



**REPORT OF THE  
COMPTROLLER AND AUDITOR GENERAL  
OF INDIA  
ON**

**REVENUE SECTOR  
FOR THE YEAR ENDED 31 MARCH 2012**



**GOVERNMENT OF HARYANA**  
*Report No. 1 of the year 2013*

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## **PREFACE**

1. This Report is prepared for submission to the Governor of the State of Haryana under Article 151 of the Constitution of India.
2. The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising taxes on sales, trade etc./value added tax, stamp duty and registration fee, state excise duty, taxes on vehicles, passengers and goods tax, agriculture (purchase tax) and non-tax receipts of the State.
3. The cases mentioned in the Report are among those which came to notice in the course of test audit of accounts during the year 2011-12 as well as those which had come to notice in earlier years but could not be dealt with in previous Reports; matters relating to the period subsequent to 2011-12 have also been included, wherever necessary.
4. The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

## **EXECUTIVE SUMMARY**

This Report contains two Performance Audit and 18 paragraphs relating to non/short levy of taxes, duties, interest and penalty etc., involving tax effect of ₹ 1,746.01 crore.

### **1. Chapter-I**

#### **General**

Chapter I is based on the audit of Finance Accounts and State Budget for the year ended March 2012. This Report provides an analytical review of total revenue receipts of the State Government for the year 2011-12. Revenue raised by the Government comprises of tax and non-tax revenue.

- The total revenue receipts of the State Government for the year 2011-12 were ₹ 30,557.59 crore. Revenue raised by the Government during the year was ₹ 25,121.11 crore, comprising tax revenue of ₹ 20,399.46 crore and non-tax revenue of ₹ 4,721.65 crore. The State Government also received ₹ 2,681.55 crore as State's share of divisible Union taxes and ₹ 2,754.93 crore as grants-in-aid from the Government of India. The increase in Revenue Receipts over the previous year by ₹ 4,993.91 crore (20 *per cent*) was mainly on account of increase in the State's own tax and non-tax revenues.

**(Paragraph 1.1.1)**

- Test check of the records of the Sales Tax/Value Added Tax, Stamp Duty and Registration fee, State Excise, Taxes on Goods and Passengers, Taxes on Vehicles, Other tax and Non-Tax receipts conducted during the year 2011-12 revealed under assessments/short levy/non-levy/loss of revenue aggregating ₹ 2,866.67 crore in 9,130 cases. During the year 2011-12, the Departments accepted underassessment of ₹ 1,765.33 crore in 6,619 cases. Of these, the Department recovered ₹ 2.67 crore in 190 cases.

**(Paragraph 1.11.1)**

### **2. Chapter-II**

#### **Taxes/Value Added Tax on sales, trade etc.**

The Haryana Government decided in the year 2003 to introduce a taxation structure based on the value added tax (VAT) in the State in place of existing General Sales Tax Act. The objectives of implementation of VAT were inter-alia, to help common people, traders, industrialists and also the Government by making tax structure simple and more transparent. The revised system replaced the existing system of annual assessment by the assessing authority (AA) by a system of self assessment by the dealers subject to scrutiny/audit by Excise and Taxation Department. We observed the deficiencies in the

planning, strategies and in the transitional process in the VAT Acts and Rules across the State.

In this Chapter we present the findings of one Performance Audit “**Assessment, Levy and Collection of tax on Works Contracts**” involving ₹ 1,715.02 crore and illustrative cases of ₹ 10.99 crore selected from observations noticed during our test check of records relating to assessment and collection of VAT and CST in the office of the DETCs where we found that the provisions of the Acts/Rules were not being observed by the AAs.

### **Excise and Taxation Department**

A Performance Audit on **Assessment, Levy and Collection of tax on Works Contracts** revealed the following:

- Failure of the Department to analyse the available information and institute a system of exchange of inter Departmental database resulted in non-realisation of revenue of ₹ 283.88 crore from unregistered works contractors and short deduction of Works Contract Tax (WCT) by contractees ₹ 88.26 crore.

**(Paragraphs 2.2.8 and 2.2.9)**

- Failure of the Department to get their guidelines followed by the assessing authorities (AAs) resulted in non-levy of tax and penalty of ₹ 1,303.16 crore.

**(Paragraphs 2.2.12.1 and 2.2.12.2)**

- Allowance of inadmissible deductions from gross turnover resulted in short realisation of tax of ₹ 9.17 crore.

**(Paragraphs 2.2.12.3 to 2.2.12.6)**

- Wrong classification of transactions of sale as works contract resulted in short realisation of tax of ₹ 22.47 crore.

**(Paragraph 2.2.13)**

### **Compliance Deficiencies in VAT**

- Incorrect application of rate of tax in respect of unclassified item resulted in underassessment of tax of ₹ 8.82 crore (including interest of ₹ 3.81 crore).

**(Paragraph 2.3.1)**

- Failure of the AAs to cross verify the transactions of sales and purchases from the Departmental authorities within Haryana before finalising the assessments led to evasion of VAT amounting to ₹ 1.26 crore (including penalty of ₹ 94.53 lakh).

**(Paragraph 2.4.1)**

### **3. Chapter-III**

#### **State Excise**

State excise revenue is one of the most important sources of tax revenue. It consists mainly of shop rentals, fees for licenses issued to distilleries, breweries and liquor dealers, duty on liquor, taxes and composition fees, fines, penalties etc. State Excise Duty is levied by the State Government under a constitutional provision. State Government levies duty of excise on alcoholic liquors for human consumption and on opium, Indian hemp and other narcotic drugs manufactured or produced in the State and countervailing duties on similar goods manufactured elsewhere and brought into the State. The levy is governed by the State Excise Act and the rules made there under.

This Chapter contains illustrative cases of ₹ 4.75 crore selected from observations noticed during our test check of records relating to levy of State Excise Duty.

#### **Excise and Taxation Department**

- The Department did not take action to recover the differential amount of license fee from 17 defaulting allottees of retail liquor outlets, after re-auction of vends at the risk and cost clause of the contract conditions, depriving the Government of revenue of ₹ 2.67 crore.

**(Paragraph 3.2.1)**

- Non-levy of interest on delayed payment of monthly instalment of license fee by 97 licensees for the year 2010-11, resulted in loss of ₹ 1.06 crore to Government exchequer.

**(Paragraph 3.2.2)**

- The Department did not take action under the Rules to recover license fee from the defaulting 10 licensees of retail liquor outlets resulting in short recovery of license fee and interest of ₹ 1.02 crore.

**(Paragraph 3.2.3)**

## **4. Chapter-IV**

### **Stamp Duty**

The Indian Stamp Act, 1899 (IS Act) and the State Acts impose duty on various instruments specified in the Schedules thereto at the rates specified therein. Such duties are paid by the executors of instruments by either using impressed stamp paper of proper denomination or by affixing stamps of proper denomination on them. The State Governments have made rules for the purpose of the Act by virtue of powers vested in them. These rules lay down the detailed procedure for determination and collection of stamp duty. The Indian Registration Act, 1908 (IR Act) and the Rules made by the State Governments there under, broadly outline the system of assessment and collection of revenue under Registration Fees.

This Chapter contains illustrative cases of ₹ 4.13 crore selected from observations noticed during our test check of records relating to levy of Stamp duty and Registration fee.

### **Revenue and Disaster Management Department**

- Undervaluation of immovable properties in conveyance deeds resulted in evasion of SD of ₹ 23.92 lakh.

**(Paragraph 4.2.1)**

- Misclassification of instruments by the Department resulted in short levy of Stamp duty of ₹ 1.33 crore.

**(Paragraph 4.2.4)**

- Short levy of Stamp duty of ₹ 2.22 crore on sale deeds of plots with an area less than 1,000 square yards due to application of incorrect rates of agriculture land instead of residential land.

**(Paragraph 4.2.5)**

## **5. Chapter-V**

### **Taxes on Vehicles, Goods and Passengers**

### **Excise and Taxation Department (Passengers and Goods Tax)**

Under the State Motor Vehicles Taxation Act and the Rules made there under, the Motor Vehicles Tax and Passengers and Goods Tax are leviable at the specified rates on every motor vehicles used or kept for use. Similarly in respect of public service vehicles, an additional tax is to be paid by the owner at the prescribed rates.

This chapter contains Performance Audit on “Receipts from Passengers and Goods Tax” with financial impact of ₹ 6.60 crore and an illustrative case involving ₹ 33.51 lakh.

Performance Audit on “**Receipts from Passengers and Goods Tax**” revealed the following:

- Lack of co-ordination between RTAs and DETCs offices resulted in evasion of tax of ₹ 91.93 lakh in the case of 368 maxi cab/taxi.

**(Paragraph 5.2.12.1)**

- Non recovery of Passenger Tax amounting to ₹ 49.88 lakh, interest of ₹ 20.07 lakh besides penalty in 309 cases of maxi cabs/taxies.

**(Paragraph 5.2.13.1)**

- Non recovery of Passenger Tax amounting to ₹ 17.08 lakh and interest of ₹ 2.71 lakh in the case of buses owned by co-operative societies in four districts.

**(Paragraph 5.2.13.2)**

- Non recovery of Goods Tax in 10 DETCs offices amounting to ₹ 3.15 crore and interest of ₹ 1.18 crore in 2,630 cases.

**(Paragraph 5.2.14)**

- Non recovery of passenger tax amounting to ₹ 34.28 lakh including interest of ₹ 13.23 lakh in 81 cases out of 560 cases assessed.

**(Paragraph 5.2.15)**

### **Transport Department**

- Bid money of ₹ 33.51 lakh was neither deposited regularly nor demanded by five Regional Transport Authorities from the owners of 20 transport co-operative societies for the years 2009-10 and 2010-11.

**(Paragraph 5.3.1)**

## **6. Other tax and Non-tax Receipts**

This chapter contains an illustrative case relating to Mining Department, where the bid money and interest amounting to ₹ 3.84 crore was not recovered.

### **Mines and Geology Department**

- The Department failed to take timely action to recover the balance bid money from the contractors resulting in short realisation of bid money of ₹ 3.84 crore including interest of ₹ 80.10 lakh.

**(Paragraph 6.2.1)**



## CHAPTER-I: GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Haryana during the year 2011-12, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India (GOI) during the year and the preceding four years are mentioned below:-

(₹ in crore)

Sr. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	11,617.82	11,655.28	13,219.50	16,790.37	20,399.46
	• Non-tax revenue	5,097.08	3,238.45	2,741.40	3,420.94	4,721.65
	<b>Total</b>	<b>16,714.90</b>	<b>14,893.73</b>	<b>15,960.90</b>	<b>20,211.31</b>	<b>25,121.11</b>
<b>2.</b>	<b>Receipts from the GOI</b>					
	• Share of net proceeds of divisible Union taxes and duties <sup>1</sup>	1,634.36	1,724.62	1,774.47	2,301.75	2,681.55
	• Grants-in-aid	1,401.48	1,833.96	3,257.29	3,050.62	2,754.93
	<b>Total</b>	<b>3,035.84</b>	<b>3,558.58</b>	<b>5,031.76</b>	<b>5,352.37</b>	<b>5,436.48</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>19,750.74</b>	<b>18,452.31</b>	<b>20,992.66</b>	<b>25,563.68</b>	<b>30,557.59</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>85</b>	<b>81</b>	<b>76</b>	<b>79</b>	<b>82</b>

The above table indicates that during the year 2011-12, the revenue raised by the State Government (₹ 25,121.11 crore) was 82 *per cent* of the total revenue receipts as against 79 *per cent* in the preceding year. The balance 18 *per cent* of receipts during the year 2011-12 was from the GOI.

The increase of ₹ 4,993.91 crore (20 *per cent*) in revenue receipts in 2011-12 over the previous year was on account of increase in the State's own share of tax and non-tax revenue of ₹ 4,909.80 crore (24 *per cent*).

The decrease of ₹ 295.69 crore (10 *per cent*) in grants in-aid in 2011-12 over the previous year was mainly on account of decrease State plan grants of ₹ 75.20 crore (10 *per cent*) and non-plan grants of ₹ 519.47 crore (29 *per cent*).

<sup>1</sup>

For details please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Haryana for the year 2011-12. Figures under the head 0021 - Taxes on income other than corporation tax - share of net proceeds assigned to States booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

**1.1.2** The following table presents the details of tax revenue raised during the period 2007-08 to 2011-12:

(₹ in crore)

Sr. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase(+)/ decrease(-) in 2011-12 over 2010-11
1.	Taxes on sales, trade etc./value added tax (VAT)	7,720.98	8,154.73	9,032.37	11,082.01	13,383.69	(+) 21
2.	State excise	1,378.81	1,418.53	2,059.02	2,365.81	2,831.89	(+) 20
3.	Stamps and registration fees						
	Stamps – judicial	91.37	1,030.90	945.91	848.09	99.76	(-) 88
	Stamps – non-judicial	1,651.94	267.27	341.86	1,450.33	2,646.35	(+) 82
	Registration fees	19.97	28.22	5.79	20.86	46.89	(+) 125
4.	Taxes on goods and passengers	379.39	370.29	391.45	387.14	429.32	(+) 11
5.	Taxes on vehicles	233.79	239.30	277.07	457.36	740.15	(+) 62
6.	Taxes and duties on electricity	107.45	106.31	119.58	130.27	166.43	(+) 28
7.	Land revenue	9.38	8.58	9.43	10.02	10.95	(+) 9
8.	Other taxes and duties on commodities and services	24.74	31.15	37.02	38.48	44.03	(+) 14
<b>Total</b>		<b>11,617.82</b>	<b>11,655.28</b>	<b>13,219.50</b>	<b>16,790.37</b>	<b>20,399.46</b>	<b>(+) 21</b>

The following reasons for variations were reported by the concerned Departments:

- **Taxes on sales, trade / value added tax (VAT):** The increase in revenue receipts (21 *per cent*) was mainly due to Gross Domestic Product (GDP) growth and inflation. However, large variations were due to buoyancy in economy.
- **State Excise:** The increase in revenue receipts (20 *per cent*) was mainly due to increase in license fee of country liquor (CL) and Indian made foreign Liquor (IMFL) and also due to better formulation and implementation of Excise Policy.
- **Stamp duty and registration fee:** The increase in revenue receipts was mainly due to increase in number of transactions of immovable property.

