were not found entered in the registers maintained in these districts. The other six districts had not maintained the registers at all. Due to the absence of the consolidated data, the position of land alienated from time to time could not be ascertained.

#### **3.5.8.2 Lack of uniformity and transparency in allotment**

Our scrutiny of land allotment records during the five years 2006-11 revealed that no orders/ instructions for determining the qualifications of allottees or for inviting applications were issued by the Department; instead allotments were considered in respect of only those who applied for allotment. The prices were fixed by various committees; the norms prescribed for fixing the price of land were found to be unrealistic in some cases. It was also observed that these norms were not adhered to in some other cases. Thus, there was no uniformity in fixing the prices of the lands alienated. Further, the status of the

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<sup>57</sup> Record of rights is called *Hak Patrak* in Gujarati. It shows the basis for creation of rights of ownership.

<sup>58</sup> This form contains survey number wise ownership/rights of the persons.

<sup>59</sup> It shows total survey number wise land holdings of a person.

<sup>60</sup> Alienation means transfer of rights wholly or partially of Government land to the ownership of any other person.

applications, proposals received from the District Collectors for allotment of Government land during the period covered under audit was not available with the Department. Due to absence of this data, we could not ascertain the stage at which alienations were pending.

Correct valuation of the land proposed for alienation, inviting of application from the applicants and adoption of a uniform method of allotment are the essential elements to bring uniformity and transparency in the system of alienation of Government Land. This would not only give an equal opportunity to all similarly situated applicants to apply for the land and increase competition.

**We recommend that the Government may consider developing at state level a database of the Government land (i) alienated; (ii) status of alienation proposals received, approved, rejected and pending; (iii) types and purpose of alienations; and (iv) the considerations received from the alienations made so as to make the system more transparent.**

We brought the absence of a consolidated data base of alienated and unalienated land to the notice of the Government (July 2012); their reply has not been received.

### **3.5.9 Government Resolutions not adhered to resulting in short realisation of revenue**

#### **3.5.9.1 Short recovery of occupancy price due to incorrect valuations**

The guidelines for valuation of Government land issued vide Government Resolutions in September 2002 and revised in October 2008 *inter alia* stipulate that the value of the site proposed for allotment shall be arrived at after considering the average comparable sale value for similar type and area of land situated within a radius of 1 to 1.5 kms, as ascertained from the registered sale deeds during the last six months to one year.

Further, on the basis of various other parameters such as purpose of allotment, benefits of road approaches, growth nodes, nature of land etc, increments/deduction at the prescribed rates were required to be made on the average comparable sale value to work out the final value of the land by the valuation authorities.

Audit found that the ingredients / increments required to be added to the cost of land on account of various factors stipulated by the Government in their resolutions were not adhered to by the Department. Thus the market value of the land was fixed incorrectly granting undue financial benefit to

the allottees. These are briefly mentioned in the following paragraph:

Our Scrutiny of valuation reports attached with the allotment orders approved by the Cabinet or by the Department revealed that additions on to the cost of land as per the guidelines were not made while fixing the price of the land.

This resulted in undervaluation of Government land and subsequent short recovery of occupancy price of ₹ 36.49 crore mentioned in the following 29 cases:

Sl. No.	Name of the allottee / purpose of allotment	Area (in sq. mt.)	Rate of land (₹ per sq. mt.)		Short recovery of occupancy price (₹ in crore)
			Leviable	Levied	
<b>Land having pucca roads and allotted for industrial purposes</b>					
1	K. Raheja Corporation Pvt. Ltd. for IT Park in Gandhinagar District.	3,76,581	705	470	9.96
<p><b>Nature of observation:</b> The guidelines issued for valuation of land by the Government in September 2002, provide for addition of 20 to 25 per cent for benefit of pucca road and addition of 30 to 40 per cent for industrial purpose to the average comparable sale value of the land. In addition to this 30 per cent of the total value (₹ 705 per sq. mt. in this case) was to be added in respect of the grazing land.</p> <p>We noticed that SLVC fixed the sale value of the land as ₹ 470 per sq. mt. but did not add at least 20 and 30 per cent for pucca roads and for industrial area respectively. This resulted in short realisation of occupancy price of ₹ 9.96 crore<sup>61</sup> including grazing land of 1,57,004 sq. mt.</p> <p>After this was pointed out, the Department/CTP replied (July 2012) that the rate (₹ 470 per sq. mt.) finalised by SLVC was 56 per cent higher than the rate (₹ 300 per sq. mt.) fixed by DLVC. Hence, even after addition of 20 per cent for road benefit and 30 per cent for industrial purpose, the price would be lesser than that fixed by SLVC. The reply is not relevant as the Department had not added 20 and 30 per cent for pucca roads and for industrial area to the value of the land fixed as per the guidelines while carrying out evaluation and consequently undervalued the value of the land to that extent.</p>					
<b>Land situated within the vicinity of Highway:-</b>					
2	Essar Power Gujarat Ltd. for power project in Gandhinagar District	30,54,915	107	80	8.25
<p><b>Nature of observation:</b> The guidelines for valuation of land issued by the Government in September 2002 provide for addition of 25 to 30 per cent to the average comparable sale value of the lands situated within the vicinity of State Highway road. The area of a piece of land below 1,500 sq. mt. was described in the guidelines as smaller areas and for working out the average sales value of smaller areas, 30 per cent deduction was allowed. The area of a piece of land above 1,500 sq. mt. was described in the guidelines as larger areas and no deduction was admissible in these cases. We noticed that the land was situated near the Highway No 6. Addition of 25 to 30 per cent to the cost of land required to be added was not made while working out the final market value of the land by the Department.</p> <p>After this was pointed out, the Department/CTP accepted (June 2012) the mistake and added 30 per cent for highway approach. However, it deducted 30 per cent on account of sales value on the grounds that the land was of smaller area and stated that as such there was no price difference. The deduction of 30 per cent applied was not correct as the land was contiguous land and was not divided into plots. Besides all the pieces of land taken for valuation purposes surrounding the lands were large plots. Department had itself treated the plot as larger area in the first place and hence no deduction was admissible.</p>					

<sup>61</sup> (705-470) x 2,19,577 =5.16  
(917-611) x 157004 =4.80  
Total 9.96

<b>Land allotted for industrial purposes</b>					
3	Coastal Gujarat Power Ltd. (CGPL) for power project in Kutch District	50,25,941	15	11	1.83 <sup>62</sup>
		21,83,917	16	12	0.98 <sup>63</sup>
4	Indian Oil Corporation Ltd. for storage tank in Amnagar District	48,664	539	415	0.60
<p><b>Nature of observation:</b> - We found that though the land was allotted for industrial purposes, addition of 30 to 40 per cent on the average comparable sale value as prescribed in the guideline was not applied while working out the final market value of the land.</p> <p>After this was pointed out, the Department/CTP accepted (June 20 12) the mistake in the case of CGPL and added 30 per cent for industrial purpose. However, it deducted 30 per cent on account of sales instances treating the areas as smaller areas and stated that as such there was no price difference.</p> <p>The deduction of 30 per cent applied in the revaluation was incorrect as the plots sold are large plots i.e. exceeding 1,500 sq. mt., as the piece of land was contiguous and as such no deduction was admissible. No reply has been received in case of Sl. No. 4.</p>					
5	Reliance Petroleum Ltd. for housing colony for industrial workers in Amnagar District	5,95,881	454	420	2.03
<p><b>Nature of observation:</b> - We found that though the land was allotted for industrial purpose, addition of 30 to 40 per cent on the average comparable sale value as prescribed in the guideline was not applied while working out the final market value of the land.</p> <p>The Government replied (June 2012) in respect of case mentioned at Sl.No.5 that the land was allotted for housing colony and not under Section 65 (B) of LR Code and as such no addition was required to the sale value of the land. The reply is not acceptable as the purpose of housing colony for industrial workers is termed as industrial purpose under Section 65 (B) of the LR Code as such addition of 30 per cent was admissible.</p>					
<b>Land allotted at lower rates</b>					
6	Gujarat State Petronet Ltd. for construction of Section valve station in Rajkot District	7,730	892	800	0.07
7	Vivekanand Vikas Mandal for School in Patan District	40,470	36	32.48	0.01
<p><b>Nature of observations:-</b> The guidelines provide that in case, no sale deed was executed during last six months or one year period, average comparable sale deeds of similar land for earlier period would be taken into consideration after increment of 12 per cent for each previous year. We noticed that sale deeds executed prior to one year were considered for working out the average comparable sale values. However, addition of 12 per cent was not applied on average comparable sale value to arrive at the final market value of the land. The matter was brought to the notice of Government (July 2012);no reply has been received.</p>					

<sup>62</sup> Occupancy price of ₹ 5.93 crore was paid at the rate of ₹ 11 per sq. mt. for 52,25,829 sq. mt. of land while Government finally allotted 50,25,941 sq. mt. only to the Company. The excess occupancy price of ₹ 0.24 crore was adjusted against the short levy.

<sup>63</sup> Including 30 per cent additional occupancy price for grazing land of 8,53,917 sq. mt.

8	13 Allotments (nine districts <sup>64</sup> )	9,49,833	50.48	45.08	5.40
<p><b>Nature of observation:</b> - Government instructed in May 2006 that in case allotment of land is made after one year from the date of valuation of land by DLVC, the market rate so fixed shall be increased by adding 12 per cent. We however noticed that in 13 cases (Nine: Private individuals/companies/enterprises; three: boards/authority; one bank) at the time of issue of allotment order by the Collectors, though more than one year had expired from the date of fixation of market rate by DLVC, increase of 12 per cent was not applied. This resulted in short levy of occupancy price of ₹ 5.40 crore.</p> <p>After this was pointed out, the Department, while accepting the audit contention in four cases, stated that the District Collectors were instructed to recover an amount of ₹ 2.22 crore. In one case, the Department stated that there was no need for addition of 12 per cent to the value of the land, as one year had not expired from the date of valuation by SLVC. In another case, the Department stated that though order was issued in February/ September 2009, the decision of the Government was of 2006. The reply in both the cases is not in line with the instructions issued by the Government which stipulate charging of 12 per cent on the value of land after passage of one year from the date of valuation by DLVC. No reply has been received in the remaining cases.</p>					
9	9 Allotments (three districts <sup>65</sup> )	2,95,693	30 per cent of the value of the alienated land		7.36
<p><b>Nature of observation:-</b> In January 1999, Government framed a policy for allotment of grazing land to industries at 30 per cent additional occupancy price of the land. We however noticed that 30 per cent additional market value was not recovered from the Companies. This has resulted in short levy of occupancy price of ₹ 7.36 crore. The matter was brought to the notice of the Government (July 2012);no reply has been received.</p>					

The above facts indicate that the Department is not following the Guidelines issued by the Government.

### 3.5.9.2 Loss of revenue due to undervaluation of the Government land

Government in May 2006 instructed that the DLVC shall have to fix the market value of the land afresh if the allotment could not be made within two years from the date of DLVC's valuation.

In eight allotment cases of two Districts<sup>66</sup>, we noticed that the Resolution issued by the Revenue Department or the order of allotment by the Collector was after expiry of two years from the date of fixation of market rate by DLVC. In accordance with the above mentioned

instructions of Government, the cases

were required to be considered for fresh valuation by DLVC. However, in contravention of the instructions, the Department allotted lands at the market rate prior to two years, which was lower than the market rate prevailing at the time of allotment. This resulted in undervaluation of Government land. The

<sup>64</sup> Ahmedabad, Banaskantha, Bhavnagar, Amnagar, Keda, Kichch, Rajkot, Sabarkundla and Surat

<sup>65</sup> Ahmedabad, Gandhinagar and Rajkot

<sup>66</sup> Kichch and Surat

loss could not be quantified due to the absence of the current market rates of the land.

The matter was brought to the notice of the Government (July 2012);no reply had been received (September 2012).

### 3.5.9.3 Wide variation in assessment of land value

The Government had allotted (January 2010) 23,56,415 sq. mt. of land situated at Mota Khandagra, Taluka Mundra, District Kutch to Coastal Gujarat Power Limited (CGPL) for construction of 4000 MW Ultra Mega Power Project (UMPP) with the approval of the Cabinet. The value of the land as fixed by town planner was ₹ 46 per sq. mt. Our scrutiny of the valuation sheet finalized in 2009 attached with the allotment order revealed that cost of land reported by various authorities as mentioned in the valuation sheet were at variance on as detailed below:

Name of the authority	Value of the land (₹ per sq. mt.)
<i>Panchrojkam (fixed by the Sarpanch of the village)</i>	500
Town planner (based on the sale deeds registered during the last one and a half year as per the guidelines )	46
<i>Jantri prepared by Stamp and Registration Department</i>	195
Dy. Collector of Bhuj and <i>Mamlatdar, Mundra</i>	225

Since the rates were at variance, the Government in July 2009 on the recommendation of SLVC fixed the rate of ₹ 145 per sq. mt. The valuation of the land was found to have been done by the CTP. However, the parameters on which this rate was finalised was not found on record.

We further found that, CGPL had also purchased land at Tunda and Khandagra at the rate of ₹ 296.51 per sq. mt. and ₹ 946.90 per sq. mt. respectively. SLVC did not adopt the rate citing the reason that the land purchased by CGPL was three kilometres away from the proposed site. The reasons for not adopting the rate are not correct as the purpose for purchase of land in both cases was the same.

After this was pointed out, the Department replied (June 2012) that the value of the land was decided by the authorities empowered to do so.

The value, as assessed by the various authorities and committees varied widely. The Department should put in place a system for fixing true market value of the properties and apply it uniformly.

### 3.5.9.4 Grant of land at concessional rate to *Larsen and Tourbo Ltd.*

(i) The Collector, Surat forwarded (July 2007) a proposal to the Revenue Department for allotment of land admeasuring 8,53,247sq.mt. at Hāra, Surat to *Larsen & Toubro Company Limited (L & T)* for the purpose of setting up facilities for manufacture of Super Critical Steam Generators and Forging Shop for Nuclear Power Plant. The DLVC had recommended the rate as

₹ 1,000/1,050<sup>67</sup> per sq. mt. The value of the land exceeded ₹ 50 lakh, as such Revenue Department sent the case to SLVC for valuation purposes. SLVC recommended the rate at ₹ 2,020 in September 2007 and the Revenue Department forwarded the proposal to the Cabinet prescribing the rate of ₹ 2,020 per sq. mt. for the land.

The Cabinet granted (February 2008) special concession of 30 *per cent* on the value of land fixed by DLVC and allotted the land at ₹ 700/735 per sq. mt. as it considered the project as Hi-tech, of national importance and of first of its kind in Gujarat.

It was seen from the above that concession was granted on the price of land recommended by DLVC. Thus, non-adoption of the value of land fixed by SLVC, resulted in loss of revenue of ₹ 60.66 crore even after granting 30 *per cent* concession on the final value of land fixed by SLVC. The percentage of concession worked out to 65.20 *per cent* on price fixed by SLVC.

**(ii)** The L & again applied for 12.14 lakh sq. mt. of land for expansion of the above said project. The Collector forwarded (26 August 2009) the proposal to the Revenue Department along with the recommendation of DLVC's fixing the rate for the land at ₹ 2,800/2,500/2,400<sup>68</sup> per sq.mt.

The Pr. Secretary, Finance Dept and Chief Secretary in consultation with Revenue Department proposed that land shall be allotted either after fixation of price by SLVC or at ₹ 700<sup>69</sup> per sq.mt. i.e. at the same rate at which a part of the land was allotted to the Company plus 12 *per cent* addition due to passage.

Thus, instead of getting the rate approved by SLVC, which was the competent committee, a note was submitted before the Cabinet for allotment of the land at ₹ 700 per sq. mt. The Cabinet approved (March 2010) the proposal of the Revenue Department and accordingly 5,79,577 sq. mt. of land was allotted (March/July 2010) at ₹ 700 per sq. mt.

Even if the allotment was made after considering 30 *per cent* concession given by the cabinet on land allotted in first phase, the valuation of the land would have come to ₹ 1,960/1,750/1,680 per sq. mt. instead of ₹ 700 per sq.mt. This resulted in loss of revenue of ₹ 67.25 crore.

Further, it is pertinent to mention here that the land situated at survey number 498/1 was in the first phase allotted to the Company at ₹ 735 per sq. mt. after concession of 30 *per cent* on DLVC's price. The Revenue Department did not

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<sup>67</sup> ₹ 1,000 per sq. mt. for 7,79,148 sq. mt. of land falling under survey number 446/A and ₹ 1,050 per sq. mt. for 74,099 sq. mt. of land falling under survey number 498/1 of Suvali village, Taluka Choryasi, Haṛa, Surat.

<sup>68</sup> ₹ 2,800 for survey number 498/1, ₹ 2,500 per sq.mt for survey number 446/A *paika* and ₹ 2,400 per sq. mt.for survey number 176/1/1/B in Suvali village, Taluka Choryasi, Haṛa, Surat

<sup>69</sup> The rate at which the land was granted in February 2008 to L&

consider this aspect and proposed to the Cabinet to allot land admeasuring 2,56,875 sq. mt. situated at the said survey number also at ₹ 700 per sq. mt.

After this was pointed out, the Government replied (July 2012) that the project was a joint venture between L & Nuclear Power Corporation of India Ltd. In view of the project's national importance, the Cabinet had decided to allot the land at concessional value.

(iii) Government allotted (July 2005 and November 2006) land admeasuring 32,000 sq. mt. of Bopod and Ankhhol villages at District Vadodara to Larsen and Toubro Limited (L & T) for the purpose of establishment of Technology Park. Scrutiny of the case file revealed that in Bopod village, rate of the land was fixed at ₹ 346 per sq.mt on the recommendations made by SLVC but in respect of Ankhhol village no recommendations were sought from the SLVC though the comprehensive value of land to be allotted exceeded ₹ 50 lakh. The value of said land was fixed at ₹ 155 per sq. mt. by DLVC.

L & T requisitioned the piece of land at ₹ 134.55 per sq.mt on the ground that it had purchased (2002-03) private land from farmers in the vicinity at ₹ 134.55 per sq.mt on consent basis. And if higher price were paid for Government land, the farmers too would ask for the higher rates for their land. The Legal Department had however, opined for recovery of occupancy price at the market value was in consonance with the extant valuation policy of the Government.

The Government valued the land at ₹ 134.55 per sq. mt. *plus* value addition of 12 *per cent* for each subsequent year on the ground that the land was falling in between the private land already acquired by the company and therefore the said land could not be disposed of independently. The reasons stated are not tenable as in respect of village Bopod the Government had fixed the rate as ₹ 346 per sq. mt. while for Ankhhol village which was also falling within the project the rate was fixed only at ₹ 155 per sq. mt. without reporting the matter to SLVC which was the competent authority to recommend on the value of the land. Additionally, the Government had also failed to recover the revenue due as per DLVC/SLVC rates fixed to the extent of ₹ 346 per sq. mt. Thus, non-adoption of the rate fixed for Bopod by SLVC resulted in undue financial benefit to the extent of ₹ 79.77 lakh<sup>70</sup> to the Company.

After this was pointed out, the Government replied (June 2012) that the decision to allot land at ₹ 134.55 per sq. mt. was taken by Cabinet. The fact however remains that the land has not been properly valued and has been granted at lesser rates.

<sup>70</sup> Ankhhol Village 5565 sq. mt. x ₹ 155 (±2%) = ₹ 9.66 lakh + Bopod Village 26435 sq.mt. x ₹ 346 (±2%) = ₹ 1.02 crore +30 % addition for grazing land admeasuring 26435 sq. mt. = ₹ 30.73 lakh. Total recoverable ₹ 1.43 crore. Recovered = ₹ 0.63 crore. Short recovery = ₹ 0.80 crore.

### 3.5.9.5 Allotment of land at concessional rates to Trusts

The Government Resolution dated 14 August 1991 stipulates that Government land can be allotted at 50 *per cent* of market value to those institutions, public trusts and NGOs which are engaged in good deeds of social upliftment such as educational, religious, press and hospitals.

(i) The Collector, Gandhinagar forwarded a proposal to the Revenue Department in August 2009 for allotment of Government land admeasuring 3,00,000 sq. mt. to a trust namely "School of Ultimate Leadership, Gandhinagar" (the institution) for establishing an institute for imparting leadership training, education and health services to the youth. The market rate of land recommended

(September/ November 2009) by the DLVC and SLVC was ₹ 4,800 per sq. mt.