- **Taxes on vehicles:** The increase in revenue receipts (62 *per cent*) was due to mobilisation of additional resources by making good efforts to realise tax.
- **Taxes and duties on electricity:** The increase in revenue receipts (28 *per cent*) was mainly due to enhanced realisation of electricity duty from the consumers by the Power Utilities.

**1.1.3** The following table presents the details of non-tax revenue raised during the period 2007-08 to 2011-12:

(₹ in crore)

Sr. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase(+)/decrease(-) in 2011-12 over 2010-11
1.	Urban development	2,805.24	884.50	133.70	974.54	1,039.35	(+) 7
2.	Interest receipts	757.20	776.28	667.88	689.34	864.96 <sup>2</sup>	(+) 25
3.	Road transport	622.56	645.04	699.57	761.72	852.96	(+) 12
4.	Non-ferrous mining and metallurgical industries	215.74	195.97	247.49	82.59	75.53	(-) 9
5.	Other administrative services	105.54	120.95	96.81	115.63	99.95	(-) 14
6.	Miscellaneous general services	91.25	89.39	95.93	(-) 9.75 <sup>3</sup>	128.49	(+) 1,417
7.	Major and medium irrigation	72.27	74.01	218.56	202.26	583.16	(+) 188
8.	Education, sports, art and culture	117.70	156.10	285.10	270.37	295.72	(+) 9
9.	Police	41.44	55.22	35.11	61.53	62.64	(+) 2
10.	Forestry and wildlife	33.79	40.74	56.13	44.32	39.12	(-) 12
11.	Medical and public health	64.91	30.94	30.23	47.06	54.79	(+) 16
12.	Other non-tax receipts	169.44	169.31	174.89	181.33	624.98	(+) 245
<b>Total</b>		<b>5,097.08</b>	<b>3,238.45</b>	<b>2,741.40</b>	<b>3,420.94</b>	<b>4,721.65</b>	<b>(+) 38</b>

The following reasons for variations were reported by the concerned Departments:

- <sup>2</sup> Includes ₹ 413.94 crore as book adjustment of interest on irrigation project capital interest.
- <sup>3</sup> Due to more refunds than receipts.

- **Interest receipts:** The increase in revenue receipts (25 *per cent*) was due to enhanced receipt from Departmental Commercial Undertakings.
- **Miscellaneous General Services:** The increase in revenue receipts (1,417 *per cent*) was due to receipt of debt relief from Central Government.
- **Major and medium Irrigation:** The increase in revenue receipts was due to wrong booking under medium Irrigation schemes.

The other Departments did not inform the reasons for variations, despite being requested (August 2012).

## 1.2 Variation between the budget estimates and actuals

The variation between the budget estimates of revenue receipts and the actual receipts under the principal heads of tax and non-tax revenue for the year 2011-12 is mentioned below:

(₹ in crore)

Sr. No.	Revenue head	Budget estimates	Actual receipts	Variation increase (+)/ decrease (-)	Percentage
• <b>Tax revenue</b>					
1.	Taxes/VAT on sales, trade etc.	14,100.00	13,383.69	(-) 716.31	(-) 05
2.	State excise	2,400.00	2,831.89	(+) 431.89	(+) 18
3.	Stamp duty and registration fees	2,350.00	2,793.00	(+) 443	(+) 19
4.	Taxes on vehicles	515.00	740.15	(+) 225.15	(+) 44
5.	Taxes and duties on electricity	155.00	166.43	(+) 11.43	(+) 07
6.	Land revenue	16.09	10.95	(-) 5.14	(-) 32
7.	Other taxes and duties on commodities and services	45.80	44.03	(-) 1.77	(-) 04
8.	Taxes on goods and passengers – Tax on entry of goods into local area	425.00	429.32	(+) 4.32	(+) 01
• <b>Non-tax revenue</b>					
1.	Non-ferrous mining and metallurgical industries	75.00	75.53	(+) 0.53	(+) 01
2.	Forestry and wildlife	61.00	39.12	(-) 21.88	(-) 36
3.	Water rates (medium irrigation)	6.44	7.44	(+) 1.00	(+) 16
4.	Interest receipts	816.49	864.96	(+) 48.47	(+) 6
5.	Urban development	1,300.00	1,039.35	(-) 260.65	(-) 20
6.	Police	71.42	62.64	(-) 8.78	(-) 12
7.	Medical and public health	102.99	54.79	(-) 48.20	(-) 47
8.	Public works	14.10	7.84	(-) 6.26	(-) 44

The reasons for variations between the budget estimates and actual receipts as

furnished by the departments are mentioned below:

- **Stamp duty and registration fee:** The increase in revenue receipts (19 *per cent*) was due to increase in transaction of immovable property.
- **Taxes on vehicles:** The increase in revenue receipts (44 *per cent*) was due to mobilisation of additional resources and by making good efforts to realise tax.
- **Taxes and duties on electricity:** The increase in revenue receipts (seven *per cent*) was due to enhanced realisation of electricity duty from the consumers by the Power Utilities.
- **Land revenue:** The decrease in revenue receipts (32 *per cent*) was due to less recovery of mutation fee, copying fee and revenue talbana<sup>4</sup>.
- **Forestry and wildlife:** The decrease in revenue receipts (36 *per cent*) was due to non-cutting of trees.

The other departments did not inform (September 2012) the reasons for variation in actual receipts from that of the budget estimates despite being requested (August 2012).

### 1.3 Cost of collection of major revenue receipts

The gross collection of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10 to 2011-12 along with the relevant all India average, percentage of expenditure of collection to gross collection for 2010-11 are mentioned below:

(₹ in crore)

Sr. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2010-11
1.	Taxes/VAT on sales, trade etc.	2009-10	9,032.37	78.48	0.87	0.75
		2010-11	11,082.01	87.82	0.79	
		2011-12	13,383.69	87.65	0.65	
2.	State excise	2009-10	2,059.02	20.48	0.99	3.05
		2010-11	2,365.81	21.57	0.91	
		2011-12	2,831.89	22.39	0.79	
3.	Stamp duty and registration fee	2009-10	1,293.56	13.72	1.06	1.60
		2010-11	2,319.28	11.39	0.49	
		2011-12	2,793.00	11.57	0.41	
4.	Taxes on vehicles	2009-10	277.07	11.32	4.08	3.71
		2010-11	457.36	13.38	2.93	
		2011-12	740.15	13.07	1.77	

Source: Finance Accounts.

<sup>4</sup> Charges for serving summons.

#### 1.4 Analysis of arrears of revenue in terms of total outstanding and outstanding for more than 5 years

The arrears of revenue as on 31 March 2012 in respect of some principal heads of revenue as reported by the departments was ₹ 3,982.60 crore of which ₹ 2,864.27 crore were outstanding for more than five years as mentioned below:

(₹ in crore)

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2012	Amount outstanding for more than five years as on 31 March 2012	Remarks
1.	Taxes on sales, trade/VAT etc.	3,405.08	2,583.52	Recovery of ₹ 600.03 crore were stayed by the High Court and other judicial authorities, ₹ 8.89 crore was stayed due to the order of the Government. ₹ 22.01 crore were held up due to the dealers becoming insolvent, ₹ 36.03 crore were proposed to be written off, ₹ 224.35 crore were held up due to rectification, review and appeal. Recovery of ₹ 133.00 crore was outstanding due to cases pending with the official liquidator/Board of Industrial and Financial Reconstruction (BIFR). Recovery of ₹ 18.20 crore was being made in instalments. Balance amount of ₹ 2,362.57 crore was at different stages of action.
2.	State excise	119.19	76.53	Recovery of ₹ 12.59 crore were stayed by the High Court and other judicial authorities, ₹ 69.04 lakh was likely to be written off. Recovery of ₹ 1.98 crore was outstanding due to cases pending with the official liquidator/BIFR. Recovery of ₹ 3.94 crore was being made in instalments. ₹ 15.66 crore and ₹ 9.72 crore were due to Inter State and Inter district arrears respectively. Balance amount of ₹ 74.61 crore was outstanding at different stages of action.
3.	Taxes and duties on electricity	129.28	80.66	₹ 1 crore was recoverable from M/s Haryana Concast, Hisar, ₹ 38 lakh from M/s Rama Fibers, Bhiwani; ₹ 30 lakh from M/s Dadri Cements, Charkhi Dadri and ₹ 16 lakh from M/s Competent Alloys, Ballabgarh. The remaining amount of ₹ 127.44 crore was pending towards the consumers of Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL)/Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL).

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2012	Amount outstanding for more than five years as on 31 March 2012	Remarks
4.	• Taxes on goods and passengers	60.18	15.29	An amount of ₹ 0.27 lakh was written off and balance ₹ 60.18 crore was outstanding at different stage of action.
	• Tax on entry of goods into local areas (Local Area Development Tax)	208.86	83.54	Recovery of ₹ 136.48 crore were stayed by the High Court, judicial and departmental authorities Recovery of ₹ 4.47 lakh was outstanding due to cases pending with the liquidator/BIFR. Recovery of ₹ 1.65 lakh was being made in instalments. Balance amount of ₹ 72.32 crore was outstanding at different stages of action.
5.	Police	13.72	8.22	Recovery of ₹ 7.38 crore was outstanding from Indian Oil Corporation. Recovery of ₹ 5.50 crore was outstanding from eight <sup>5</sup> States, remaining amount of ₹ 28 lakh was recoverable from Thermal Plant, Faridabad. Amount of ₹ 5.75 lakh was recoverable from Kumbh Mela Haridwar and arrear of ₹ 49.65 lakh was recoverable in West Bengal, Punjab and U.P. and Gujrat for Law and order.
6.	Other taxes and duties on commodities and service			
	• Receipt under the Sugarcane (Regulation, Supply and Purchase Control) Act	13.33	0.61	Four sugar mills (Bhadson: ₹ 5.07 crore, Naraingarh: ₹ 4.68 crore, Panipat: ₹ 3.20 crore and Yamunanagar: ₹ 0.38 crore) did not deposit the tax.
	• Receipts under entertainment duty and show tax	10.14	9.57	Recovery of ₹ 17.91 lakh had been stayed by the High Court and other judicial authorities, ₹ 1.26 lakh were likely to be written off. Balance amount of ₹ 9.95 crore was at the different stages of action.

<sup>5</sup> Chattisgarh (₹ 1.41 crore), Gujarat (₹ 0.44 crore), Himachal Pradesh (₹ 0.40 crore), Jharkhand (₹ 0.08 crore), Kerala (₹ 0.02 crore), Madhya Pradesh (₹ 0.44 crore), Rajasthan (₹ 0.59 crore) and Uttar Pradesh (₹ 2.12 crore).

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2012	Amount outstanding for more than five years as on 31 March 2012	Remarks
7.	Non-ferrous mining and metallurgical industries	22.82	6.33	Demands of ₹ 9.88 crore were covered by recovery certificates. Recoveries of ₹ 5.50 crore were stayed by the High Court and other judicial authorities. ₹ two lakh was likely to be written off. ₹ 2.27 crore were due as Inter State and Inter district arrears. ₹ 5.15 crore was outstanding at different stages of action.
	<b>Total</b>	<b>3,982.60</b>	<b>2,864.27</b>	

The position of arrears of revenue at the end of 2011-12 in respect of other departments were not furnished (October 2012) despite being requested (August 2012).

### 1.5 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessments of sales tax/VAT cases during the year 2011-12 and the corresponding figures for the preceding four years as furnished by the Excise and Taxation Department are mentioned below:

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of column 3 to 8
1	2	3	4	5	6	7	8	9
Taxes/ VAT on sales, trade etc.	2007-08	7,223.15	722.01	1.59	81.15	7,865.60	7720.98	94
	2008-09	8,132.08	470.14	58.28	101.34	8,559.16	8154.73	100
	2009-10	9,973.05	393.21	1.24	133.09	10,234.41	9,032.37	110
	2010-11	11,224.83	2,022.92	1.17	623.04	12,625.88	11,082.01	101
	2011-12	14,286.78	417.66	7.48	603.72	14,108.20	13,383.69	107



## 1.6 Evasion of tax

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and demands raised as reported by the department concerned are mentioned below:

Heads of department	Cases pending as on 31 March 2011	Cases detected during 2011-12	Total (2+3)	Number of cases in which assessments/ investigation completed and additional demand including penalty etc. raised during the year 2011-12		Number of pending cases as on 31 March 2012
				No. of cases	(₹ in lakh)	
Taxes on sales, trade/ VAT etc.	97	2,135	2,232	2,177	442.75	55
State excise	823	2,717	3,540	2,719	86.91	821
Taxes on goods and passengers	903	9,297	10,200	9,047	709.87	1,153

The other departments did not furnish the details (October 2012), despite being requested (August 2012).

## 1.7 Refunds

The number of refund cases pending at the beginning of year 2011-12, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2012), as reported by the concerned departments are mentioned below:

(₹ in crore)					
Sr. No.	Particulars of claims	Sales tax		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	610	371.77	13	0.06
2.	Claims received during the year	3,169	478.78	861	10.86
3.	Refunds made during the year	3,395	743.31	862	10.77
4	Balance outstanding at the end of the year	384	107.24	12	0.15

## 1.8 Response of the Government departments towards Audit

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

A brief introduction about the various stages of action on the audit observations/recommendations is mentioned below:

The Principal Accountant General (Audit) Haryana (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within six weeks from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government. Some of these are reported through Report of the Comptroller and Auditor General of India (Audit Report) to the State Legislature every year. The Departments are requested to submit their replies to the Public Accounts Committee (PAC) which examines them in their meetings and give their reports to the State Legislature.

IRs issued upto December 2011 disclosed that 4,507 paragraphs involving ₹ 1,023.95 crore relating to 2,268 IRs remained outstanding at the end of June 2012 as mentioned below along with the corresponding figures for the preceding two years.

	June 2010	June 2011	June 2012
Number of outstanding IRs	2,460	2,313	2,268
Number of outstanding audit observations	5,122	4,734	4,507
Amount involved (₹ in crore)	1,507.03	1,484.56	1,023.95

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amount involved are mentioned below:-

Sr. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Excise and Taxation	Sales tax/VAT	274	1,271	740.44
		State excise	93	152	50.36
		Taxes on goods and passengers	134	256	20.15
		Entertainment duty and show tax	16	18	10.90
2.	Revenue	Stamps and registration fees	729	1,513	53.34
		Land revenue	120	182	0.51
3.	Transport	Taxes on vehicles	281	379	8.64
4.	Power	Taxes and duties on electricity	5	5	0.33
5.	Agriculture (Sugarcane)	Purchase tax on sugarcane	31	33	24.68

Sr. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
6.	Home (Police)	Receipts of cost of police deployed to other Governments/ Railways etc.	51	56	18.25
7.	Mines and Geology	Non-ferrous mining and metallurgical industries	100	133	14.59
8.	Other Departments	Miscellaneous receipts	434	509	81.76
<b>Total</b>			<b>2,268</b>	<b>4,507</b>	<b>1,023.95</b>

Even the first replies required to be received from the heads of offices within six weeks from the date of issue of the IRs were not received for 114 IRs issued upto December 2011. This pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

**It is recommended that the Government may take suitable steps to put in place an effective procedure for prompt and appropriate response to audit observations. The Government may take action against officers/officials who fail to send replies to the IRs/paragraphs as per the prescribed time schedules and also those who fail to take action to recover loss/outstanding demand in a time bound manner.**

### **1.8.2 Departmental Audit Committee Meetings**

The Government set up audit committees in September 1985 to monitor and expedite the progress of the settlement of IRs including paragraphs. The Audit Committees may be formed for each Administrative Department which should include Administrative Secretary (Chairman), Deputy Accountant General (Convenor) and Heads of Department (Member). The meetings of these committees may be arranged once in three months to review the progress of the settlement of audit paras and monitor the pace of work in this behalf. The Chief Secretary has also impressed upon the Administrative Secretaries (August 1998) to ensure holding of Departmental Audit Committee meetings on quarterly basis and inform the Finance Department of the outcome of such meetings.

We observed that the Administrative Secretary had not ensured holding of quarterly Departmental Audit Committee meetings during the year 2011-12.

The details of the audit committee meetings held during the year 2011-12 and the paragraphs settled are mentioned below:

Head of revenue	Number of meetings held	Number of paragraphs settled (out of total paragraphs)	Amount (₹ in crore) (out of total amount)
Stamp Duty	2	60 (240)	0.64 (1.85)
Taxes on sales, trade etc./VAT	4	130 (279)	37.81 (135.77)
<b>Total</b>	<b>6</b>	<b>190 (519)</b>	<b>38.45 (137.62)</b>

During the year 2011-12, only two out of nine departments dealing with nine major heads of tax and non-tax revenue had convened six meetings of the audit committee. Thus, these Departmental Audit Committees are not functioning effectively since most of the Government Departments had not taken initiatives for disposal/settlement of the pending audit paragraphs/objections through these meetings.

**The Government should ensure holding of periodical meetings of the committees for effective progress.**

### **1.8.3 Non-production of records to Audit for scrutiny**

The programme of local audit parties of VAT receipts in the offices of Deputy Excise and Taxation Commissioner (DETC) is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2011-12, 422 VAT assessment cases pertaining to three DETCs were not made available to audit. Thus, VAT assessment cases involving revenue of ₹ 182.74 crore could not be checked in audit. Break-up of these cases are given below:

Name of DETC	Year in which it was to be audited	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained	Revenue involved (₹ in crore)
Faridabad (East)	2011-12	338	338	110.29
Faridabad (West)	2011-12	74	74	70.78
Panipat	2011-12	10	10	1.67
<b>Total</b>		<b>422</b>	<b>422</b>	<b>182.74</b>

#### **1.8.4 Response of the Departments to the draft audit paragraphs**

The Finance Department had issued directions to all the Departments on 5 January 1982 to send their response to the draft audit paragraphs proposed for inclusion in the Audit Report within six weeks. The draft paragraphs are forwarded by the PAG to the Secretaries of the Departments concerned through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Departments is invariably indicated at the end of each paragraph included in the Audit Report.

18 draft paragraphs and two Performance Audit included in the Audit Report (Revenue Sector) for the year ended 31 March 2012 were forwarded to the Secretaries of the Departments concerned during April to September 2012 through demi-official letters. However, no reply was received.

#### **1.8.5 Follow up on the Audit Reports-summarised position**

According to the instructions issued by the Finance Department in October 1995 and reiterated in July 2001, the administrative Departments were required to initiate suo moto positive and concrete action on all paragraphs and performance audits featuring in the Audit Report (Revenue Sector) regardless of the fact that the cases were taken up for examination by the PAC or not. They were also required to furnish detailed notes duly vetted by Audit indicating the remedial action taken or proposed to be taken by them within three months of the presentation of the Audit Report to the Legislature.

The position of paragraphs which have appeared in the Audit Report and those pending discussion as on 30 September 2012 has been mentioned in **Annexure I**. One hundred nineteen (119) paragraphs pertaining to the period 2006-07 to 2010-11 were pending for discussion by the PAC. The Administrative Departments failed to submit action taken notes (ATNs) in respect of 40 out of 119 paragraphs within three months from the date of presentation<sup>6</sup> of the Audit Reports to the Legislature.

Further, the response of the Administrative Departments towards the recommendations of the PAC was not encouraging as 658 recommendations pertaining to the period 1977-78 to 2005-06 were still pending for want of final action by the concerned Departments (**Annexure II**).

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<sup>6</sup> 2006-07: March 2008, 2007-08: February 2009, 2008-09: March 2010, 2009-10: March 2011 and 2010-11: 09 March 2012.

### **1.8.6 Compliance with the earlier Audit Reports**

During the years between 2006-07 and 2010-11, the Department/Government accepted audit observations involving revenue of ₹ 753.85 crore out of which an amount of ₹ 325.31 crore was recovered till 31 March 2012 as mentioned below:

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2006-07	407.54	392.67	315.23
2007-08	122.75	29.65	1.93
2008-09	82.74	75.64	0.68
2009-10	346.97	72.76	3.42
2010-11	324.73	183.13	4.05
<b>Total</b>	<b>1,284.73</b>	<b>753.85</b>	<b>325.31</b>

The recovery in respect of the accepted cases was 43 *per cent* only which indicated lack of adequate action to enforce recoveries.

**The Government may advise the concerned Departments to take necessary steps for speedy recovery.**

### **1.9 Analysis of the mechanism for dealing with the issues raised by Audit**

In order to analyse the system of addressing the issues highlighted in the IRs/ Audit Report by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Report of the last 10 years in respect of Excise and Taxation Department (Sales Tax/VAT) is evaluated and included in this Audit Report.

The succeeding paragraphs 1.9.1 to 1.9.2.2 discuss the performance of the Excise and Taxation Department (Sales Tax/VAT) to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Report for the years 2002-03 to 2011-12.

#### **1.9.1 Position of Inspection Reports**

The IRs incorporating irregularities detected during inspections of the various offices of the Excise and Taxation Department are issued to the heads of the offices inspected/next higher authorities for taking prompt corrective action. The heads of offices/Department/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly. They were also required to report compliance through initial reply to the PAG within six weeks from the date of issue of the IRs. Serious financial irregularities are also reported to the head of the Department (Excise and Taxation Commissioner) and Government through demi-official letter for examination and taking prompt action and offering comments thereon, if any, within six weeks from the date of issue of the advance para. In case of non-receipt of reply within six weeks, reminders are issued after 50 days from the date of issue of the IRs and thereafter every month. Half-yearly position of the outstanding audit observations are also issued through demi-official letter to

the Administrative Department and Excise and Taxation Commissioner.

The summarised position of IRs issued during the last 10 years, paragraphs included in these reports and their status as on March 2012 are tabulated below:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para - graphs	Money value	IRs	Para - graphs	Money value	IRs	Para - graphs	Money value	IRs	Para - graphs	Money value
Upto 2002-03	281	1795	169.50	32	340	116.70	4	339	23.09	309	1796	263.11
2003-04	309	1796	263.11	27	342	276.37	4	345	56.43	332	1793	483.05
2004-05	332	1793	483.05	30	401	97.29	19	442	42.66	343	1752	537.68
2005-06	343	1752	537.68	31	395	205.12	27	345	30.34	347	1802	712.46
2006-07	347	1802	712.46	26	379	66.23	5	312	41.63	368	1869	737.06
2007-08	368	1869	737.06	28	354	64.67	51	608	117.52	345	1615	684.21
2008-09	345	1615	684.21	40	439	134.72	42	531	129.22	343	1523	689.71
2009-10	343	1523	689.71	27	344	84.89	141	659	304.01	229	1208	470.59
2010-11	229	1208	470.59	29	342	203.81	3	264	103.56	255	1286	570.84
2011-12	255	1286	570.84	29	335	261.37	10	350	91.78	274	1271	740.43

The year-wise details of closing balance of IRs, paragraphs and amount involved is given in **Annexure-III**. Out of 1,271 audit observations involving revenue of ₹ 740.43 crore in 274 IRs, 397 audit observations involving revenue of ₹ 257.80 crore (35 *per cent*) in 153 IRs were more than five years old.

We observed that despite issuing periodical reminders and convening of periodical meetings of the audit committee, there was large pendency of IRs/audit observations which is indicative of failure on the part of the heads of the offices/Excise and Taxation Commissioner and Administrative Department to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

To ensure that the revenue dues do not become time barred, the Government may ensure that:

- an effective procedure exists for prompt and appropriate response to the audit observations;
- action is taken against officials/officers failing to take effective steps to get the audit observations settled at the earliest after initiating appropriate action on audit observations : and
- action is taken to recover loss/outstanding demands in a time bound manner.



## **1.9.2 Assurances given by the department/Government on the issues highlighted in the Audit Report**

### **1.9.2.1 Recovery of accepted cases**

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

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraph	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2001-02	9	3.28	8	2.23	0.23	1.94
2002-03	15	19.38	14	18.58	0.57	18.01
2003-04	10	10.23	10	8.32	-	8.32
2004-05	7	1.92	7	1.64	-	0.96
2005-06	8	5.74	7	1.14	-	1.12
2006-07	7	6.54	7	6.54	0.17	4.52
2007-08	8	2.17	7	1.00	0.32	0.32
2008-09	11	5.48	11	5.11	0.05	0.07
2009-10	11	119.01	11	30.95	-	-
2010-11	10	147.03	5	12.59	-	-
<b>Total</b>	<b>96</b>	<b>320.78</b>	<b>87</b>	<b>88.10</b>	<b>1.34</b>	<b>35.26</b>

The recovery in respect of the accepted cases for the last ten years was only 40 per cent.

**The Government may advise the concerned departments to take necessary steps for speedy recovery.**

### **1.9.2.2 Action taken on the recommendations accepted by the departments/Government**

The draft performance audits conducted by the PAG are forwarded to the concerned departments/Government for their information with a request to furnish their replies. These performance audits are also discussed in an exit conference and the departments/Government's views are included while finalising the performance audits for the Reports of the Comptroller and Auditor General of India.

The issues highlighted in the performance audits including recommendations on the Excise and Taxation Department relating to Taxes on sales, trade/VAT featured in the Report of Comptroller and Auditor General of India. The Head of the departments/Government had not intimated their acceptance or any action taken on the 33 recommendations (**Annexure- IV**) included in the eight Reports of the Comptroller and Auditor General of India during the years 2002-03 to 2010-11 for the assessments, levy and collection of sales tax/VAT as well as to avoid evasion of tax.



We observed that the Excise and Taxation department/Government had sent their replies to the PAC relating to performance audits included in the Report of Comptroller and Auditor General of India for the years 2001-02 to 2010-11. But they had not given any reply either accepting or otherwise of the conclusions and recommendations of the Reports of the Comptroller and Auditor General of India for the years 2002-03 to 2010-11. They had not furnished replies to the PAC for the Audit Reports for the years 2006-07 to 2010-11.

**The Government may advise the Excise and Taxation Department to take suitable steps to ensure the compliance of the recommendations or give their comments, if any.**

### **1.10 Audit planning**

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue earning, past trends of audit observations etc. The annual audit plan is prepared on the basis of risk analysis which inter-alia includes critical issues in Government revenues and tax administration i.e. budget speech, white paper on State finances, reports of the Finance Commission (State and Central), recommendations of the taxation reforms committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year 2011-12, 280 units were planned and audited out of 497 auditable units constituting audit of 56 *per cent* of the total units. The details of auditable units and units selected are shown in the **Annexure-V**.

Besides the compliance audit, two performance audits namely 'Receipts from Passenger and Goods Tax' and 'Assessment, levy and collection of tax on works contract' were also taken up to examine the efficacy of the tax administration of these receipts.

### **1.11 Results of audit**

#### **1.11.1 Position of local audit conducted during the year**

Test check of the records of 280 units of sales tax/VAT, stamp duty and registration fee, State excise, motor vehicles and other Departmental offices conducted during the year 2011-12 revealed under assessments/short levy/loss of revenue in 9,130 cases aggregating ₹ 2,866.67 crore. During the course of the year, the concerned Departments accepted under assessments and other deficiencies of ₹ 1,765.33 crore involved in 6,619 cases, out of which ₹ 1,747.30 crore involved in 6,410 cases were pointed out in audit during 2011-12 and the rest in the earlier years. The Departments collected ₹ 2.67 crore in 190 cases during 2011-12.

### **1.11.2 About this Report**

This Report contains two **Performance Audits on ‘Assessment, Levy and Collection of tax on Works Contracts’ and ‘Receipts from Passengers and Goods Tax’** and 18 paragraphs relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 1,746.01 crore.

The Departments/Government have accepted audit observations involving ₹ 1,745.93 crore out of which ₹ 0.62 crore has been recovered. The replies in the remaining cases had not been received (October 2012). These are discussed in succeeding Chapters II to VI.