The Cabinet note submitted (February 2010) by the Revenue Department stated that the institution did not get approval from the Education Departments/councils and that the project report of the institution did not specify about the area of land required for purpose though the purpose of land was mentioned in the project report i.e. indoor games, restaurant, theatre and auditorium. Further, the trust was a newly established one and did not have any experience in the field. The Finance Department to whom the case was referred by the Revenue Department had opined that in the instant case the land should be allotted at current market value.

The Revenue Department proposed (February 2010) for allotment of land at 50 *per cent* of market value and the Cabinet initially (March 2010) approved allotment of 3,00,000 sq. mt. of land to the institution at 50 *per cent* of the value fixed by SLVC but as the institution could not arrange for the fund of ₹ 72 crore, it accepted only 1,00,000 sq.mt of land for ₹ 24 crore.

The Government allotted (June 2011) 1,00,000 sq.mt. of land after charging occupancy price of ₹ 25.20 crore being 50 *per cent* of the value as fixed by SLVC including interest amount of ₹ 1.20 crore for delayed payment.

We noticed that the Cabinet note clearly depicted the institution was neither recognised by the Education Department nor had any prior experience in the field. Further the activities mentioned in the project report also did not qualify it for allotment at concessional value with reference to the aspects mentioned in the GR. Hence, the allotment of land by the Government at concessional value to the institution instead of full occupancy price was irregular which resulted in short levy of occupancy price of ₹ 24 crore.

After this was pointed out, the Government replied (July 2012) that in view of the innovative prospects of the institution, the Cabinet had taken decision to allot land at 50 *per cent* concessional market value. The reply is not acceptable, as the institution did not apply for and get the approval of

Education Department. Besides, of 2/3<sup>rd</sup> portion of the land was not accepted by the Trust which revealed that either the project vision was erroneous or the project viability was doubtful.

The Government did not take into consideration these aspects while allotting the said land to the institution at concessional market value.

GR issued by Government in September 1999 stipulates the area of Government land which could be allotted to the Higher Educational Institutions and the extent of concession applicable on such allotment in continuance of the earlier Resolution of August 1991.

As per the Resolution, Colleges of Engineering, Pharmacy, Medical, Physiotherapy, Dental, Nursing, Polytechnic Training and Information Technology would be eligible to get Government land under the said policy. Management Courses and other purposes such as office buildings, staff quarters, etc. were not covered in the GR, hence were also not eligible for concessional allotment.

The area of land as stipulated by Educational Councils would be allotted to the institutions at concessional price of 50 *per cent* of the market value and the land in excess of 10 to 15 *per cent* of stipulated area shall be allotted at 75 *per cent* of the market value. If the requirement of land is more than that, the allotment shall be made after realisation of 100 *per cent* market value of the land.

(ii) As per the proposal of the Collector, Anand, Government allotted land admeasuring 1,82,115 sq.mt. in December 1999 to a Trust "Shree Charotar Moti Sattavis Patidar Kāvani Mandal" for establishing an Engineering College and allied facilities at the rates prescribed in the GR mentioned above. During 2003-04, the Trust again applied for allotment of land admeasuring 1,90,000 sq. mt. for establishment of a Deemed University and expansion of Engineering, Pharmacy and Management courses.

The Collector, Anand

forwarded the proposal to the Revenue Department along with DLVCs recommended rate of ₹ 80 per sq.mt. for the land.

Revenue Department proposed that cost may be recovered at 50 *per cent* of the ₹ 98 per sq. mt. recommendations of SLVC. The Cabinet approved the proposal of the Revenue Department in September 2006.

We noticed that as per the GR of 1999 that the trust was eligible to get only land of 20, 235 sq. mt. for Bachelor of Pharmacy programme at concessional rate of 50 *per cent* of market value.

For Engineering Colleges, the trust already been allotted the prescribed extant of land at concessional rates in December 1999 and hence was not eligible for further concession.

Management Courses and other purposes such as office buildings, staff quarters, etc. were not covered in the GR, hence were also not eligible for concessional allotment.

Further, as on the date of allotment, the institution had not obtained the approval from All India Council for Technical Education (AICTE).

In view of the above facts, the land admeasuring 1,69,765 sq.mt. (i.e. excluding the area of land measuring 20,235 sq. mt.) was required to be charged at full market value. However, the Government allotted 1,90,000 sq. mt. at concessional value of ₹ 0.93 crore instead of ₹ 1.98 crore. This resulted in less charging of occupancy price of ₹ 1.05 crore.

After this was pointed out, the Government replied (July 2012) that the Trust had utilised the land allotted to them earlier in a successful manner and hence Government decided to allot additional land at concessional rate of 50 *per cent*. Further, it was stated that the land was allotted for University and not for Engineering or Pharmacy College.

The reply, however, is not in line with the facts found on record as the land was found to have been allotted to the Trust for the purposes which were not eligible for concessional rate as per the GR dated September 1999.

### **3.5.9.6 Allotment of land to Ford India Private Limited without fixing the price of the land by SLVC**

With a view to encourage and attract investments in innovative projects, Government in Industries and Mines Department had devised (December 2009) a scheme of assistance to Mega/Innovative Projects. A State Level Approval Committee (SLAC) under the chairmanship of Chief Secretary was constituted by Government (December 2009) for recommending the applications to Government for approval of assistance under the scheme.

Government allotted (August 2011) 18,63,687 sq. mt. of land valued at ₹ 205 crore to Ford India Private Limited (FIPL) for the purpose of establishment of

mega project of automobile and engineering for manufacture of automobiles at the rate of ₹ 1,100 per sq. mt. fixed by SLAC.

We observed that though SLAC had been empowered to:

- recommend the application for assistance to Government and on approval of the application, the committee will also monitor the progress of the implementation of the Project for which assistance is sanctioned and
- prescribe the terms and conditions for implementation of the project

SLAC was not been empowered to fix the rate of land for allotment to mega projects. The value was required to be ascertained by DLVC/SLVC based

upon the valuation policy as determined by Government vide GR dated 22 October 2008.

After this was pointed out, the Government replied that SLAC had decided the value of land based on some concrete facts which is a practice with SLVC and the price was also approved by Cabinet. Finally, SLAC deliberated on the issue and took note of the GIDC land price in the nearby areas and allotted the land at ₹ 1,100 per sq. mt.

The reply is not acceptable as SLAC was not empowered for valuation of the land. It is desirable if the Government followed a uniform policy for allotment of Government land to safeguard its revenue and public interest at large.

### 3.5.9.7 Levy of penal occupancy price at lesser rates

As per Government Resolution dated 8 January 1980, the Government land encroached for commercial or industrial purpose shall be regularised after charging penal occupancy price at 2.5 times of the market value fixed by competent authority.

Government land admeasuring 7,24,897 sq. mt. was encroached ( date was not available ) by *Essar Steel Company Limited* (ESCL) in *Haira*, Surat District. On request of ESCL, the Government decided (July 2009) to regularise the encroachment by levy of 2.5 times of ad-hoc value of land at ₹ 700 per sq. mt. on the ground that the land in nearby area was given to *Larsen and Toubro Ltd*,

(L & T) at ₹ 700 per sq. mt. and the value of land encroached by ESCL had not been fixed by SLVC. Accordingly, total ad-hoc value of ₹ 127.50 crore worked out at 2.5 times was recovered from ESCL by the Government.

We noticed that ₹ 700 per sq. mt. considered by Government for working out the ad-hoc value was not justifiable as the rate was a concessional rate applied in the case of allotment of land to L & T. The actual rate of land ascertained in that case by SLVC was ₹ 2,020 per sq. mt. Hence, the full rate of ₹ 2,020 per sq. mt. should have been considered for recovery of ad-hoc value from ESCL. Further, it was also mentioned in the order of allotment of land to L & T that the concessional rate of ₹ 700 per sq. mt. would not be applicable in any other case. Thus, due to non-consideration of recovery of full rate of ₹ 2,020 per sq. mt. for the encroached land from the ESCL resulted in short recovery of ad-hoc occupancy price to the extent of ₹ 238.50 crore.

After this was pointed out, the Government replied (June 2012) that as the Company was incurring loss of ₹ 200 crore per day due to delay in completion of the project, ad-hoc price of ₹ 700 per sq. mt. was fixed based on the ground that land in the nearby area was given to L & T Ltd. at the rate of ₹ 700 per sq. mt. However, the Collector, Surat was instructed to send a formal proposal for regularisation of the said land. Further, Government stated that the matter was under the consideration of the Government and was premature.

However, the fact remains that more than three years have elapsed since the company applied for regularisation; it could have been done in line with Government Resolution dated 8 January 1980 and the penal occupancy price could have been recovered.

### 3.5.9.8 Absence of uniformity in levy of penal Occupancy price

In November 1989, by partial modification of the earlier policy decision of January 1980, Government decided to levy penal price of not less than one time and not more than 2.5 times of market value in case where encroachment of Government land was made by registered trusts for the purposes viz schools, colleges, dispensaries etc.

We noticed 16 cases of encroachment of Government land by Gujarat Water and Sewerage Boards for construction of pump houses. These cases were regularised between October 2008 and September 2011.

Out of these, in four cases, penal occupancy price was levied at the rate of 2.5 times of the market value while in 12 cases, the Department levied one time penal price. There was nothing on the record to indicate why two rates of penalties were applied to the same Board. Non-levy of penalty at the maximum rate resulted in forgoing of revenue in shape of occupancy price of ₹ 4.05 crore.

After this was pointed out, the Government replied (June 2012) that the allotment was for public purpose and hence one time market value was charged from the Board. The reply is however silent about the non-levy of penal occupancy price at maximum rate i.e. 2.5 times of market value in all the cases.

### 3.5.10 Delay in finalisation of the price of the land

#### 3.5.10.1 Premium not recovered due to non-finalisation of price of the land in respect of reconstitution of a Company

Government vide GR dated 6 June 2003 stipulated that prior permission of Collector/Government shall be obtained whenever there is a change in the constitution of a partnership firm/Company to whom Government land is allotted or leased under new and restricted tenure<sup>71</sup>. While giving permission to reconstitute the partnership firm/Company, the Collector shall levy premium at 20 *per cent* of notional market value of the land.