## CHAPTER-II: TAXES/VAT ON SALES, TRADE ETC.

### 2.1.1 Tax administration

Assessments, levy and collection of value added tax (VAT) in Haryana are governed under the Haryana Value Added Tax Act, 2003 (HVAT Act) and rules framed there under. Excise and Taxation Commissioner (ETC) is the head of the Excise and Taxation Department for the administration of HVAT Act and Rules in Haryana. The Excise and Taxation Officers (ETOs) are responsible for registration of dealers, assessments, levy and collection of VAT. All the dealers registered under the Haryana General Sales Tax Act, 1973 (HGST Act) were liable to get registered under the HVAT Act. Every dealer whose gross turnover (GTO) exceeded ₹ five lakh were liable to get registered under the HVAT Act from the day following the day his GTO exceeded the taxable quantum. All dealers registered under the HVAT Act were assigned Taxpayers Identification Number (TIN). Under the HVAT Act, tax was levied at the prescribed rates at every point of sale after allowing deduction towards tax paid at the previous point {input tax credit (ITC)}. Assessments were made after scrutiny of books of accounts in selected cases under the Act.

### 2.1.2 Trend of receipts

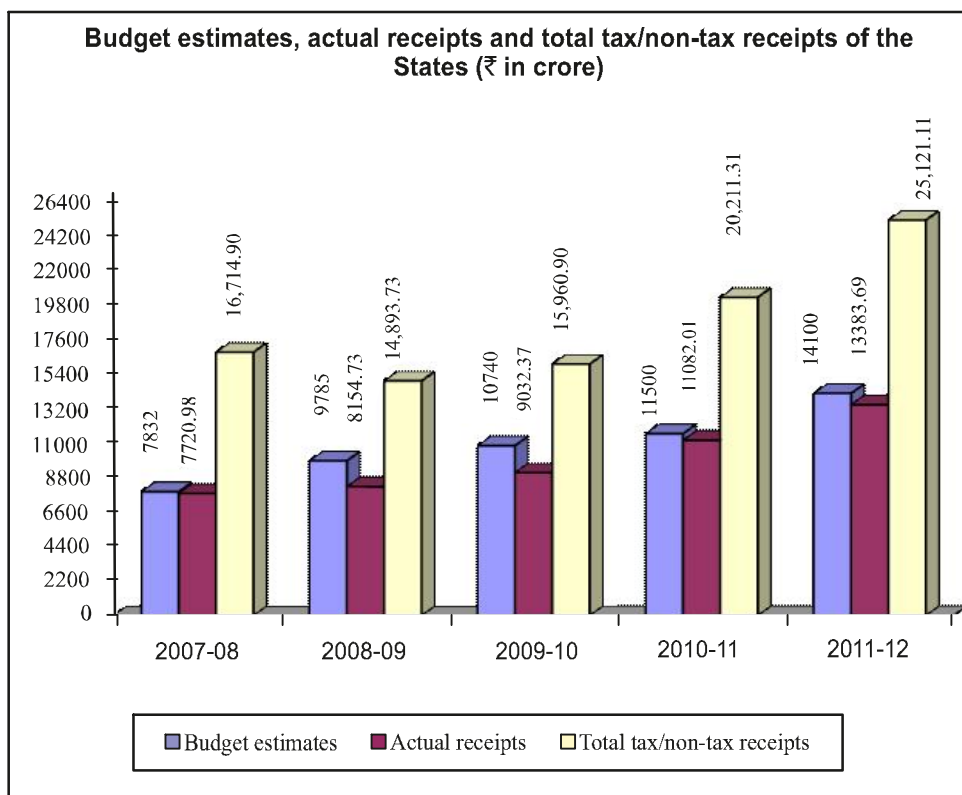
Actual receipts from Taxes/VAT on sales, trade etc. in the State during the last five years 2007-08 to 2011-12 along with the total tax/non-tax receipts during the same period is exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual VAT receipts	Variation excess (+)/shortfall (-)	Percentage of variation (Col. 4 to Col. 2)	Total tax/non-tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax / non-tax receipts (Col. 3 to Col. 6)
1	2	3	4	5	6	7
2007-08	7,832.00	7,720.98	(-) 111.02	(-) 01	16,714.90	46
2008-09	9,785.00	8,154.73	(-) 1,630.27	(-) 17	14,893.73	55
2009-10	10,740.00	9,032.37	(-) 1,707.63	(-) 16	15,960.90	57
2010-11	11,500.00	11,082.01	(-) 417.99	(-) 04	20,211.31	55
2011-12	14,100.00	13,383.69	(-) 716.31	(-) 05	25,121.11	53

Source: State Budget and Finance accounts.

The receipts from VAT increased from ₹ 7,720.98 crore to ₹ 13,383.69 crore during the period 2007-08 to 2011-12.



## Audit findings

### 2.1.3 Analysis of arrears of revenue

The arrears of sales tax/VAT revenue as on 31 March 2012 amounted to ₹ 3,405.08 crore of which ₹ 2,583.52 crore (76 *per cent*) were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12:

(₹ in crore)

Year	Opening balance of VAT arrears	Amount collected during the year	Closing balance of VAT arrears	Actual VAT receipts	Percentage (Col. 3 to Col. 2)	Percentage of arrears outstanding to VAT receipts (Col. 4 to Col. 5)
1	2	3	4	5	6	7
2007-08	1,268.50	127.54	1,591.87	7,720.98	10	21
2008-09	1,591.87	155.41	1,955.87	8,154.73	10	24
2009-10	1,955.87	164.08	2,724.08	9,032.37	8	30
2010-11	2,724.08	175.51	2,887.35	11,082.01	6	26
2011-12	2,887.35	701.61	3,405.08	13,383.69	24	25

We observed that arrears of revenue had increased from ₹ 1,268.50 crore at the beginning of the year 2007-08 to ₹ 3,405.08 crore (168 *per cent*) at the end of the year 2011-12. The percentage of realisation of arrears to the arrears at the beginning of the year ranged between six to 24 *per cent* during the years 2007-08 to 2011-12. Though the VAT receipts increased by 73 *per cent* (from ₹ 7,720.98 crore in 2007-08 to ₹ 13,383.69 crore in 2011-12), yet the arrears of VAT revenue increased by 168 *per cent* (from ₹ 1,268.50 crore as on 1 April 2007 to ₹ 3,405.08 crore as on 31 March 2012).

**The Government may advise the Department to take effective steps for collecting the arrears promptly to augment Government revenue.**

#### **2.1.4 Assessee profile**

10,824 dealers were registered during the year 2011-12. 1,77,626 dealers registered as on 31 March 2011 were required to file their periodical returns. The information relating to number of returns received and action taken by the Department to issue notices to the remaining dealers who failed to furnish returns was not furnished by the Department.

#### **2.1.5 Cost of VAT per assessee**

The number of assesseees and sales tax/VAT receipts during the period 2007-08 to 2011-12 as furnished by the Excise and Taxation Department are mentioned below:

Year	Number of assesseees	Sales tax/VAT receipts (₹ in lakh)	Average collection of VAT per assessee
2007-08	1,52,352	6,05,931.44	3.98
2008-09	1,56,545	6,42,489.44	4.10
2009-10	1,61,927	7,53,065.60	4.65
2010-11	1,71,036	11,33,032.08	6.62
2011-12	1,92,481	13,85,258.64	7.20

We observed that the average collection of VAT per assessee increased from ₹ 3.98 lakh in 2007-08 to ₹ 7.20 lakh in 2011-12. However, increase in average collection in the previous years was due to better scrutiny of assessment cases and creation of additional demand.

#### **2.1.6 Arrears in assessments**

The details regarding opening balance of cases of assessment, cases becoming due, cases disposed of and closing balance of assessment of cases at the end of each year during 2007-08 to 2011-12 as furnished by the Excise and

Taxation Department in respect of Taxes/VAT on sales, trade are mentioned in the succeeding table:

Year	Opening balance	Cases due for assessment during the year	Total	Cases deemed assessed/regularly assessed during the year	Balance cases at the close of the year	Percentage of cases finalised to total cases (Col. 5 to col. 4)
1	2	3	4	5	6	7
2007-08	2,16,871	1,81,128	3,97,999	1,75,124	2,22,875	44
2008-09	2,22,875	1,83,153	4,06,028	1,64,132	2,41,896	40
2009-10	2,41,896	2,34,839	4,76,735	1,89,476	2,87,259	40
2010-11	2,87,259	2,13,687	5,00,946	2,09,140	2,91,806	42
2011-12	2,91,806	2,35,799	5,27,605	2,36,822	2,90,783	45

We observed that the number of pending cases in respect of sales tax/VAT increased from 2,16,871 cases at the beginning of 2007-08 to 2,90,783 (34 *per cent*) at the end of 2011-12. The percentage of sales tax/VAT assessment cases deemed assessed/regularly assessed to total cases during the period 2007-08 to 2011-12 ranged between 40 to 45 *per cent*.

**The Government may advise the Department to take necessary steps for early disposal of these pending assessment cases to augment Government revenue.**

#### **2.1.7 Cost of collection**

The gross collection in respect of revenue receipts of Taxes/VAT on sales, trade etc., expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the relevant all India average percentage of expenditure of collection to gross collection for the relevant year are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average cost of collection
2007-08	7,720.98	50.64	0.66	0.83
2008-09	8,154.73	65.92	0.81	0.88
2009-10	9,032.37	78.48	0.87	0.96
2010-11	11,082.01	87.82	0.79	0.75
2011-12	13,383.69	87.65	0.65	-

**Source: Finance Accounts.**

### 2.1.8 Analysis of collection

The break-up of the total collection at pre-assessment stage and after regular assessments of sales tax/VAT cases for the year 2011-12 and the corresponding figures for the preceding four years as furnished by the Excise and Taxation Department in the succeeding table:

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount refunded	Net collection as per Department	Net collection as per Finance Accounts	Percentage of collection at pre-assessment stage to net collection (col. 2 to col. 5)
1	2	3	4	5	6	7
2007-08	7,223.15	723.60	81.15	7,865.60 <sup>1</sup>	7,720.98 <sup>1</sup>	92
2008-09	8,132.08	528.42	101.34	8,559.16 <sup>1</sup>	8,154.73 <sup>1</sup>	95
2009-10	9,973.05	394.45	133.09	10,234.41 <sup>1</sup>	9,032.37 <sup>1</sup>	97
2010-11	11,224.83	2,024.09	623.04	12,625.88 <sup>1</sup>	11,082.01 <sup>1</sup>	89
2011-12	14,286.77	425.15	603.72	14,108.20	13,383.69	101

We observed that percentage of collection of revenue at pre-assessment stage to net collection ranged between 89 and 101 *per cent* during the years 2007-08 to 2011-12.

### 2.1.9 Impact of Audit on Revenue

#### 2.1.9.1 Position of Inspection Reports

The table below provides details of number of units audited, value of objections pointed out during the course of audit, cases accepted and the

<sup>1</sup> There are differences of ₹ 144.62 crore, ₹ 404.43 crore, ₹ 1,202.04 crore, ₹ 1,543.87 crore and ₹ 724.51 crore in the Departmental figures and the figures given in the Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the years 2007-08 to 2011-12. The Department stated in October 2012 that the figures relates to compensation under Central Sales Tax (CST) under major head 1601 and refund received by the Finance Department from the GOI. However, these figures are not yet reconciled by the Finance Department.

recovery made there against during the period from 2006-07 to 2010-11.

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year		Percentage of recovery to amount accepted
	Number	Number of cases objected	Amount	Number	Amount	Number	Amount	
2006-07	43	974	395.96	147	1.84	88	0.83	45
2007-08	47	1,232	176.04	145	2.44	77	1.44	59
2008-09	46	863	208.32	106	8.48	61	0.81	10
2009-10	33	667	217.05	102	32.59	36	0.39	1
2010-11	32	775	976.56	182	149.39	54	1.67	1
<b>Total</b>	<b>201</b>	<b>4,511</b>	<b>1,973.93</b>	<b>682</b>	<b>194.74</b>	<b>316</b>	<b>5.14</b>	<b>3</b>

We observed that the recovery in respect of accepted cases during the years 2006-07 to 2010-11 was only three *per cent*.

#### **2.1.9.2 Position of Audit Reports**

During the last five years ending 2011-12, instances of non/short levy/realisation, underassessment/ loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 284.68 crore have been indicated in 48 paragraphs. Of these, the Department/ Government had accepted audit observations to the tune of ₹ 60.64 crore in 42 paragraphs and recovered ₹ 0.41 crore. The details are shown in the following table.

(₹ in crore)

Year of Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	8	2.17	7	1.00	2	0.32
2008-09	11	5.48	11	5.11	2	0.07
2009-10	11	119.01	11	30.95	-	-
2010-11	10	147.03	5	12.59	-	-
2011-12	8	10.99	8	10.99	1	0.02
<b>Total</b>	<b>48</b>	<b>284.68</b>	<b>42</b>	<b>60.64</b>	<b>5</b>	<b>0.41</b>

We observed that the recovery in respect of accepted cases was only 0.68 *per cent* during the year 2007-08 and 2011-12. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/Department to initiate action to recover the Government dues promptly.

**We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.**



**2.1.10 Results of audit**

Test check of the records relating to assessments and refunds of sales tax/VAT in Excise and Taxation Department, conducted during the year 2011-12, revealed irregularities in assessments, levy and collection of tax involving ₹ 2,831.41 crore in 996 cases which broadly fall under the following categories:

(₹ in crore)

Sr. No.	Category	Number of cases	Amount
1.	Assessment, levy and collection of tax on works contracts (Performance Audit)	1	1,715.02
2.	Application of incorrect rates of tax	245	31.34
3.	Under-assessment of turnover under Central Sales Tax Act	60	139.71
4.	Non-levy of penalty	88	585.14
5.	Non-levy of interest	63	3.28
6.	Incorrect computation of turnover	14	1.49
7.	Other irregularities	525	337.43
	<b>Total</b>	<b>996</b>	<b>2,831.41</b>

During the course of the year 2011-12, the Department accepted underassessment and other deficiencies amounting to ₹ 1,732.52 crore in 170 cases, out of which ₹ 1,715.26 crore involved in 28 cases were pointed out during the year and rest in the earlier years. The Department recovered ₹ 1.74 crore in 65 cases during the year 2011-12, out of which ₹ 2.75 lakh involved in four cases were pointed out during the year and rest in the earlier years.

One Performance Audit on “**Assessment, levy and collection of tax on works contracts**” involving ₹ 1,715.02 crore and a few illustrative audit observations involving ₹ 10.99 crore are mentioned in the succeeding paragraphs.

## **2.2 Assessment, Levy and Collection of tax on Works Contracts**

### **2.2.1 Highlights**

- Failure of the Department to analyse the available information and institute a system of exchange of inter Departmental database resulted in non-realisation of revenue of ₹ 283.88 crore from unregistered works contractors and short deduction of WCT of ₹ 88.26 crore by contractees.

**(Paragraphs 2.2.8 and 2.2.9)**

- Failure of the Department to levy additional tax for misuse of declaration forms resulted in short levy of tax of ₹ 4.00 crore.

**(Paragraph 2.2.10)**

- Non observation of guidelines of the Department by the assessing authorities (AAs) resulted in non-levy of tax and penalty of ₹ 1,303.16 crore.

**(Paragraphs 2.2.12.1 and 2.2.12.2)**

- Allowance of inadmissible deductions from gross turnover resulted in short realisation of tax of ₹ 9.17 crore.

**(Paragraphs 2.2.12.3 to 2.2.12.6)**

- Wrong classification of transactions of sale as works contract resulted in short realisation of tax of ₹ 22.47 crore.

**(Paragraph 2.2.13)**

- Non-levy of penalty for non-filing of returns resulted in short levy of tax of ₹ 1.36 crore.

**(Paragraph 2.2.14)**

### **2.2.2 Introduction**

Section 2(1) (zt) of Haryana Value Added Tax (HVAT) Act, 2003 defines “Works Contract” as an agreement between contractor and contractee which include carrying out for cash, deferred payment or other valuable consideration, the assembling, construction, building, altering, manufacturing, processing, fabrication, installation, fitting out, improvement, repair or commissioning of any moveable or immovable property. Section 2(1) (j) and (k), “Contractee” is the person for whom or for whose benefit, a works contract is executed and “contractor” is the person who executes a works contract either himself or through a sub-contractor. A Contractor is to get himself registered under the HVAT Act either as a registered dealer under Section 11 or lump sum dealer under Section 9.

Section 2 (1) (r) of HVAT Act, 2003 defines “goods” as every kind of movable property, tangible or intangible, other than newspapers, actionable claims, money, stocks and shares or securities but includes growing crops, grass, tree and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale. Further, Section

2 (1) (ze) defines “Sale” as any transfer of property in goods for cash or deferred payment or other valuable consideration except a mortgage or hypothecation of or a charge or pledge on goods; and includes the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract.

Section 2(1) (w) defines input tax as the amount of tax paid to the State in respect of goods sold to a VAT dealer, which such dealer is allowed to take credit of as payment of tax by him, calculated in accordance with the provisions of Section 8. A registered dealer is eligible for the ITC as per Section 8 whereas the lump sum dealer is not eligible for ITC.

Rule 49 (5) of HVAT Rules provides that a lump sum contractor is entitled to make purchase of goods for use in execution of works contract against form ‘C’ as well as form VAT-D1 and for this purpose, he shall be deemed to be a manufacturer.

Rule 49 (6) of HVAT Rules requires the lump sum contractor to maintain proper account of declaration forms used along with payments receivable and actually received by him.

We conducted the performance audit of the Department of Excise and Taxation with a view to ascertaining that the Act has been enforced effectively and efficiently.

### **2.2.3 Organisational set up**

At the Government level, Principal Secretary, Excise and Taxation Department (PSET) is responsible for the administration of Sales Tax Laws in the State. At the Departmental level, the ETC is responsible for the administration of HVAT/Central Sales Tax Act, 1956 (CST Act) and the rules framed there under. The ETC is assisted by officers in the field divided into revenue districts.

### **2.2.4 Audit objectives**

The objectives of the performance audit are to ascertain whether:

- various provisions relating to works contracts contained in the HVAT Act, /CST Act, have been followed;
- effective internal control mechanism exists to ensure that there is no tax evasion either by the Contractor or by Contractee; and
- penal measures have been initiated in the event of violations of the Act.

### **2.2.5 Audit criteria**

The following are the sources of audit criteria:

- HVAT Act/CST Act, HVAT Rules, 2003 and CST Rules, 1957.
- Guidelines and notifications of the Haryana Government relating to assessment of works contractors.

- Administrative instructions issued by the Department relating to assessment of works contractors.

### **2.2.6 Scope and methodology of audit**

The assessment records relating to works contractors for the period from 2009-10 to 2011-12 in 10<sup>2</sup> out of 23 DETCs offices as well as records of Dakshin Haryana Bijli Vitaran Nigam Limited (DHBVNL), Haryana Vidyut Prasaran Nigam Limited (HVPNL) and Uttar Haryana Bijli Vitaran Nigam Limited (UHBVNL) were test checked between April and June 2012. We selected eight DETCs on random sample selection basis by applying probability proportional to size method (without replacement). DETC Rewari was selected on the recommendation of the Department in place of DETC Palwal. DETCs Ambala and Faridabad (East) were selected on the basis of risk analysis. We also included similar observations noticed in audit of other districts during the period 2006-07 to 2010-11.

### **2.2.7 Acknowledgement**

We acknowledge the co-operation of Excise and Taxation Department in providing necessary information and records for facilitating audit. An entry conference was held (April 2012) with the Financial Commissioner and Principal Secretary to Government of Haryana, Excise and Taxation Department wherein the audit objectives, methodology and criteria employed for selection of districts were explained. The suggestions of the Department were also kept in view at the time of selection of districts. The draft Performance Audit Report was sent for comments to the Department and Government in August 2012. An exit conference was held on 12 October 2012 with the Principal Secretary to Government of Haryana (Excise and Taxation Department), ETC, AETCs and other officers. The replies furnished by the Department and views expressed by Department during exit conference and during the course of audit have been considered in finalising the performance audit report.

### **System deficiencies**

#### **2.2.8 Loss due to non-registration of dealers**

Section 3 of HVAT Act read with rule 10 (2) of HVAT Rules, 2003, stipulates that if taxable amount of turnover of any dealer exceeds ₹ five lakh, he shall be liable to pay tax on and from the day following the day his gross turnover in a year exceeds the taxable quantum. Then the dealer shall get himself registered with the AA concerned under Section 11 of HVAT Act. Section 16 of HVAT Act empowers the Department that upon receipt of information about any dealer that during any period he has been liable to pay tax, the AA will, before expiry of three years of such period after giving him a reasonable opportunity of being heard, assess the dealer to tax and direct him to pay by

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<sup>2</sup> Ambala, Bhiwani, Faridabad (East), Gurgaon (West), Hisar, Kaithal, Kurukshetra, Rewari, Rohtak and Sirsa.

way of penalty a sum equal to the amount of tax found due from him as a result of such assessment.

DHBVNL, HVPNL and UHBVNL enter into contracts with contractors on turnkey basis for supply, erection, testing and commissioning of capital projects. Turnkey basis contracts are composite contracts on single source responsibility basis and contractor is liable to perform total contract in its entirety. Further, the Department was required to seek information from other Departments/organisations and register those contractors who were executing works contracts but had not been registered with the Department.

Scrutiny of records of DHBVNL, HVPNL and UHBVNL revealed that during 2009-10 to 2011-12, these companies awarded contracts for supply, erection, testing & commissioning of sub-stations etc. on turnkey basis to 44 works contractors located outside Haryana and paid ₹ 1,135.46 crore for supply of material only. The contractors executed the said contracts by splitting up the composite contract into two parts, i.e. one for Supply and the other for Erection, Testing and Commissioning. We observed that these contractors did not pay tax on equipment supply portion by showing its value as Transit Sale (clause 50.3 of Bid Document) and paid WCT on Erection, Testing and Commissioning portion only. The Transit sale of Turnkey contractors was to be treated as intra-State sale. The non-compliance of provisions of the Act to register such works contractors led to revenue of ₹ 283.88 crore (including penalty of ₹ 141.94 crore) remaining unrealised.

The Department agreed to the observations during exit conference and stated that notices have been issued for registration of such contractors.

### **2.2.9 Loss due to non-deduction of Works Contract Tax**

Section 24 (1) of HVAT Act, enjoys a duty on any person making payment of any valuable consideration to works contractors for execution of works contract in the State involving transfer of property in goods whether as goods or in some other form to deduct tax in advance there from calculated at the rate of four *per cent*. Further Section 24(6) provides that if any person fails to deduct the whole or part of the tax as required under sub-section (1) or fails to pay the whole or any part of the tax as required under Section 24 (3), then the AA, may at any time within five years of the close of the year when he failed to do so direct him, after giving a reasonable opportunity of being heard, to pay by way of penalty a sum equal to the amount of tax which he failed to deduct as aforesaid.

DHBVNL, HVPNL and UHBVNL entered into contracts for capital projects on Turnkey basis. Scrutiny of information received from DHBVNL, HVPNL and UHBVNL revealed that during 2009-10 to 2011-12 these Companies awarded contracts on turnkey basis valued at ₹ 1,324.65 crore to works contractors registered in Haryana which were splitted up into two parts i.e., supply of material (₹ 1,104.81 crore) and Erection and Commissioning (₹ 219.84 crore). While making payment to the contractors, WCT valued at ₹ 8.85 crore was deducted on erection and commissioning part only. Clause 50.3 of the standard bid document vide which supply of material was to be

shown as sale in transit was not in conformity with HVAT Act. Since the turnkey contracts were Composite contract and Works Contract Tax should have been deducted on the total value of contract. Non compliance of provisions of HVAT Act resulted in non-collection of VAT of ₹ 88.26 crore including penalty of ₹ 44.13 crore under section 24 (6) of HVAT Act.

The Department agreed to the observation during exit conference and stated that notices have been issued.

### **Compliance deficiencies**

#### **2.2.10 Non-levy of Tax/Penalty for misuse of form VAT D-1**

Section 7 (3) of HVAT Act lays down that where taxable goods are sold by one dealer to another dealer, tax is leviable at a concessional rate of four *per cent* if the purchasing dealer furnishes a declaration in form VAT D-1 certifying that the goods are meant for use in manufacturing of goods for sale. Further, if an authorised dealer, after purchasing any goods, fails to make use of the goods for the specified purpose, the AA may impose upon him by way of penalty, under Section 7 (5) of HVAT Act, a sum not exceeding one and a half times the tax which would have been levied additionally. However, no penalty would be imposed if the dealer voluntarily pays the tax which would have been levied additionally under Section 7(1) (a) of HVAT Act, alongwith returns for the period when he failed to make use of the goods purchased for the specified purpose.

Test check of records of office of 10<sup>3</sup> DETCs revealed that 62 works contractors who did not opt to pay lump sum in lieu of tax, had purchased goods/material valued at ₹ 47.02 crore against form VAT D-1 for use in construction of Buildings/Roads etc. during 2006-07 to 2009-10. The contractors had constructed buildings, roads etc. which were not covered under the definition of Goods being immovable property. The contractors violated the condition stipulated in the certificate given on form VAT D-1. Hence the contractors were liable to pay additional tax and penalty under Section 7 (5) of HVAT Act. The AAs while finalising assessments in 103 cases between July 2009 and March 2012 failed to levy additional tax and penalty. This resulted in non-levy of additional tax of ₹ 4.00 crore and maximum penalty of ₹ 6.00 crore.

The Department accepted the observation during exit conference.

#### **2.2.11 Non-levy of penalty under Section 10A of CST Act**

Section 10A of CST Act provides that if any dealer fails to make use of the goods for the purpose for which these were purchased, the AA may impose by way of penalty a sum not exceeding one and a half times the tax which would have been levied in respect of the sale to him of goods inside the appropriate State under the sales tax law of that State.

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<sup>3</sup> Ambala, Bhiwani, Faridabad (East), Gurgaon (East), Gurgaon (West), Hisar, Kaithal, Kurukshetra, Rohtak and Sirsa.

During test check of records of office of nine<sup>4</sup> DETCs, we noticed that 94 works contractors who had not opted to pay lump sum in lieu of tax, had purchased goods valued at ₹ 285.91 crore from out of Haryana State against declaration in Form 'C' during 2006-07 to 2010-11. The contractors had constructed buildings, roads etc. which were not covered under the definition of Goods being immovable property. As the contractors violated the condition stipulated in the certificate given on Form 'C', the contractors were liable to pay penalty leviable under Section 10 A of CST Act. The AAs while finalising assessments in as many as 162 cases between July 2009 and March 2012 did not levy maximum penalty under Section 10A of the CST Act. We calculated such penalty at ₹ 40.66 crore.

The Department admitted the lapse during exit conference.

## **2.2.12 Inadmissible deductions from gross turnover**

### **2.2.12.1 High Seas Sale**

Section 5 (2) of CST Act provides that a sale or purchase of goods shall be deemed to have taken place in the course of import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of document of title to the goods before the goods have crossed the customs frontiers of India. Further, Section 38 of HVAT Act read with Section 9 (2A) of CST Act provides for levy of penalty for filing/claiming incorrect accounts/documents/information/returns/benefit of exempted sale etc., a sum equal to three times the tax which would have been avoided had such account, return, document or information as the case may be, been accepted as true and correct.

During test check of the records of DETC, Faridabad (East) and Kaithal, we noticed that two contractors had entered into contract for supply, erection, testing and commissioning (on turnkey basis) and consequently entered into an agreement for supply of material with Haryana Power Generation Corporation Limited, (HPGCL) and Indian Oil Corporation Limited (IOCL). The contractors after purchasing the material from outside the country valued at ₹ 1,396.56 crore supplied the same directly to the site of works during 2007-08 to 2008-09. The AAs while finalising assessments in four cases between March 2011 and March 2012 allowed the benefit of exempted sales, under Section 5 (2) of CST Act against proof of import and agreement for high seas sale, as claimed by the contractors. The benefit claimed/allowed was neither justified nor correct. This resulted in underassessment of VAT of ₹ 174.57 crore, in addition to penalty leviable at ₹ 523.71 crore.

Further, consequent to inclusion of a paragraph No. 2.5.1.1 in the Audit Report No. 3 of 2010-11 (Revenue Receipts)- Government of Haryana, the ETC had issued guidelines (August 2011) that while assessing the cases of contractors of Turnkey Projects, such sales may be treated as intra- State sales

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<sup>4</sup> Ambala, Faridabad (East), Gurgaon (West), Hisar, Kaithal, Kurukshetra, Panipat, Rohtak and Sirsa.



and tax levied accordingly. Despite issue of guidelines by ETC, the AAs had allowed the inadmissible deduction of high seas sale.