Test check of records in the office of the Collector, Surat revealed that *Larsen & Toubro Ltd.* Harra (L & T) was allotted (February 2008 and March 2010) Government land for manufacture of Supercritical Turbine Generators. L&T collaborated with *Mitsubishi Heavy*

*Industries, Japan* to form two companies namely *L & T MHI Turbine Generators Pvt. Ltd.* and *L & T MHI Boilers Pvt. Ltd.* Accordingly, L & T had sought permission in May 2009 to lease part of the land allotted i.e. 88,062 sq.mt to the joint venture – L & T MHI Turbine Generators Pvt. Ltd. and 1,38,810 sq. mt. to *L & T MHI Boilers Pvt. Ltd.* The DLVC was held in August 2009 and fixed the rate at ₹ 2,800 per sq. mt. The case was sent by the Government to CTP for valuation as its value exceeded ₹ 50 lakh. The CTP however, stated that the cost of the land was not worked out correctly. Instead of working out the correct value of the land and sending the case to SLVC for approval; it returned the case to DLVC for afresh valuation in April 2010.

DLVC was again held in September 2011 and fixed ₹ 5,200 per sq.mt. as market value of the land. The value of premium chargeable at 20 *per cent* as worked out by DLVC was ₹ 23.60 crore. The value fixed by the DLVC was intimated to the Revenue Department by the Collector, Surat in September 2011. The SLVC/Government has not yet finalised the case till date. Non-finalisation of valuation resulted in blocking up of revenue due to non-levy of premium to the tune of ₹ 23.60 crore.

After the matter was pointed out, the Collector stated that the case was sent to the Government in September 2011 and was pending finalisation by the Government. However, the reply was silent about the delay of two years in his office.

The matter was brought to the notice of the Government (July 2012); no reply had been received.

<sup>71</sup> New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the prior approval of Collector.

### 3.5.10.2 Delay in finalisation of the price of land allotted to Boards and Corporations

Our scrutiny of allotment files revealed that the Government in May, 1997 had given advance possession of land admeasuring 1,14,611 sq. mt. to the Gujarat Industrial Development Corporation (GIDC) for establishment of Industrial Estate at Radhanpur. A reference for valuation of the land was made by the Government to CTP in May 1997 but no response was received till January 2002. The reasons for the delay of five years were neither found on record nor were the same furnished.

Thereafter the Collector referred the matter to the DLVC for valuation in pursuance of the directions (January 2002) issued from Revenue Department. The DLVC finalised the valuation in March 2006 and the Government issued (August 2006) a GR for allotment and valued the land at ₹ 1.26 crore. GIDC did not pay the value of the land or interest for delayed payment but forwarded representation to Government (June 2006) wherein it was stated that the land price decided by Government was on higher side and the Government should charge only consent price. The Government rejected the request of GIDC in October 2008 and issued notices for recovery of occupancy price which has not been paid till date.

Thus allotment was made after nine years from the date of giving advance possession of land. Non-recovery of occupancy price along with interest for delayed payment has resulted in blocking up of revenue to the tune of ₹ 3.01 crore<sup>72</sup>. The delay at each stage needs to be curtailed and steps need to be taken for recovering the amount.

The matter was brought to the notice of the Government (July 2012);no reply had been received.

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<sup>72</sup> ₹ 1.26 crore occupancy price + ₹ 1.75 crore Interest (Interest calculated at 12 per cent from July 1997 to December 2003 @ per cent from January 2004 to July 2011).

### 3.5.10.3 Valuation of cases of waste land allotted to Boards and Corporations not finalised

As per GR dated 7 January 2004, advance possession of land to Boards/Corporations shall be given subject to the conditions such as the value of land should be fixed by the DLVC within three months from the date of giving advance possession of land. The DLVC shall intimate the value fixed by it to the Board/Corporations immediately. In case of delay in payment by the Board/Corporation beyond three months from the date of intimation of value by the Collector, they shall be required to pay 8 *per cent* interest *per annum* for the delayed period of payment. Government in September 2009 instructed the Collectors to give advance possession of Government land to the Board/Corporations on recovery of value of land as per *jantri* rates subject to payment of differential value of land after valuation fixed by Government.

Test check of records revealed in 20 out of 40 cases of advance possession of land in three<sup>73</sup> Collector offices that the possession of Government land admeasuring 1,17,872 sq. mt. was handed over to three<sup>74</sup> Government Companies during August 2008 to March 2011. The Department recovered the value of land of ₹ 10.10 crore as per *jantri* rates but the valuation of the land by

DLVC and SLVC was not carried out (March 2012). The reason for delay in conducting valuation was not intimated to audit. In absence of the valuation, the differential amount payable by the Companies and the blockage of revenue could not be ascertained. Further, as the valuation was not finalised and intimated to the Companies, Government cannot levy interest on the differential amount during the period from the date of advance possession to the date of intimation of final value of land.

The matter was brought to the notice of the Government (July 2012);no reply had been received.

### 3.5.10.4 Loss of interest due to delay in valuation

Scrutiny of seven other cases in Rajkot district revealed that value of land was not fixed within three months from the date of giving advance possession of land to Gujarat Energy Transmission Corporation (GETCO). The delay in valuation by DLVC ranged from 108 days to 429 days. No interest could be levied on delayed payment of occupancy price. Thus, non-adhering to the time schedule stipulated in the Government instructions, resulted in loss of interest of ₹ 12.08 lakh.<sup>75</sup>

The matter was brought to the notice of the Government (July 2012);no reply had been received.

<sup>73</sup> Rajkot, Ahmedabad and Surat.

<sup>74</sup> Gujarat Energy Transmission Corporation (18 cases), Gujarat Agro Industries Ltd. (1 case) and Gujarat Gas Company Ltd. (1 case).

<sup>75</sup> Interest calculated at 8 *per cent* on the value of land for the number of days delayed in valuation of DLVC.

In view of the cases cited, the land value arrived at has rendered DLVC/SLVC procedure irrelevant.

**The Government may consider monitoring finalisation of the price of alienated Government land by framing a time schedule for each stage and prescribing returns to ascertain the compliance of time schedule.**

### **3.5.11 Lack of internal control**

We noticed that data of land records was not maintained correctly by the Department. The survey numbers of the land allotted were different from those mentioned in the allotment orders. Discrepancies in maintaining the records, delay in eviction of encroachers from illegally occupied land were also noticed. These deficiencies indicated that the data available with the Department was unreliable, internal controls and monitoring mechanism of the Department were weak. A few cases are mentioned in the following paragraphs:

#### **3.5.11.1 Discrepancies in survey numbers of the land alienated for various purposes**

Test check of allotment cases in the office of the Collector, Rajkot, revealed that in one case, Government had accorded its approval (31 May 2007) for allotment of Government waste land admeasuring 40,470 sq. mt. situated at survey number 248 *paike* 27 *paike* 1 of Taluka Patdari to *Savjibhai Korat Education and Charitable Trust* (Trust) for the purpose of setting up an Engineering college. A few deficiencies noticed are mentioned below:

- The valuation of ₹ 104 per sq. mt. was done by DLVC in respect of land situated at 248 *paike* 27 *paike* 1. However, the Collector allotted land situated at 248 *paike* 22 for which no valuation was carried out.
- There was nothing on record that the Trust has been given approval by AICTE till date.
- As per the possession letter of the Circle Officer, Patdari, the possession of land was given at survey number 248 *paike* 2 instead of land at survey number 248 *paike* 27 *paike* 1 or 248 *paike* 22.
- The Village Form 7 and 12 revealed that the land allotted to the Trust was of survey number 248 *paike* 30. This is in contradiction to GR of Revenue Department, Collectors Order and *Panchrojkam*.

Thus, survey numbers of the land allotted were not the same for which possession given and mutation was carried out in a third survey number. This indicated that monitoring mechanism of the Department to ascertain the correct survey number was weak. The grant of land at the places other than those specified in the allotment orders has financial as well as legal implications. The Department needs to strengthen its internal control mechanisms to avoid such lapses.

The matter was brought to the notice of the Government (July 2012);no reply has been received.

### 3.5.11.2 Discrepancies in valuation due to incorrect survey numbers

The Government in February 2001 created a Rehabilitation Package No.1 for earthquake affected (Earthquake-2001) areas where the extent of damage was more than 70 *per cent* to facilitate resettlement and provisions of shelter to the severely affected population. Condition number 9 of the package stipulated that for reconstruction and rehabilitation, voluntary organisations, industrial houses, public sector enterprises could adopt villages or share the cost of reconstruction. The minimum contribution by NGOs (including corporate) and others shall be 50 *per cent* of the total cost.

The Collector, ~~K~~chch had given advance possession of land admeasuring 2,95,431 sq. mt. to *Bhansari Trust* organised by *Gems & Jewellery National Relief Foundation*, Mumbai for rehabilitation and resettlement of earthquake affected people. The DLVC had fixed rupees six per sq. mt. for land admeasuring 1,01,175

sq.mt. of land situated at survey number 714 *paike* on 18 January 2002.

As per the records, no valuation had been done by the DLVC in respect of the remaining 1,94,256 sq. mt. at Chitrod village. However, the Collector, ~~K~~chch charged occupancy price at the rate of rupees six per sq. mt. for the entire land of 2,95,431 sq. mt. and collected occupancy price of ₹ 8.86 lakh being 50 *per cent* of ₹ 17.73 lakh in September 2002. The Revenue Department's approval (19 April 2006) mentioned that the allotted land was situated at survey number 714 *paike* and 155 *paike*.

After this was pointed out, the Government replied (June 2012) that the land allotted was falling under survey number 714 *paike* only and survey number 155 *paike* was incorrectly mentioned in the Resolution. The fact, however, remains that the DLVC had valued the land admeasuring 1,01,175 sq. mt. and no valuation was carried out in respect of the remaining land of 1,94,256 sq. mt. Hence, the correct survey numbers need to be ascertained and the valuation done accordingly.

### 3.5.11.3 Incorrect mutation entries

In order to amend the Record of Rights and Mutation entries, the concerned *Talati* Circle Officer is required to put up the mutation case with evidence to the Dy. *Mamlatdar* for authorisation. Dy. *Mamlatdar* refers the same to *Mamlatdar* for final certification. *Mamlatdar*, after verification of documents and giving notices to the party involved in mutation, certifies the entry and accordingly mutation is carried out.

During test check of records of allotment in the office of the Collector, Gandhinagar, we noticed in one case that 3,76,581 sq. mt. of Government land situated at survey numbers 237, 238, 240 and 270 of ~~K~~ba village, Gandhinagar was allotted to *Acqualine Properties Pvt. Ltd.* (erstwhile *Raheja Corporation Pvt. Ltd.*) in June 2006 for SEZ purpose. The said land was allotted with a condition that it would be held by the Company as new and restricted tenure land i.e. the rights of the land will remain with the

Government and no change in mutation will take place. However, on verification of Village Forms 6, 7, 12 and 8A, we noticed that instead of 3,76,581 sq. mt., 4,39,880 sq. mt. of land was shown as allotted to the Company. Further, mutation affecting the transfer of land was done in respect of survey numbers 236, 237, 238 and 242 besides showing it as old tenure land instead of new and restricted tenure.

The above facts reveal that in all Government land admeasuring 63,299 sq. mt. valuing ₹ 4.46 crore (₹ 705 per sq. mt.) was transferred without obtaining orders from the Government/Collector.

The matter was brought to the notice of the Government (July 2012); no reply had been received (September 2012).

#### **3.5.11.4 Incorrect change of ownership of land**

Collector, Rajkot under Section 38 of the BLR Code, 1879 reserved Government land admeasuring 40,000 sq. mt. for Warmi Compost Plant (*Ghankachara*) of Municipal Corporation, Morbi with the condition that the land would be used for the purpose and the ownership of the land would not be transferred to the Municipal Corporation. However, during verification of Village Forms 7, 12 and 8A, we have noticed that the name of Municipal Corporation was entered in both the village forms.

After this being pointed out, the Collector Rajkot, while accepting the audit contention, directed the concerned *Mamlatdar* to make necessary correction in the Village Forms.

#### **3.5.11.5 Inadequate maintenance of records**

Section 79A of the BLR Code, 1879 empowers the Collector to evict the person occupying Government land illegally. The BLR Code and rules made there under do not provide any time frame for eviction or settlement of Government land encroached illegally by private parties. Section 61 of the BLR Code, 1879 prescribes levy of penalties for unauthorised occupation of land and empowers the Collectors to evict encroachers and forfeit crops, buildings or other constructions raised in the land.

The Revenue Department had prescribed a Management Information System (MIS) under which information regarding encroachment was to be sent monthly by each Collector office to the Revenue Inspection Commissioner (RIC) office for scrutiny and compilation.

We noticed from the data compilation of encroachment cases in the RIC office that in most of the cases, area of encroachment, penalty levied etc. had not been entered in the proforma which resulted in inaccurate and non-reliable data

consolidation of encroachment.

Further, no year-wise analysis of the data of encroachment cases was maintained in the District/*Taluka* offices and by RIC. In the absence of this

information, Audit could not ascertain the extent of timely action for eviction or regularisation of encroached land by the Department.

Besides, no data was made available regarding the cases where litigation was underway and present status of these cases. The facts indicate that the Department is not following its own instructions. Government may instruct the Department to follow the instructions strictly relating to maintenance of records and monitoring mechanism for collection of the revenue and for monitoring the court cases.

After this was pointed out, the Government replied (June 2012) that the information in this regard called for from RIC was awaited.

#### **3.5.11.6 Delay in evacuation of encroached lands**

During scrutiny of records in the office of the *Mamlatdar*, ~~Kada~~ Kada Sangani and ~~Asdan~~ Asdan in Rajkot District, we noticed in 18 cases of encroachment of Government land admeasuring 23,494 sq. mt. that the land was encroached for the purpose of brick manufacturing (17 cases) and *gaushala* (1 case). The period of encroachments were ranging from seven to 35 years. The fact of encroachment was brought to the notice of the *Mamlatdar* during the period from April 2009 to June 2009 by the *Talati* of the respective villages. The *Mamlatdar* issued notices (July 2009) under the provisions of BLR Code, 1879 for eviction of encroachment. Further progress and recovery of revenue by way of forfeiting the stock in site were not on record.

We noticed from the Encroachment Registers maintained and notice issued to the encroachers by *Talaties/ Mamlatdar* that action for evacuation of the encroachments was taken by them after a very long period, which shows the weak monitoring mechanism.

The matter was brought to the notice of the Government (July 2012);no reply has been received.

#### **3.5.11.7 Allotment of land by Collector in excess of his power**

We found that the powers exercised by the Collectors beyond the limits prescribed by the Government from time to time and land records were not maintained correctly resulting in discrepancies in grant of land as mentioned in the following paragraphs:

Government of Gujarat *vide* GR dated 27 November 2000 has delegated the power to District Collectors for allotment of Government land for different purposes subject to the limits prescribed on the basis of area and value of land. Accordingly, Collector was empowered to allot Government land valuing ₹ 15 lakh or 20,000 sq. mt. for industrial purposes. Allotment of Government land in excess of stipulated area or value thereon should be forwarded to Government for approval.

(i) Test check of allotment cases in the office of the Collector, Rajkot revealed in eight cases that Government land admeasuring 4,48,335 sq. mt. were allotted by the Collector without the approval of the Government for Right to Use (ROU) to Gujarat State Petronet Ltd., for laying gas pipeline in the District.

Out of the eight cases, in five cases, the land allotted was in excess of two hectares and in one case, though area of land allotted was less than two hectares, the value of land fixed by DLVC exceeded ₹ 15 lakh. In remaining two cases, both area and the value of land exceeded the limit stipulated for allotment by Collector. Further, in three cases out of the eight cases, the value of land fixed by the DLVC exceeded ₹ 50 lakh and hence was required to be valued by the SLVC according to the valuation principles of the Government.

The matter was brought to the notice of the Government (July 2012); no reply had been received (September 2012).

(ii) In another case, the Collector, Rajkot allotted (October 2008) land admeasuring 7,374.26 sq. mt. situated at survey number 275 *paike* 39 *paike* 1 of Hadmatala Village, ~~K~~ada Sanghani Taluka to "Raghuvir Cotton Ginning and Pressing Pvt. Ltd" at an occupancy price of ₹ 14.38 lakh. However, while giving possession, it was noticed that survey number 275 *paike* 39 *paike* 1 had only 1,012 sq. mt. of land. Accordingly, the Collector *vide* his Order dated 4 December 2009 revised his earlier Order and allotted only land admeasuring 1,012 sq. mt. situated at the above mentioned survey number. And on the same day, land admeasuring 2789 sq. mt. situated at survey number 177 *paike* 2 of village Bharudi, Taluka Gondal was allotted to the Company in lieu of the shortfall. However, no valuation procedures were followed by the Collector while allotting land at Village Bharudi of Gondal Taluka. The Company again applied for allotment of land admeasuring 6,362.26 sq. mt. at survey number 275 *paike* 39 *paike* 1 of Hadmatala village, ~~K~~ada Sanghani. Collector issued Order of allotment (January 2010) of 3,573.26 and 2,789 sq. mt. of land from survey number 275 *paike* 39 *paike* 1. Thus allotment of land from the survey number that was stated to be having only 1,012 sq. mt. indicates that the land records are not maintained correctly. Thus, the Collector had allotted an area of 10,163.26 sq. mt. of land in all to the firm costing more than ₹ 15 lakh.

The above facts indicate that there is a need of putting in place an internal control system by way of submission of returns to ensure that the powers exercised by the Collectors do not exceed the limits prescribed by the

Government from time to time and land records are required to be maintained correctly so that correct survey numbers are known before alienation of land.

The matter was brought to the notice of the Government (July 2012);no reply has been received (September 2012).

### 3.5.11.8 Breach of conditions stipulated in the allotment order in respect of allotment of Government land

Government land is allotted subject to certain terms and conditions as may be put forth in the Order of the Collector. The terms and conditions include that the allottee/grantee shall start construction within six months and complete it before two years from the date of the Order. Further, the allottee/grantee shall use the land for the purpose for which it was allotted. In case of breach of the said terms and conditions by the allottee/grantee, the Collector is empowered to either levy penalty or shall take back the possession of the land so allotted/granted.

During the course of audit, we noticed in the following cases that either the allottees had not utilised the land for the purpose for which it was allotted or the time limit prescribed in the Order of allotment was not adhered to, resulting

in breach of conditions of allotment. We noticed that Government did not detect the irregular use of Government land and had not taken any initiatives for penalising or taking back the land from the industries/institutions committing breach of conditions.

Sl. No.	Name of Company/ Institution	Month & Year of allotment	District	Land description	Purpose of allotment	Breach of conditions of allotment
1.	Gondal Nagarpalika	November 2009	Rajkot	1,00,000 sq. mt. Gondal Taluka.	Construction of 1775 houses for slum dwellers	Completed construction of only 1044 houses in March 2012.
2.	Capital Industries	May 1989	Rajkot	1470 sq. mt. Ktada Sangani.	Industrial	As per the records, the Industry is closed and no manufacturing is taking place.
3.	Ayantibhai Kodabhai Dafta	October 2007	Rajkot	1618.80 sq. mt. Ktada Sangani.	Industrial	No progress of work as per 'Panchrojkam' in October 2008. Further no progress shown thereafter.
4.	Atmadeep Charitable Trust	June 2004	Rajkot	20234 sq. mt. Ktada Sangani	Plantation of trees bearing fruits	As per Shree Rajpara Gram Panchayat Talati's report (January 2010), the trust had constructed a house in the land. Further, due to lack of irrigation, the trust could not succeed in planting trees bearing fruits.
5.	Mundra Port & SEZ Ltd. (MPSEZ)	2005 to 2007	Kutch	5.47 crore sq. mt. Mundra.	SEZ	Only 98.66 lakh sq. mt. were used by the Company till December 2011. 4.48 crore sq. Mt. of land is lying vacant.

The matter was brought to the notice of the Government (July 2012); no reply had been received (September 2012).

**Government may consider evolving a control mechanism to ensure the purpose for and the conditions under which land allotted are fulfilled and take punitive measures against the defaulters.**

### **3.5.11.9 Non/short levy of taxes and duties**

There is lack of effective mechanism at district level to watch compliance of conditions of various resolutions, orders and instructions issued by the Government from time to time in respect of the conversion of the land for various use and monitoring the levy and collection of various receipts relating therewith. Absence of such mechanism leads to continuous shortfall in Government revenue.