The Department agreed to the contention during exit conference. The ETC directed his officers to take action against defaulting assessing authorities.

#### **2.2.12.2 Transit sale**

Section 6 (2) of the CST Act stipulates that where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a dealer shall be exempt from tax, provided the dealer furnishes a certificate in prescribed Form E-I or E-II obtained from selling dealer (s) and declaration in Form 'C' obtained from purchasing dealer (s). The contract of supply of goods must come into existence after commencement and before termination of inter-State movement of goods. Section 38 of HVAT Act read with section 9 (2A) of CST Act provides for levy of penalty for violation of the provisions.

During test check of records of office of four<sup>5</sup> DETCs, we noticed that five contractors had entered into contract for supply, erection, testing and commissioning (on turnkey basis) and consequently entered into an agreement for supply of material with HPGCL, IOCL and DHBVNL. The contractors after purchasing the material from outside the State valuing at ₹ 1,209.80 crore supplied the goods directly to the site of works during 2007-08 to 2008-09. As the material was supplied within the State, the sale transactions were to be taxed under the provisions of the HVAT Act. The AAs while finalising assessments in nine cases between March 2011 and March 2012 had allowed the benefit of exempted sales, under Section 6 (2) of the CST Act against furnishing proof of E-I, E-II and 'C' forms as claimed by the contractors. Thus, the benefit claimed/allowed was neither justified nor correct. This resulted in underassessment of VAT of ₹ 151.22 crore, in addition to penalty leviable at ₹453.66 crore.

Further, consequent to inclusion of a paragraph No. 2.5.1.2 in the Audit Report No. 3 of 2010-11 (Revenue Receipts)- Government of Haryana, the ETC had issued guidelines (August 2011) that while assessing the cases of contractors of Turnkey Projects, such sale be treated as intra-State sales and tax levied accordingly. Despite issue of guidelines by ETC, the AAs had allowed the inadmissible deduction of transit sale.

During exit conference the ETC directed his officers to take action against defaulting assessing authorities.

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<sup>5</sup> Faridabad (East), Kaithal, Rohtak and Sirsa.



### 2.2.12.3 Material supplied by contractee to contractor

Section 2 (ze) (ii) of the HVAT Act provides that the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, where such transfer, is for cash, deferred payment or other valuable consideration such transfer shall be deemed to be a sale of those goods by the person making the transfer. Under the provisions of HVAT Act, tax is leviable at every stage and deemed sale is also taxable in the hands of the contractor. A works contractor may either pay lump sum in lieu of tax at the rate of four *per cent* of gross receipts of works contract or pay tax on the value of goods transferred in the execution of works contract. In view of judgement of Hon'ble Supreme Court in the case of Karyapalak Engineer and others (2004) 136 STC 641 (SC-FB), material supplied by contractee to contractor and recovery of which is made through bills is sale.

During test check of records of office of four<sup>6</sup> DETCs, we noticed that six contractees supplied material valued as ₹ 3.63 crore to their works contractors during 2007-08 to 2008-09. The AAs while finalising assessments in nine cases between December 2010 and March 2012 allowed deduction and did not levy tax on material supplied by contractees for use in execution of works contract, value of which was recovered through running bills. Thus, allowing inadmissible deduction resulted in underassessment of VAT of ₹ 0.45 crore.

The Department agreed to the audit contention during exit conference.

### 2.2.12.4 Sub-Contract

Section 42 of HVAT Act provides that both contractor and sub contractor are jointly and severally liable to pay tax in respect of transfer of property in goods whether as goods or in some other form involved in execution of works contract. No tax is payable by sub contractor if he proves to the satisfaction of AA that the tax has been paid by contractor and assessment of such tax has become final. Contractor is not liable to deduct Works Contract Tax (WCT) from the payment made to sub-contractor if the contractor is paying tax in respect of whole of the contract.

During test check of records of office of six<sup>7</sup> DETCs we noticed that while finalising assessments in 18 cases between March 2010 and March 2012 for the years 2006-07 to 2010-11, allowed deduction of sub-contact of ₹ 60.56 crore to 11 works contractors without obtaining requisite assessment orders/proof of payment of tax by main contractor. This resulted in underassessment of VAT at ₹ 6.46 crore.

The Department agreed to the audit contention during exit conference.

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<sup>6</sup> Gurgaon (West), Hisar, Kaithal and Kurukshetra.

<sup>7</sup> Faridabad (East), Gurgaon (West), Kaithal, Panipat, Rohtak and Sirsa.

#### **2.2.12.5 Tax free sale of submersible pumps**

As per Entry-1 of schedule B of HVAT Act, agricultural implements and irrigation equipments used for agricultural purposes are exempt from levy of VAT. Accordingly, Submersible Pumps when used for agricultural purpose are exempt from levy of tax.

During test check of records of office of DETCs, Ambala and Kurukshetra, we noticed that contractors who were executing works contract of digging and installation of deep tube wells and had not opted to pay lump sum in lieu of tax, claimed deduction of tax free sale of submersible pumps of ₹ 1.79 crore during 2006-07 to 2009-10. The AAs while finalising assessments in eight cases between August 2009 and February 2012, allowed deduction of tax free sale of submersible pumps to those works contractors who had executed works contracts of digging and installation of deep tube wells of HUDA and Public Health Department. The deduction was inadmissible as submersible pumps were not used for agricultural purpose and was not exempt from levy of tax. We calculated underassessment of VAT of ₹ 0.22 crore.

The Department admitted the lapse and the ETC assured for appropriate action.

#### **2.2.12.6 Tax/WCT from gross receipts**

Section 24 (1) read with Rule 33 (2) of HVAT Act provides that any person making payment of any valuable consideration to works contractors for execution of works contract in the State involving transfer of property in goods whether as goods or in some other form, shall deduct tax in advance there from calculated at the rate of four *per cent*. If any works contractor proves through evidence (copy of agreement) to the satisfaction of the AA that the value of material transferred in execution of works contract was inclusive of tax or works contract tax (WCT) then amount of tax involved in material or works contract tax included in gross receipts will be deductible from the gross receipts.

During test check of records of office of four<sup>8</sup> DETCs, we noticed that 39 works contractors had claimed deduction of Tax/WCT from value of material transferred/gross receipts valued at ₹ 18.78 crore. The AAs while finalising assessments in 75 cases between April 2009 and March 2012 for the years 2006-07 to 2010-11 allowed deduction of tax/WCT without obtaining any evidence of inclusion of tax in the contract from the contractors. In the absence of such evidence, the deduction was not admissible to the contractors. Allowing inadmissible deduction of Tax/WCT resulted in passing excess benefit of ₹ 2.04 crore.

During exit conference the Department accepted the observation.

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<sup>8</sup> Faridabad (East), Hisar, Kurukshetra and Sirsa.

### **2.2.13 Underassessment due to misclassification of contracts of Sale as Works Contract**

Hon'ble Supreme Court held in the case of State of Andhra Pradesh Vs. Kone Elevators India Limited (2005) 140 STC 22 (SC) that contract for supply, installation, testing and commissioning of LIFT is a contract for sale and not works contract. This was further clarified by FCET on 4 June 2010 that supply and installation of Diesel Generating Sets and Pumping Sets is not a works contract but a sale.

Test check of records of office of four<sup>9</sup> DETCs revealed that 11 works contractors during 2006-07 to 2008-09 undertook works of ₹ 264.39 crore for the supply, erection, testing and commissioning of lifts/ACs/supply and laying of ready mix concrete and hot mix (for road) and paid tax at the rate of four *per cent* treating these as works contract instead of contracts for sale. Accordingly the AAs while finalising assessments in 15 cases between June 2009 and March 2012 assessed the cases at the rate of four *per cent* instead of rate of tax of 12.5 *per cent*. We estimated the underassessment of VAT at ₹ 22.47 crore.

During exit conference the Principal Secretary expressed the opinion that audit contentions should concentrate on areas already decided in judicial cases. We are of the opinion that the Department should revisit areas of taxation and apply the principles of decided cases in similar areas in order to avoid evasion of tax.

### **2.2.14 Non-levy of penalty for non-filing of returns**

Section 37A of HVAT Act provides that if a dealer, without sufficient cause, fails to file return, the AA may, after giving such dealer an opportunity of being heard, direct him to pay by way of penalty a sum calculated at the rate of ₹ one hundred per day for the first ten days and at a rate of ₹ two hundred per day thereafter for the period during which the default continues. No penalty will be levied in case the AA comes to the conclusion that in the given period, there was nil turnover.

During test check of records of offices of DETC, Rohtak and Rewari, we noticed that 42 works contractors had not filed their returns for the period 2009-10 to 2011-12. The Department did not initiate any action for levy of penalty or trace out the contractors who had not filed their returns without sufficient cause. This had resulted in underassessment of VAT amounting to ₹1.36 crore due to non levy of penalty for non filing of returns.

The Department admitted the lapse during exit conference and further action is awaited.

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<sup>9</sup> Ambala, Gurgaon (East), Gurgaon (West) and Sonapat.

### 2.2.15 Other interesting cases

During test check of records of office of six<sup>10</sup> DETCs, we noticed that the AAs while finalising assessment between January 2010 and February 2012, assessed less tax, allowed excess ITC and assessed less GTO of 10 contractors in 13 cases for the years 2006-07 to 2010-11. This had resulted in underassessment of tax as ₹ 2.72 crore (including refund of excess amount of ₹ 0.02 crore for 2007-08 and penalty of ₹ 0.05 crore), as per details below:

(₹ in crore)

Sr. No.	Name of DETC	Tax			Remarks
		leviable	Levied	Short	
1	Faridabad(E)	0.97	0.58	0.39	In 3 cases of 2 works contractors, tax was leviable on material valued at ₹ 10.49 crore transferred in execution of works contract but levied on ₹ 6.90 crore
2	Kurukshetra	0.33	0.25	0.08 0.06 (Intt)	The contractor was allowed deduction of loss of ₹ 0.64 crore from material to be taxed but this was not allowable as loss is to be adjusted towards expenses and material transferred in execution of works contract is to be taxed in full.
3	Ambala	0.22	0.19	0.03	The contractor was allowed deduction of loss of ₹ 0.83 crore from material to be taxed but this was not allowable as loss is to be adjusted towards expenses and material transferred in execution of works contract is to be taxed in full.
4	ETO Dabwali	0.18	0.00	0.18 0.54 (penalty)	In 2 cases, the contractor concealed his turnover and filed wrong returns which were accepted by AAs. Hence tax and penalty u/s 38 is leviable.
5	Kaithal	0.63	0.43	0.20 0.25 (ITC)	The contractor was allowed irregular refund of ₹ 0.45 crore as the contractor had opted to pay lump sum in lieu of tax w.e.f. 1.4.10 but tax was assessed on material transferred in execution of works contract during the year.
<b>Input Tax Credit</b>					
		<b>Allowed</b>	<b>Allow-able</b>	<b>Excess</b>	
6	Faridabad(E)	0.25	0.11	0.14 0.11 (Intt)	The contractor opted to pay lump sum in lieu of tax w.e.f 1.4.08 and on 31.3.08 material involving ITC of ₹ 0.14 crore was in stock which was not allowable for being used in lump sum contract.
7	Faridabad(E)	0.35	0.02	0.33 0.26 (intl)	The contractor paid lump sum in lieu of tax on works contract hence no ITC was allowable on purchase of material used in such works contract.

<sup>10</sup> Ambala, Faridabad (East), Gurgaon (East), Kaithal, Kurukshetra and Sirsa.

Sr. No.	Name of DETC	Tax			Remarks		
		leviable	Levied	Short			
Gross Turn Over							
		Assess-able	Tax	Asses-sed	Tax	Excess tax	During 2008-09 the contractor was allowed irregular refund of ₹ 0.04 crore (including ₹ 0.02 crore for 2007-08) and excess of tax of ₹ 0.03 crore was carried forward without explaining reasons for taking lesser GTO.
8	Faridabad(E)	7.50	0.30	6.97	0.28	0.02	
		6.16	0.25	5.38	0.22	0.03	
9	Gurgaon (W)	11.48	0.46	8.94	0.36	0.10	As per affidavit of contractor, GTO was to be taken as ₹ 10.48 crore but wrongly taken as ₹ 8.94 crore (as per P&L a/c) resulting in irregular excess benefit of carry forward of tax of ₹ 0.10 crore.

The Department admitted the lapse during exit conference.

### 2.2.16 Benefit of TDS / WCT allowed without verification

Section 24 (5) of HVAT Act stipulates that any tax paid to the State Government deducted in advance by any person shall be adjustable by the payee on the authority of the certificate issued to him (by payer) with the tax payable by him under this Act and the AA on furnishing of such certificate, allow the benefit of such tax after due verification of the payment.

Test check of records of office of seven<sup>11</sup> DETCs revealed that 79 works contractors claimed benefit of TDS/WCT of ₹ 28.65 crore during 2006-07 to 2009-10. The AAs while finalising assessments in 123 cases between April 2009 and March 2012 allowed the benefit of ₹ 14.96 crore without cross verifying the payments received from the Daily Collection Register (DCR) of the same or other districts concerned. Thus, correctness of allowing benefit of TDS/WCT to works contractors could not be vouchsafed.

The Department accepted the observation in exit conference.

### 2.2.17 Non-obtaining of accounts of declaration forms

Under HVAT Rule 49 (6), a works contractor is required to maintain complete account of declaration forms-C, VAT D-1 and VAT D-3 alongwith complete account of payments receivable and actually received by him.

<sup>11</sup> Ambala, Bhiwani, Faridabad (East), Gurgaon (West), Kurukshetra, Rewari and Rohtak.

Test check of records of offices of DETC, Gurgaon (West) and Rewari, revealed that 61 works contractors did not submit the requisite account of declaration forms and account of payments receivable and actually received by them during 2006-07 to 2008-09. The AAs while finalising assessments in 68 cases between April 2009 and March 2012 had also not obtained the said account. In the absence of these documents the correctness of the assessment framed could not be ascertained.

The Department accepted the audit observation.

#### **2.2.18 Internal audit**

No internal audit system existed in the Department. The Department informed that the introduction of internal audit is being considered.