Mention was also previously made in paragraph 3.5.16, 3.5.17 and 3.5.22 of the Report of the Comptroller and Auditor General of India (Revenue Receipt), Government of Gujarat for the year ended 31 March 2010 on the persistent leakage of revenue. It was also recommended that the Government might consider taking appropriate measures to prevent leakage of such revenue. However, we noticed that there was no preventive action initiated by the Department to stop the leakage. Our test check revealed non/short levy of revenue in the cases detailed below:

#### **(i) Conversion tax not levied**

Section 67A of the BLR Code, 1879 provides for the levy of conversion tax on change in the mode of use of the land from agricultural to non-agricultural (NA) purpose or from one non-agricultural purpose to another in respect of land situated in a city, town or village. Different rates of the conversion tax are prescribed for residential/ charitable and industrial/other purposes depending upon the population of the city/town/notified area/village.

During the test check of the records of six<sup>76</sup> Districts, we noticed in 105 cases, conversion tax was either not levied or levied at incorrect rates by the District Collectors on Government land allotted for NA purposes where separate NA permission was not required. Though

internal audit is being conducted by RIC, it did not point out the non/short levy of conversion tax. Further, there was no monitoring mechanism by way of periodical returns to be submitted to the Revenue Department by the Collectors to ascertain whether conversion tax was levied and collected before effecting the allotments by the Collectors. Thus lack of internal control resulted in non/short levy of conversion tax of ₹ 65.31 crore.

After this was pointed out, the Collector, Kutch recovered (October 2012) ₹ 89.82 lakh in 23 cases. In other four cases, the Department while accepting

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<sup>76</sup> Ahmedabad, Gandhinagar, Kutch, Rajkot, Amnagar and Dang.

the audit contention instructed the District Collectors to take appropriate action to recover the conversion tax applicable. No reply has been received in the remaining cases.

**(ii) Stamp duty not levied**

According to Article 20 (a) of Schedule I read with Section 3A of Bombay Stamp Act, 1958, stamp duty on conveyance is chargeable at the applicable rate on the amount of consideration for such conveyance or, as the case may be, the market value of the property which is the subject matter of such conveyance whichever is greater. As per Government instruction the possession of land was to be handed over only on payment of appropriate amount of stamp duty.

Our test check of allotment of land cases finalised by eight Collectors revealed that in 84 cases, the land was handed over to the allottees without verifying whether the allottees had paid the applicable stamp duty. Out of 84 cases, in 24 cases, we

noticed that stamp duty was levied on the occupancy price recovered by the Government instead of on the market value of the land. In the remaining 60 cases, no stamp duty was levied before handing over possession of the Government land. Further, in most of the cases, the condition of payment of stamp duty was not inserted in the allotment orders. Failure of the Revenue Authorities to observe the instructions of the Government to recover stamp duty before handing over the possession of the land has resulted in non-realisation of stamp duty of ₹ 37.64 crore. Though, non-payment of stamp duty has been pointed out by audit persistently in the audit reports, the mistakes continue.

Superintendent of Stamps (SoS) office is *inter alia* responsible for strict implementation of the provisions of the Stamp Act, recovery of proper stamp duty to safeguard the revenue interests of the State. However, we found that SoS had neither prescribed any return to watch the recovery of stamp duty by Collectors nor was any inspection conducted by them to ensure the correct payment of stamp duty. In absence of this co-ordination, SoS was ignorant about non-payment or short payment of the stamp duties by the allottees.

After this was pointed out, the Department while accepting the audit contention in six cases, stated that the District Collectors were instructed to recover an amount of ₹ 2.47 crore. Final reply had not been received in the remaining cases (September 2012).

**We recommend in the interest of the State that Government may instruct SoS for co-ordinating with the Collectors to prevent the leakage of stamp duty. This may be done by putting in place a system by way of returns or by conducting periodical inspections by SoS.**

### 3.5.11.10 Non/short levy of premium on transfer of land on lease in SEZ

Government vide GR dated 5 September 2008 decided to levy premium at the rate of 10 per cent of stamp duty in case a Special Economic Zone (SEZ) developer transfers Government land to other Units on lease within five years from the date of giving possession of land to SEZ developer and 20 per cent in case the land is transferred on lease by the developer after five years. For registration of leases by SEZ developers, no NOC of the Collector/ Government is produced before the Sub Registrar for registration of the Documents. Approval of the Ministry of Commerce and Industries and Development Commissioner is only sought for while presenting of the documents of SEZ leases to Sub Registrar.

(i) We scrutinised the records relating to allotment of Government land to *Mundra Port and SEZ Ltd.* (MPSEZ) during the period from July 2005 to June 2009 and subsequent grant of lease records in the office of the Collector, ~~Kichch~~, *Mamlatdar*, Mundra and Sub-Registrar, Mundra.

During the course of scrutiny, we noticed that permission was obtained by MPSEZ from Collector, ~~Kichch~~ for leasing out 18,598 sq. mt. of land to *Eon Hinjewadi Infrastructure Pvt. Ltd.*, Mumbai after payment of premium of ₹ 40,000.

On cross verification of registered documents with the Sub Registrar, Mundra we noticed that 14 lease deeds for an area of 4,84,326 sq. mt. in MPSEZ were registered during the period from December 2008 to November 2011. However, the Collector had given permission to only one unit as mentioned above. Accordingly, the transfer of land admeasuring 4,65,728 sq. mt. by way of lease in the remaining 13 cases were irregular. The irregular transfer of land thus resulted in non-levy of premium of ₹ 10.57 lakh.

We noticed that the Department did not have any mechanism to prevent such lapses which subsequently resulted in leakage of revenue. Consequently the lapse went un-noticed till pointed out by audit. The Department should issue instructions to all Sub Registrars for not registering the cases without ensuring submission of "Permission Letter" of Collector in respect of Government land.

The matter was brought to the notice of the Government (July 2012);no reply had been received (September 2012).

(ii) Government allotted (July 2007) 1,26,30,017 sq. mt. of land situated at Valipor and Sarod village of *Ambusar Taluka*, Bharuch District to *Sterling Erection and Infrastructure Pvt. Ltd.*, (the Company) for development of SEZ in August 2007. The Ministry of Commerce and Industry had accorded its approval for development, operation and maintenance of the multi-product SEZ on October 2007 and issued Gazette on 9 January 2008 in this regard.

We noticed that the Company had entered into Memorandum of Understanding (MoU) with seven Units for lease of 18,93,000 sq. mt. of land in the SEZ area between March 2008 and May 2012. However, the Company did not obtain permission from Collector for transfer of land on MoU/lease. Accordingly, no premium amount was levied and collected from the Company for the transfer of land. The breach of conditions thus resulted in leakage of revenue to an extent of ₹ 37.69 lakh worked out on the basis of *jantri* rates.

The matter was brought to the notice of the Government (July 2012); no reply had been received (September 2012).

### 3.5.12 Other points of interest

#### 3.5.12.1 Interest not levied on delayed payments

During scrutiny of land allotment cases in the office of the Pr. Secretary, Revenue Department, we noticed that in two cases, interest was not levied on the delayed payment of occupancy price/additional occupancy price and in one case interest was levied at incorrect rate. This has resulted in non-collection of interest of ₹ 1.70 crore.

(₹ in crore)						
Sl. No.	Allottee	Area of land (in sq. mt. )	Occupancy price on which interest was chargeable	Delay period (in months)	Non/ short levy of interest	Nature of observation
1.	K. Raheja Corporation Pvt. Ltd, Gandhinagar.	1,57,004	2.21 <sup>77</sup>	59	1.31	Demand of ₹ 2.21 crore on account of grazing land allotted in June 2006 was paid in May 2010, no interest was charged.
2.	Nirma Pvt. Ltd, Mahua, Bhavnagar.	16,88,652	2.40	10	0.24	Department did not levy and collect interest on the differential occupancy price of ₹ 239.76 lakh paid by the Company after a delay of ten months.
<p>In the first case demand of ₹ 2.21 crore on account of grazing land allotted in June 2006 was paid in May 2010, no interest was charged. After this was pointed out (January 2012), the Government replied (July 2012) that the Company paid 30 per cent of additional market value to the Village Panchayat on account of compromise amount and hence interest is not chargeable on the same. The reply is not correct as the interest could have been levied on the market value of the land, had there been a provision in the LR Code.</p> <p><b>Recommendation:- A provision for charging of interest on delayed payments from the private companies may be made in the LR code</b></p>						
3.	Gujarat Power Corporation Limited, (GPCL) Rajula, Amreli.	59,617	0.42	88	0.08 <sup>78</sup>	Government charged interest at 8 per cent instead of 12 per cent on the occupancy price from the date of advance possession to the date of actual payment by GPCL.
		53,277	0.33	103	0.07	

<sup>77</sup> 30 per cent of ₹ 7.38 crore (₹ 470 per sq. mt. for land admeasuring 1,57,004).

<sup>78</sup> Interest calculated at 12 per cent for the period up to January 2004 and thereafter at 8 per cent till the date of payment in November 2006.

**Nature of observation:** The facility of advance possession was also extended to a Government company namely Gujarat Power Corporation Limited (GPCL) by the Government in May 1996 with the condition that it will pay 12 % interest for the delay in payment of Occupancy price. However the Department charged interest at 8 per cent instead of 12 per cent on the occupancy price from the date of advance possession from April 1998 & July 1999 to the date of actual payment by GPCL i.e. November 2006 resulting in short payment of ₹ 15 lakh.

After this was pointed out (December 2011), the Department replied (March 2012) that the interest rate was changed from 12 per cent to 8 per cent vide GR dated 7 January 2004 and accordingly, the interest was collected from GPCL. The reply is not acceptable as the advance possession of land was given to GPCL during April 1998 and July 1999 and the rate of interest chargeable at that time was 12 per cent.

### 3.5.12.2 Non-agricultural assessment (NAA) not levied

The Government vide notification of August 2003 revised the rates of NAA and classified the areas in three categories i.e. A, B and C for levy of NAA. The Code provides for issue of a demand notice and distraint and sale of defaulter's movable/immovable property for recovery of arrears of land revenue. Further, as per Section 48 of the Code, NAA is leviable with effect from the commencement of the revenue year in which the land is used for NA purposes with or without the permission of the competent authority.