#### **2.2.19 Conclusion**

The performance audit revealed a number of systemic deficiencies in the method of assessment and collection of tax from works contractors. The Department has not established any mechanism for cross verification of inter departmental database of works contractors resulting in escapement of revenue from unregistered works contractors. There was no effective system of monitoring the records of contractees. Benefit of payment of tax/WCT was given to contractors without verification of payment from DCRs concerned. The Department had not evolved effective system of internal control for proper assessment, levy and collection of tax and thus failed to detect tax evasion. Instances of irregular grant of various deductions were noticed which resulted in loss of revenue.

#### **2.2.20 Recommendations**

The State Government may consider:

- directing the Department to devise a system of cross exchange of information to detect the unregistered works contractors and monitoring the results of cross exchange of information;
- evolving a system for detecting and avoiding misuse of declaration forms by the assesses;
- Issuing appropriate directions to the public sector companies desisting from entering into splitting up of contracts whereby the supply of plant and machinery is treated as transit sale leading to avoidance of tax;
- developing a system whereby the principles involved in judicial rulings of the Supreme Court are applied in cases of similar contracts;
- evolving a system for utilising the information contained in returns of contractee for assessment of works contractors; and
- taking steps to put in place effective internal control mechanism.

### 2.3 Non-observance of the provisions of the Acts/Rules

*The HGST Act, HVAT Act/ CST Act and Rules made there under provide for:-*

- (i) *levy of tax/penalty at the prescribed rate;*
- (ii) *allowance of Input Tax Credit as admissible; and*
- (iii) *Section 14 (6) of the HVAT Act inter alia lays down that if any dealer fails to make payment of tax, he shall be liable to pay, in addition to the tax payable by him, simple interest at one and half per cent (one per cent with effect from 11 October 2007) per month if the payment is made within ninety days, and at three per cent per month (two per cent with effect from 11 October 2007) if the default continues beyond ninety days for the whole period, from the last date specified for the payment of tax to the date he makes the payment.*

*We noticed that the AAs, while finalising the assessments, did not observe the provisions of the rules in the cases mentioned in the paragraphs 2.3.1 to 2.3.3. This resulted in non/short levy/non-realisation of tax and interest of ₹ 9.26 crore.*

#### 2.3.1 Underassessment of tax due to application of incorrect rate of tax

The rates under Haryana Value Added Tax Act, 2003 (HVAT) have been prescribed as per Schedules A to G. However, under section 7 (1) (a) (iv) of the HVAT Act, any commodity other than the commodities classified in any of the schedules, is taxable at the rate of 12.5 *per cent* w.e.f. 1.7.2005. Further interest is also leviable under section 14(6) of the HVAT Act in case of default in payment of tax.

During test check of the assessment record of the office of DETC, (ST) Faridabad (West), we noticed in July 2011 that a dealer sold Railway Track Machines for ₹ 59 crore during the year 2007-08. These Machines were used for repair and maintenance of railway track for the movement of trains safely and cannot be used for carrying the passenger or goods etc. The AA while finalising the assessment in December 2010, levied value added tax at the rate of four *per cent*, instead of correct rate of 12.5 *per cent* as applicable in respect of unclassified item. This had resulted in under assessment of tax amounting to ₹ 5.01 crore and interest of ₹ 3.81 crore thereon.

After we pointed out the case in July 2011, the AA, Faridabad (West) stated in July 2011 that the main function of this machine was repair and maintenance of Railway Tracks and hence it was covered under Entry No. 62 of Schedule 'C' of VAT Act. The reply of AA was not in consonance with the instructions contained in the HVAT Act, 2003 and the clarification issued on 30 March 2006 by the Financial Commissioner & Principal Secretary, Government of Haryana, Excise and Taxation Department in the case of JCB India Ltd in which it was stated that only such machinery would qualify to be covered under the entry plant and machinery, which is used in a plant for production of



goods or services on an industrial scale, anything other than those would attract tax at 12.5 *per cent*.

During exit conference the Department accepted the audit observation.

### **2.3.2 Non-levy of value added tax on sale of Guar Gum**

The rates under HVAT Act have been prescribed as per Schedules A to G. However, under Section 7 (1) (a) (iv) of the HVAT Act, any commodity other than the commodities classified in any of the schedules, is taxable at the rate of 12.5 *per cent* w.e.f. 1 July 2005.

During test check of the records of office of the ETO (Sales Tax), Mandi Dabwali (Sirsa) in April 2010, we noticed that dealer sold Guar Gum valued at ₹ 2.18 crore during the year 2007-08 and claimed the goods as tax free. The AA while finalising the assessments in January 2010 allowed the deductions treating it as tax free goods under Schedule 'B' of the HVAT, Act. However, Guar Gum, being non-specified in any schedule, was taxable at the rate of 12.5 *per cent*. This had resulted in non-levy of VAT amounting to ₹ 27.23 lakh.

After we pointed out the case in April 2010, ETO Dabwali stated in February 2012 that the case had been sent to the revisional authority for taking suo motu action.

During exit conference the Department accepted the audit observation and directed the concerned officers to look into the matter for necessary action.

### **2.3.3 Incorrect allowance of input tax credit**

Under Section 8 of the HVAT Act, input tax in respect of any goods purchased by a VAT dealer shall be the amount of tax paid to the State on the sale of such goods to him. Further, as mentioned in Schedule E, no ITC on petroleum products and natural gas is admissible when used as fuel. Further, interest was also leviable under Section 14 (6) of the HVAT Act.

During test audit of the office of DETC (ST), Rewari in January 2012, we noticed that a dealer (manufacturer) purchased furnace oil (FO) valued at ₹ 2.53 crore for use as a fuel during the year 2007-08 and claimed ITC. The AA while finalising the assessment in November 2010 allowed ITC of ₹ 10.11 lakh though it was not admissible on purchase of petroleum products when used as fuel. This resulted in incorrect allowing of ITC of ₹ 10.11 lakh, besides interest amounting to ₹ 7.28 lakh.

After we pointed out the case in January 2012, DETC (ST) Rewari stated in June 2012 that the case had been sent to revisional authority for taking suo moto action.

We pointed out the matter to the ETC, Excise and Taxation Department and reported to the Government in June 2012.

During exit conference the Department accepted the audit observation.



## **2.4 Incorrect determination of classification/turnover**

*The HVAT Act, CST Act and Rules framed there under provide for:-*

- (i) disclosure of actual turnover by the dealer in the returns;*
- (ii) levy of tax/interest/penalty at the prescribed rate;*
- (iii) accurate determination of classification of goods by the AAs at the time of assessment; and*
- (iv) accurate determination of turnover at the time of assessment.*

*We noticed that the AAs, while finalising the assessments, in the cases mentioned in the paragraphs 2.4.1 to 2.4.4, did not observe the provisions of the Act. This resulted in non/short levy/non-realisation of tax/interest/ penalty of ₹ 1.73 crore.*

### **2.4.1 Evasion of tax due to suppression of sales**

Under Section 38 of the HVAT Act, if a dealer has maintained false or incorrect accounts or documents with a view to suppress his sales, purchases, or stock of goods, or has concealed any particulars or has furnished to or produced before any authority any account, return, document or information which is false or incorrect in any material particular, such authority may direct him to pay by way of penalty, in addition to the tax to which he is assessed or liable to be assessed, a sum thrice the amount of tax which would have been avoided had such account, return, document or information as the case may be, been accepted as true and correct. In order to prevent the tax evasion by fraudulent means, VAT provides for introduction of Tax Information Exchange System (TINXSYS) for proper tracing of inter-state sales transactions. Further, with a view to detect evasion of VAT by claiming fraudulent ITC by issuing forged tax invoices or fictitious accounting of goods neither purchased nor sold etc., the ETC issued instructions in March 2006 for cross verification of all purchase/sale transactions totaling more than ₹ one lakh from a single VAT dealer in a year.

During test check of the records of the office of DETC (ST), Faridabad (East), we noticed in December 2009 and June 2010 that two dealers had not included sales of ₹ 6.08 crore made to four dealers in their tax returns. Further, one dealer had also not reflected purchase of ₹ 1.63 crore made against 'C' form. Although, the sales of ₹ 1.50 crore to one dealer had been noticed in September 2007 by the Department yet no action was initiated by the AA against the defaulting dealer for levying the tax and penalty, while finalising the assessment for the year 2005-06 in March 2009. Failure of the AAs to cross verify the transactions of sales and purchases despite ETC directions of March 2006, led to suppression of sales of ₹ 7.88 crore which consequently led to evasion of VAT of ₹ 31.51 lakh. Besides, penalty of ₹ 94.53 lakh was also leviable on suppression of sales and purchases.

After we pointed out the cases in December 2009 and June 2010, the AA Faridabad (East) stated in May 2012 that in one case re-assessment has been framed in August 2010 levying tax of ₹ 16.99 lakh on suppressed sales and imposing penalty u/s 38 for ₹ 50.98 lakh, out of this ₹ 2 lakh has been

recovered so far. In second case, the AA stated in May 2012 that the Registration certificate of the dealer had been cancelled w.e.f. 31 March 2006 and no return was filed by the dealer for the year 2006-07. The reply of the AA was not correct as this dealer had made sales in 2006-07 and was therefore liable to pay tax on that. However, during exit conference the Department accepted the audit observation and directed the concerned officers to look into the matter for necessary action.

#### **2.4.2 Evasion of tax due to misuse of Form 'F'**

As per Section 6A of the CST Act, transfer of goods from one State to another place of business in another State is exempt from levy of tax on production of 'F' forms and if any dealer fails to prove to the satisfaction of AA claim of transfer of goods, then the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale. The ETC issued instructions in March 2006 that in the cases of specific traders (selected for scrutiny) all transactions totaling more than ₹ one lakh from a single VAT dealer in a year should be cross verified to detect evasion of VAT. Further, penalty was also leviable under section 38 of HVAT Act.

During test check of the assessment records of the office of DETC (ST), Kaithal and Kurukshetra in August 2009 and March 2011, we noticed that declaration forms 'F' were found suspicious against which three dealers claimed deduction of consignment sale of goods valued as ₹1.19 crore on concessional rate of tax during 2005-06 and 2006-07. The AAs, while finalising the assessment in September 2008, November 2009 and January 2010, allowed the deduction. Failure on the part of AAs to scrutinise the claim and cross verify the transaction, as required in the ETC's instructions dated 14 March 2006 resulted in incorrect allowing of deductions which consequently led to evasion of tax ₹ 9.48 lakh. In addition penalty was also leviable for evasion of tax.

After we pointed out these cases in August 2009 and March 2011 to DETC (ST) for verification of 'F' forms from the concerned State. AA Kurukshetra stated in January 2012 that on verification, these forms were not found issued by the concerned authority and these cases had been sent to the Revisional authority in August 2011 for taking suo-moto action. In another case, the AA Kaithal stated in March 2012 that case had been sent to Revisional authority for taking suo moto action.

During exit conference the Department accepted the audit observation and the Principal Secretary directed to issue instructions to the concerned Assessing Authorities to proceed against the dealers by opening their cases for re-assessment and recovery of legitimate revenue.

#### **2.4.3 Evasion of tax by submitting fake declaration Form 'C'**

Section 8 (4) of the CST act provides that the concession under sub section (1) shall not apply to any sale in the course of interstate trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in the

prescribed form obtained from the prescribed authority. The ETC issued instructions in March 2006 that in the cases of specific traders (selected for scrutiny) all transactions totaling more than ₹ one lakh from a single VAT dealer in a year should be cross verified to detect evasion of VAT. Further, penalty was also leviable under Section 38 of the HVAT Act.

During test check of the assessment files of the office of DETC (ST), Gurgaon (West) and Faridabad (East) in May 2010, we noticed that out of total CST/sale of goods valued as ₹ 3.69 crore, two dealers claimed concessional rate of CST on two declaration forms 'C', for sale value of ₹ 58.97 lakh which were found suspicious due to inferior quality of paper and had no water mark during 2006-07. The AA while finalising the assessment for the year 2006-07 between January and March 2010, allowed the claim without cross verifying the transaction, which resulted in incorrect allowing concessional rate of tax which consequently led to evasion of tax amounting to ₹ 4.56 lakh. Additionally, penalty was also leviable for evasion of tax.

After we pointed out the cases in May 2010, the AAs stated in November and December 2011 that the forms were verified from concerned issuing authority and found not genuine. In one case, The AA Faridabad had created demand of ₹ 1.33 lakh (Tax levied ₹ 3.48 lakh out of which ₹ 2.15 lakh had been adjusted from excess ITC). Though, the AA created tax demand against the ingenuine form but no action was initiated to levy penalty under section 38 of HVAT Act. In another case, AA Gurgaon stated that the proceedings for taking action against the dealer had been initiated.

During exit conference the Department accepted the audit observation and directed the concerned officers to take necessary action.

#### **2.4.4 Short levy of tax due to incorrect classification**

**2.4.4.1** Under Section 7 (1) (a) (iv) of the HVAT Act, tax is leviable at the rates specified in schedules 'A' to 'G' of Act depending upon the classification of goods and the items not classified in above schedule are taxable at general rate of tax i.e. 12.5 *per cent* w.e.f.1 July 2005. The State Government did not specify these commodities under any Schedule of the HVAT Act with effect from 1 April 2003. It has judicially been held in August 1998 that mosquito coil/mat cannot be treated as insecticide and is commonly known as repellent and taxable as such. Mosquito mats/coils and other mosquito repellents, being non-specified item in any schedule, are leviable to tax at the general rate of 10 *per cent* upto 30 June 2005 and 12.5 *per cent* thereafter.

During test check of the assessment records of the offices of DETC (ST), Panipat we noticed in October 2008 that a dealer made sales of mosquito mats/coils valued as ₹ 40.15 lakh during the year 2004-05. The Assessing Authority while finalising the assessments in January 2008, levied tax at the rate of four *per cent* treating the goods as insecticides instead of the correct rate of 10 *per cent*. Incorrect classification resulted in short levy of tax of ₹ 2.41 lakh.

After we pointed out the case in October 2008, the AA stated in March 2012 that the additional demand of ₹ 2.41 lakh had been created in January 2009. Further report on recovery had not been received (October 2012).

We pointed out the matter to the ETC, Excise and Taxation Department and reported to the Government in May and June 2012.