During test check of Demand and Collection Register of four<sup>79</sup> Collector offices, we noticed in 20 cases that the NAA of ₹ 90 lakh was not levied on Government land allotted for NA purposes. Since, it was Government land, no separate

orders are issued for recovery of NAA. In absence of separate orders for NA permissions, the recovery of NAA remained out of the notice of *talatias*. This has resulted in non-levy of NAA of ₹ 94 lakh including one case in which NAA of ₹ 4 lakh was charged less. In case of private owners separate NA permissions are issued by the Collector and the Department can watch the recovery.

It is recommended that separate NA permissions may be issued by the Government in respect of the Government land as is being done for private land.

The matter was brought to the notice of the Government (July 2012); no reply had been received (September 2012).

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<sup>79</sup> Ahmedabad, Gandhinagar, Rajkot and Porbandar.

### 3.5.13 Inconsistent decision to allot land at token amount

As per GR dated 23 August 2004, Boards/Corporations are entitled to get advance possession of Government land subject to the terms and conditions stipulated therein. This facility of advance possession of Government land has been extended to the Special Economic Zone (SEZ) developers vide GR dated 19 September 2006.

Gujarat Urban Development Company Limited (GUDC), a Government Company was authorised by Government in May 2007 to undertake the Gujarat International Finance City project (GIFT city) in a joint venture with Infrastructure Leasing & Financial Services Ltd. (IL &FS)<sup>80</sup> for setting up an

International Finance City. Subsequently, a Company called GIFT Company Ltd, (the Company) was formed by IL &FS and GUDC as a joint venture.

As per the directions of the Government in Revenue Department, Collector, Gandhinagar handed over advance possession of Government land admeasuring 26,77,814 sq. mt. valued by the DLVC/SLVC during September 2007 to December 2008 at ₹ 500 crore<sup>81</sup> situated at fourteen survey numbers of four *Talukas* of Gandhinagar district to GUDC for setting up the GIFT city. The GUDC proposed (June 2007) to Government for relaxation in payment of occupancy price for the land. Chief Secretary, Principal Secretaries of Revenue Department, Finance Department and UDUHD opined that the land shall be allotted at market value as per the extant policy on valuation of Government land. However, moratorium period of two years shall be allowed for payment of 50 *per cent* of the value of land and remaining 50 *per cent* payable as a soft loan. Meanwhile, Ministry of Commerce and Industry, Govt. of India accorded a formal approval in January 2008 to GIFT Company Ltd, for the proposed Multi Services SEZ covering an area of 10,11,750 sq. mt. (250 acres).

As per GR dated 22.11.2004, if the allotment could not be made within completion of two years from the date of DLVC's valuation, it was to be refixed afresh. The land was allotted in April/June 2011 by Government to the Company after expiry of two years from the date of valuation of DLVC, though fresh valuation was not done. Scrutiny of Cabinet note indicated that Collector, Gandhinagar had stated that the value of the allotted land was approximately ₹ 2,760 crore. However, Cabinet allotted 10,11,744 sq. mt. of land to GIFT SEZ Ltd., and 16,66,070 sq. mt. to GIFT Company Ltd., for a nominal price of rupee one with the condition that during the first phase of the project, the surplus amount received by the developers shall be divided between Government and the two Companies in 5050 ratio. During the

<sup>80</sup> IL &FS is a private finance company with major shareholdings of Life Insurance Corporation of India, ORIX Corporation-Japan, Abu Dhabi Investment Authority, Housing Development Finance Corporation Ltd., Central Bank of India, State Bank of India etc.

<sup>81</sup> The value of ₹ 500 crore was arrived after considering the rate fixed by SLVC in 11 survey numbers and DLVC in three survey numbers.

execution of subsequent phases, the surplus amount which may be received over and above the base cost of the project shall be divided between Government and the GIFT Company Ltd, in 80:20 ratio.

We noticed that land was allotted without ascertaining its value as on the date of allotment. Advance possession of land was given to an organisation other than Boards/Corporations/SEZ in contravention of the Government policy. Land was allotted negating the views of Finance Department, Revenue Department and UDUHD without collecting occupancy price to a minimum extent of ₹ 500 crore as on the dates of advance possession of land.

After this was pointed out, the Government stated (July 2012) that it was a Public Private Partnership (PPP) project and development rights were only given and ownership rights vested with the Government. The reply is not acceptable as the Government land is allotted at new and restricted tenure wherein the allottee is not entitled to sell, transfer or mortgage the land without the permission of the Collector. However, in this case, the Government authorised the allottee to mortgage/lease the land without seeking permission from the Collector/Government. Further, the State Government has produced no records to indicate that allotment for the GIFT city was on the basis of PPP. The State Government despite repeated requests did not produce to audit the Joint Venture Agreement signed between Government/GUDC and IL & S. Non production of the records to audit has the consequential effect of limiting the scope of audit.

#### **3.5.14 Conclusion**

The performance audit revealed a number of system and compliance deficiencies. Government did not adopt a uniform policy in alienation and allotment of land. Delay in finalisation of valuation also resulted in blocking up of revenue of the Government. There was no mechanism for review and revision of incorrect orders issued by the subordinate officers to safeguard Government revenue. No proper monitoring system exists in the Department to ascertain and vacate encroachment cases.

#### **3.5.15 Summary of recommendations**

The Government may consider:

- *developing at state level a database of the Government land (i) alienated; (ii) status of alienation proposals received, approved, rejected and pending; (iii) types and purpose of alienations; and (iv) the considerations received from the alienations made so as to make the system more transparent;*
- *monitoring finalisation of the price of alienated Government land by framing a time schedule for each stage and prescribing returns to ascertain the compliance of time schedule;*

- *evolving a control mechanism to ensure the purpose for and the conditions under which land allotted are fulfilled and take punitive measures against the defaulters; and*
- *instructing SoS to co-ordinate with the Collectors to prevent the leakage of stamp duty. This may be done by putting in place a system by way of returns or by conducting periodical inspections by SoS.*

### 3.6 Non/short levy of premium price

The Government of Gujarat decided vide Resolution dated 13 July 1983 to allow conversion of land from new and restricted tenure<sup>82</sup> to old tenure<sup>83</sup> for sale/transfer for agricultural purpose or non-agricultural purposes subject to payment of premium price at prescribed rates fixed by the Government from time to time. If the land after change of tenure is sold at a price higher than the market price decided by the Government, then the premium recoverable at 80 per cent of the differential value for the land to be used for non-agricultural purpose and at 50 per cent of the differential value for the land to be used for agricultural purpose. Any breach of condition(s) specified in the order of conversion of land under new and restricted tenure to old tenure attracts differential premium price at prescribed rates. Further, Government decided that new *jantri* as approved by the Government shall be applicable in all the cases for fixation of premium price from 1 April 2008.

During test check of records of five Collector offices<sup>84</sup>, two Dy. Collector offices<sup>85</sup>, District Development office, Amreli for the period 2008-09 to 2010-11, between September 2010 and December 2011, we noticed that there was non/short levy of premium price of ₹ 8.70 crore as detailed below:

Sl. No.	Location	Nature of objection
1	Viramgam, Godhra and Bharuch  No. of cases:3  Short levy: ₹ 6.97 crore.	As per GR issued in July 1983 under the Bombay Tenancy and Agricultural Land Acts, 1959, when title of the land is intended to be changed from new tenure to old tenure, permission of the Collector shall be obtained after the payment of premium of 50 per cent and 80 per cent of the market value for agricultural and non agricultural use, respectively.  A permission given for conversion of new and restricted tenure land for agricultural use shall be with the condition that the land holder would require to pay premium, if he intends to convert it again for non agricultural purpose.  (i) A perusal of Village Form 6 and order of Collector revealed that a person "A" unauthorisedly occupying a piece of new and

<sup>82</sup> New and restricted tenure means the tenure of occupancy which is non- transferable and impartible without the prior approval of Collector.  
<sup>83</sup> Old tenure means land deemed to have been purchased by a tenant on Tiller's Day, 1 April 1957, free from all encumbrances.  
<sup>84</sup> Bharuch, Dahod, Godhra, Surat and Surendranagar  
<sup>85</sup> Choryasi (Surat) and Viramgam (Ahmedabad).

		<p>restricted tenure land admeasuring 3,258 sq. mt. applied for conversion of 1,629 sq. mt. into old tenure non-agricultural purpose. The Collector had given permission for conversion of tenure after collection of premium accordingly. However, the Collector failed to levy premium on 1,629 sq. mt. of land which was unauthorisedly transferred to 'A' for agricultural use before converting it into non agricultural use. This resulted in short levy of premium of ₹ 19.55 lakh<sup>86</sup>.</p> <p>(ii) In another case, Collector Godhra did not collect premium of ₹ 6.08 lakh on transfer of new and restricted tenure land admeasuring 4,047 sq. mt. to <i>Shri Swaminarayan Sanstha</i>.</p> <p>(iii) The Collector, Bharuch granted (February 2010) NA permission to convert the agricultural land to residential purpose on the land admeasuring 33,185 sq.mt. Of this 23,978 sq.mt. of land was new tenure land, which was required to be changed to old tenure before grant of NA permission. Thus, granting of NA permission without charging applicable premium price for change of tenure resulted in short realisation of revenue of ₹ 6.71crore<sup>87</sup>.</p>
2.	<p>Surendranagar</p> <p>No. of cases:1</p> <p>Short levy: ₹ 1.13 crore</p>	<p>Land admeasuring 14,341 sq. mt. was allotted (October 2000) for residential purpose subject to fulfillment of conditions specified in the order of allotment. As per the condition of allotment, the allottee was required to commence the construction within six months and complete it within a period of two years. On the breach of condition, the land would be taken back by the Government. Pending commencement of the construction, the allottee in December 2003 applied for change of tenure of land from new tenure to old tenure to sell it partly for commercial and partly for residential purposes. Neither the allottee's request for conversion to old tenure was approved nor the allottee constructed the residence as per the condition of allotment of October 2000. Thus, the Department's failure to either take back the possession of the land or grant the approval for conversion of tenure resulted in non-realisation of premium price.</p>
3	<p>Surat</p> <p>No. of cases:5</p> <p>Short levy: ₹ 53.03 lakh</p>	<p>The Government under their Resolution of January 2010 decided to levy premium price on the area of final plot, where form-F showing the area of final plot was issued by the Town Planner and also where draft town planning scheme has been declared but not approved. In case where area of final plot has not been finalised and form-F has not been issued, premium price is required to be levied on 65 per cent of area of land. In these cases, form-F showing the area of final plot was issued by the Town planner; but the area of final plot was not taken into consideration for levy of premium price as per the Government Resolution of January 2010.</p>

<sup>86</sup> (1,629 sq. mt. x ₹ 2,400 x 50 per cent) = ₹ 19.55 lakh.

<sup>87</sup> (23,978 sq. mt. x ₹ 3500 x 80 per cent) = ₹ 6.71 crore.

4	Dahod  No. of case :1  Short levy : ₹ 6.40 lakh	For conversion of land under new tenure to old tenure, premium was required to be levied as per new <i>jantri</i> effective from 1 <sup>st</sup> April 2008. But in one case, Collector levied premium of ₹ 40,000 for land admeasuring 4,000 sq. mt. on market value fixed by Town Planner instead of ₹ 6.80 lakh leviable at <i>Jantri</i> rate resulting in short levy of premium of ₹ 6.40 lakh.
<b>Total number of cases: 10</b>		
<b>Total short levy: ₹ 8.70 crore</b>		

This was pointed out to the Department in March and April 2012. The Department accepted objection of ₹ 1.20 crore in two cases. In other cases, particulars of recovery and replies had not been received (September 2012).

### 3.7 Non/short levy of conversion tax

Section 67A of Bombay Land Revenue Code, 1879 provides for the levy of conversion tax on change in the mode of use of land from agricultural to non-agricultural purpose or from one non-agricultural purpose to another in respect of land situated in a city, town or village. Different rates of conversion tax are prescribed for residential/charitable and industrial/other purposes, depending upon the population of the city/town/notified area/village. Conversion tax shall be paid in advance by *challan* in the Government treasury.

During test check of records of three District Development offices<sup>88</sup> for the period 2008-09 and 2009-10, between September 2010 and January 2011, we noticed that out of total seven cases, in one case, M/s Mahisagar Developers had purchased agricultural land and later sold plots developed for non agricultural purpose out of the same land to various parties. But, conversion tax

was not levied. In the remaining six cases, conversion tax was levied at ₹ 2 per sq. mt. applicable to residential purpose instead of ₹ 6 per sq. mt. applicable to educational/any other purpose. This resulted in non/short levy of conversion tax amounting to ₹ 28.09 lakh.

This was pointed out to the Department in February 2011, March and April 2012. The Department accepted objection of ₹ 1.73 lakh in one case. In other cases, particulars of recovery and replies had not been received (September 2012).

<sup>88</sup> Anand, Surat and Surendranagar

### 3.8 Non/short levy of penalty

The Bombay Land Revenue Code, 1879 and the Rules made thereunder provide that no land can be used for any purpose other than the purpose for which it is assessed or held without prior permission of the competent authority. For any breach of condition/unauthorised use of land, the occupant shall be liable to pay penalty not exceeding 40 times of non-agricultural assessment of the area of land.

During test check of records of two Collector offices<sup>89</sup> and three District Development offices<sup>90</sup> for the period 2008-09 and 2009-10, between March 2010 and January 2011, we noticed that in 35 cases, there was non/short levy of penalty amounting to ₹ 53.44 lakh as shown in the table below:

Sl. No.	Period of assessment	No. of cases	Nature of observation
i.	2009-10	15	The DDO adopted NAA rate of ₹ 0.10 per sq. mt. / ₹ 0.40 per sq. mt. / ₹ 0.60 per sq. mt. instead of ₹ 0.15 per sq. mt. / ₹ 1.00 per sq. mt. for the purpose of levying penalty for unauthorised use of land. The defaulters were liable to pay penalty of ₹ 11.83 lakh instead of ₹ 7.33 lakh. This resulted in short levy of penalty of ₹ 4.50 lakh.
ii.	2008-09	2	In one case, construction of school building was commenced on agricultural land without prior permission of competent authority. In another case, construction of store room was commenced without revised permission by the competent authority.
iii.	2008-10	3	Applicants had breached the condition twice: (a). The land was not used for the purpose for which permission was granted; and (b). The land was used for the purpose other than the purpose for which permission was granted without approval of the competent authority. In these cases, penalty was either not recovered or recovered for single breach of condition.
iv.	2009-10	1	The applicant had made breach of condition by not commencing work of construction of godown within prescribed time limit. Penalty was leviable at the rate of 40 times of NAA amounting to ₹ 23.38 lakh. But the case was finalised by recovery of penalty amounting to ₹ 0.46 lakh only.
v.	2009-10	7	The applicants had made breach of condition by not completing work of construction within prescribed time limit. The penalty was leviable at the rate of 40 times of NAA amounting to ₹ 27.25 lakh was leviable but penalty amounting to ₹ 5.37 lakh only was levied due to computation error.
vi.	2008-09	7	In seven cases, NA permission for residential use was granted in respect of land admeasuring 38,977 sq. mt. As the construction was not started within prescribed time period, Collector imposed penalty at the rate of 40 times of NAA amounting to ₹ 2.18 lakh. The land owner was required to deposit the amount of penalty within 30 days from the date of order. But no action was taken for recovery of penalty.

<sup>89</sup> Bhavnagar and Surendranagar

<sup>90</sup> Gandhinagar, Himatnagar and Navsari

This was pointed out to the Department in December 2010, February 2011, March and April 2012. The Department accepted objection of ₹ 4.14 lakh in 12 cases and recovered ₹ 2.18 lakh in seven cases. In other cases, particulars of recovery and replies had not been received (September 2012).

### **3.9 Non-observance of Government instructions on powers of attorney (PoA)**

The Government instructed in September 2005 to invariably send copy of the Power of Attorney (PoA) presented as evidence in support of ownership of land for obtaining NA permission and authorising the attorney to act for sale of land, receiving consideration, signing the sale deed, etc. to the concerned DC (Valuation) for valuation and recovery of stamp duty in view of Article 45 (f) and (g) of Schedule I of the Bombay Stamp Act, 1958.

Test check of the records of the three Collectors<sup>91</sup> and DDO, Valsad for the year 2008-09 and 2009-10, between September 2010 and March 2011 revealed that in 13 cases, the revenue authorities had received the copies of PoA from the applicants (PoA holders) presented as evidence in support of ownership of land for obtaining permission of conversion of

land and authorising the PoA holders to act in respect of sale of such land. However, the Collector had not forwarded it to the concerned Dy. Collector for valuation and levy of proper stamp duty. These PoA were required to be registered and stamp duty and registration fees were leviable as per conveyance deed. However, the same were not registered with the concerned registering authorities. Stamp duty and registration fees involved in these cases worked out to the extent of ₹ 13.24 lakh.

This was pointed out to the Department in March and April 2012, their replies had not been received (September 2012).

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<sup>91</sup> Himatnagar, Rajkot and Surendranagar

### 3.10 Short levy of stamp duty

As per Article 20 of the Bombay Stamp Act, 1958, as applicable to Gujarat, stamp duty on conveyance is leviable on the market value of the property or consideration stated in the document, whichever is higher. As per provisions of Section 28 of the Act *ibid*, the consideration, market value and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, shall be fully and truly set forth therein. Section 33 of the Act, *ibid* empowers every person in charge of a public office to impound any instrument produced before him in performance of his functions, if it appears that such instrument is not duly stamped. Superintendent of Stamps in their Circular of April 2005 had instructed that where purpose of purchase of property is clear, *jantri* rates of land shall be applicable according to purpose of purchase for levy of stamp duty. As per the guidelines issued for implementation of revised *jantri* effective from 1<sup>st</sup> April 2008, where agricultural land is purchased for non-agricultural purpose with the permission of competent authority, rates of developed land should be considered for levy of stamp duty.

During test check of records of Collector, Anand, Dy. Collector, Dholka and District Development Officer, Godhra for the period 2009-10 and 2010-11, between September 2010 and September 2011, we noticed that in seven cases of conversion of land from agricultural to non-agricultural purpose/ conversion of land from new to old tenure for non-agricultural purpose, copies of sale deeds/ powers of attorney were presented by applicants as evidence of ownership of land. Recitals of sale deeds/powers of attorney revealed that out of seven cases, in four cases, liability of payment of premium

price for conversion of land from new to old tenure was passed by land owners to buyers. But the Registering authorities failed to include the amount of premium price payable in the consideration for levy of stamp duty. In one case, land was purchased by a trust (i.e. a non-agriculturist) for non agricultural (i.e. educational) purpose and permission was also granted by the competent authority under Bombay Tenancy Act. Though stamp duty was required to be levied as per *jantri* rates of non-agricultural land, it was levied as per *jantri* rates of agricultural land. In two cases, transfer of land was for non-agricultural purpose. Though stamp duty was required to be levied by adopting *jantri* rates of non-agricultural land, it was levied by adopting *jantri* rates of agricultural land. The Department failed to levy and recover stamp duty at correct rates. This resulted in short levy of stamp duty of ₹ 9.01 lakh.

This was pointed out to the Department in April 2012, their replies had not been received (September 2012).

### **3.11 Non/short levy of measurement fees**

Settlement Commissioner and Director of Land Records, Gandhinagar vide orders dated 31 December, 2002 revised the rates of measurement fee from 1 February 2003. Accordingly, measurement fee is leviable at the rate of ₹ 1,200 for each development plan up to four plots and ₹ 300 for each additional plot.

During test check of records of four DDO offices<sup>92</sup> for the year 2008-09 and 2009-10, between September 2010 and May 2011, we noticed that in 73 cases, the revenue authorities granted permission to use land for various non-agricultural purposes as per approved plan. However, the

Department did not recover measurement fees at the prescribed rates on number of plots as per approved layout plan. This resulted in non/short levy of measurement fee of ₹ 10.82 lakh.

This was pointed out to the Department in March and April 2012, their replies had not been received (September 2012).

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<sup>92</sup> Palanpur, Rajpipla, Surat and Surendranagar