**2.4.4.2** The Financial Commissioner and Principal Secretary to Government of Haryana has clarified on 11 September, 2007 that Ultra High Temperature (UHT) sweetened flavoured milk is different from Ultra High Temperature milk which is covered under entry 81 of Schedule 'C' of HVAT Act. Hence, UHT sweetened flavoured milk products are taxable at general rate of tax i.e. 12.5 *per cent*. Further interest was also leviable under section 14 (6) of the HVAT Act.

During test check of the assessment records of the offices of DETC (ST), Sonapat in January 2012, we noticed that a dealer sold milk products<sup>12</sup> worth ₹ 2.01 crore during the year 2007-08 and levied VAT at the rate of four *per cent*. The AA, while finalising the assessment in March 2011, also levied VAT at the rate of four *per cent* treating them as schedule 'C' item instead of correct rate of 12.5 *per cent*. This had resulted in underassessment of tax of ₹ 17.09 lakh, besides Interest of ₹ 14.02 lakh.

After we pointed out the case in January 2012, the AA stated in June 2012 that the case had been sent to Revisional Authority for taking suo-motu action.

We pointed out the matter to the ETC, Excise and Taxation Department and reported to the Government in June 2012.

During exit conference the Department accepted the audit observation.

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<sup>12</sup> Amul Calci+Milk, Chocolate Milk, Flavoured Milk, Cool Coffee, Natramul Milk.

## CHAPTER III: STATE EXCISE

### EXCISE AND TAXATION DEPARTMENT

#### 3.1.1 Tax administration

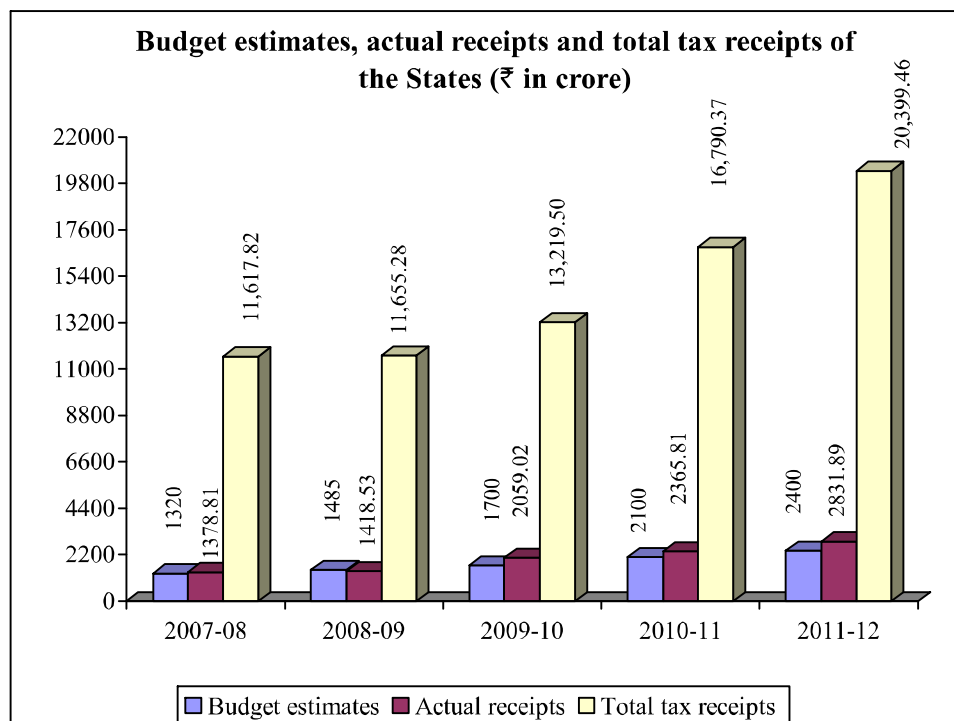
The excise revenue is mainly derived from the fixed, assessed and auction fee for the grant of license of various vends and excise duties levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State. The Principal Secretary to Government Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

#### 3.1.2 Trend of receipts

Actual receipts from State excise duty during the years 2007-08 to 2011-12 along with the total 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 receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2007-08	1,320.00	1,378.81	(+) 58.81	(+) 04	11,617.82	12
2008-09	1,485.00	1,418.53	(-) 66.47	(-) 04	11,655.28	12
2009-10	1,700.00	2,059.02	(+) 359.02	(+) 21	13,219.50	16
2010-11	2,100.00	2,365.81	(+) 265.81	(+) 13	16,790.37	14
2011-12	2,400.00	2,831.89	(+) 431.89	(+) 18	20,399.46	11



The actual receipts of the Excise and Taxation Department relating to State excise duty to total tax receipts of the State during the period 2007-08 to 2011-12 ranged between 11 and 16 *per cent*.

### 3.1.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 in respect of State Excise amounted to ₹ 119.19 crore of which ₹ 76.53 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12:

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears	State Excise receipts	Percentage of column 4 to column 5	Percentage of realisation of arrears (Col. 3 to col. 2)
1	2	3	4	5	6	7
2007-08	42.26	2.57	52.31	1,378.81	4	6
2008-09	52.31	8.36	46.61	1,418.53	3	16
2009-10	46.61	2.75	84.96	2,059.02	4	6
2010-11	84.96	1.12	107.81	2,365.81	5	1
2011-12	107.81	0.67	119.19	2,831.89	4	1

We observed that arrears of revenue had increased from ₹ 42.26 crore at the beginning of the year 2007-08 to ₹ 119.19 crore (182 *per cent*) at the end of the year 2011-12. The percentage of realisation of arrears to the arrears at the beginning of the year ranged between one and 16 *per cent* during the years 2007-08 to 2011-12. Though the actual receipts increased by 105 *per cent* (from ₹ 1,378.81 crore in 2007-08 to ₹ 2,831.89 crore in 2011-12).

The Government may advise the Excise and Taxation Department to take effective steps for collecting the arrears promptly to augment Government revenue.

### 3.1.4 Cost of collection

The gross collection of revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the relevant all India average percentage of expenditure of collection to gross collection for the relevant years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
2007-08	1,378.81	12.95	0.94	3.27
2008-09	1,418.53	18.46	1.30	3.66
2009-10	2,059.02	20.48	0.99	3.64
2010-11	2,365.81	21.57	0.91	3.05
2011-12	2,831.89	22.39	0.79	-

### 3.1.5 Impact of Audit on revenue

#### 3.1.5.1 Position of Inspection Reports

The table below provides details of number of units audited, value of objections pointed out during the course of audit, cases accepted and the recovery made there against during the period from 2006-07 to 2010-11.

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2006-07	47	200	3.87	8	0.27	13	0.34
2007-08	41	826	41.83	231	4.68	17	0.28
2008-09	42	384	5.59	98	1.20	25	0.09
2009-10	36	377	3.95	251	3.76	42	0.22
2010-11	28	179	25.18	102	24.17	2	2.79
<b>Total</b>	<b>194</b>	<b>1,966</b>	<b>80.42</b>	<b>690</b>	<b>34.08</b>	<b>99</b>	<b>3.72</b>

We observed that the recovery in respect of accepted cases during the years 2006-07 to 2010-11 was only 11 per cent.

#### 3.1.5.2 Position of Audit Reports

During the last five years ending 2011-12 instances of non/short recovery of excise duty, license fee, penalty, non-recovery of cost of supervisory staff posted at the distillery etc., with revenue implication of ₹ 35.58 crore in 12 paragraphs including one performance audit. The Department/Government

had accepted all the audit observations involving ₹ 35.58 crore and recovered ₹ 2.90 crore till 31 March 2012. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	(₹ in crore)				(₹ in crore)	
	Number	Amount	Number	Amount	Number	Amount
2007-08	2	1.23	2	1.23	1	0.03
2008-09	4	2.35	4	2.35	4	0.09
2009-10	2	5.65	2	5.65	2	0.10
2010-11	1 (Review)	21.60	1	21.60	1	2.63
2011-12	3	4.75	3	4.75	1	0.05
Total	12	35.58	12	35.58	9	2.90

We observed that the recovery in respect of the accepted cases was eight *per cent*. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/Department to initiate action to recover the Government dues promptly.

**We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.**

### **3.1.6 Results of Audit**

Test check of the records of the offices of Deputy Excise and Taxation Commissioner (Excise) relating to State Excise conducted in audit during the year 2011-12 revealed non/short recovery of excise duty, license fee and penalty etc. amounting to ₹ 10.37 crore in 481 cases which broadly fall under the following categories:

(₹ in crore)			
Sr. No.	Category	Number of cases	Amount
<b>Excise and Taxation Department (State Excise)</b>			
1.	Non/short deposit of license fee and loss of interest	296	7.58
2.	Non-recovery of penalty on illicit liquor	129	1.22
3.	Miscellaneous irregularities	56	1.57
	<b>Total</b>	<b>481</b>	<b>10.37</b>



During the course of the year 2011-12, the Department accepted underassessment and other deficiencies of ₹ 8.90 crore involved in 438 cases, out of which ₹ 8.80 crore involved in 425 cases were pointed out during the year and rest in earlier years. The Department recovered ₹ 10.20 lakh in 13 cases pointed out in earlier years.

Further, at the instance of audit, the Principal Secretary, Excise and Taxation Department recovered ₹ 25.50 lakh.

A few illustrative cases involving ₹ 4.75 crore are mentioned in the succeeding paragraphs.

### **3.2 Non-observance of the provisions of the Acts/Rules**

*The Punjab Excise Act/Haryana Liquor License Rules/State Excise Policy provides for levy of excise duty/license fee/interest/penalty at the prescribed rate. We noticed that the Deputy Excise and Taxation Commissioner (Excise) of respective district did not observe provisions of the rules in the cases mentioned in the paragraphs 3.2.1 to 3.2.3. This resulted in non-realisation/recovery of license fee/interest/penalty of ₹ 4.75 crore.*

#### **3.2.1 Non-realisation of differential license fee on re-auction**

Under the Haryana Liquor License Rules, 1970 (HLL Rules), read with the State excise policy for the years 2009-10 and 2010-11, every successful allottee of retail licensed liquor outlet, shall be required to deposit a security amount equal to 20 *per cent* of the annual license fee of the licensed outlet, out of which 5 *per cent* of the license fee has to be deposited on the day of draw of lot, 5 *per cent* within 7 days of the allotment/draw of lot or before 31 March of the respective year, whichever is earlier and remaining 10 *per cent* by the 7th April of the respective year. The balance 80 *per cent* shall be payable in nine equated monthly instalments starting from April to December of the respective year. In case, the allottee fails to make payment of security deposit equal to 20 *per cent* of annual license fee and defaults in payment of nine equated instalments of license fee along with interest, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. In such events, the DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

During test check of M-2 registers for watch of payment of license fee in the offices of DETC (Excise), Bhiwani, Kaithal and Panipat between December 2010 and February 2012, we noticed that 17 retail outlets were auctioned for ₹ 6.92 crore for the years 2009-10 and 2010-11. Of the total license fee of ₹ 6.92 crore, the allottees deposited security and monthly license fee amounting to ₹ 2.95 crore and failed to deposit the balance amount of ₹ 3.97 crore. The Department cancelled their retail liquor outlets and forfeited the entire amount of security. These retail outlets were re-auctioned/re-allotted between September 2009 and February 2011 for the remaining period for ₹ 1.30 crore at the risk and cost of original licensees. The Department, did not initiate any action to recover the differential amount of license fee of ₹ 2.67 crore (₹ 3.97 crore - ₹ 1.30 crore) from the original allottees. This resulted in non-realisation of Government revenue of ₹ 2.67 crore.

After we pointed out these cases between December 2010 and February 2012, DETCs (Excise), Kaithal and Panipat stated that recovery certificates would be issued and DETC (Excise), Bhiwani stated that efforts would be made to recover the outstanding amount. We have not received further progress report on recovery (October 2012).

The matter was reported to the Government between January 2011 and July 2012; the Government accepted the audit observation during the exit conference held in October 2012.

### 3.2.2 Non/short recovery of interest

Under the Haryana Liquor License Rules, 1970 (HLL Rules), read with the State excise policy for the year 2010-11 provide for payment of monthly instalments of license fee by the 20<sup>th</sup> of each month by the licensee/allottee holding license for retail outlets for vending Country Liquor and Indian made Foreign Liquor. Failure to do so renders him liable to pay interest at the rate of one and half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the District Excise and Taxation Commissioner (Excise) {DETC (Excise)} of the respective district.

During test check of M-2 registers for watch of payment of license fee in four<sup>1</sup> offices of DETC (Excise) in October and November 2011 for the year 2010-11, we noticed that 97 licencees had paid the monthly instalments of license fee amounting to ₹ 34.28 crore for the period between April 2010 and March 2011 after the prescribed due dates. The delay ranged between 21 to 151 days. The DETC (Excise), however, did not initiate any action to cease/seal the vends for non-deposit of monthly instalments by the end of the month and to levy interest for delayed payments of license fee. This resulted in non-levy of interest of ₹ 1.06 crore.

After we pointed out these in October and November 2011, DETC (Excise) Gurgaon stated in January 2012 that efforts would be made to recover the outstanding amount of ₹ 34.64 lakh. DETC (Excise) Kurukshetra stated in September 2012 that an amount of ₹ 82,438 had been recovered in two cases and efforts would be made to recover the outstanding amount of ₹ 1.15 lakh. DETC (Excise) Rewari stated in October 2012 that an amount of ₹ 4.09 lakh had been recovered in three cases. We had not received further progress of recovery of interest in case of other DETCs and reply from DETC (Excise), Faridabad (October 2012).

The matter was reported to the Government between December 2011 and July 2012; the Government accepted the audit observation during the exit conference held in October 2012.

### 3.2.3 Non/short recovery of license fee and interest

Under the Haryana Liquor License Rules, 1970 (HLL Rules) read with State Excise Policy for year the 2010-11, provide for payment of monthly instalment of license fee by the 20<sup>th</sup> of each month by the licensee/allottee holding license for retail outlets for vending country liquor (CL) and Indian made foreign liquor (IMFL). Failure to do so renders him liable to pay interest at the rate of one and a half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the Deputy

<sup>1</sup> Faridabad, Gurgaon, Kurukshetra and Rewari.

Excise and Taxation Commissioner (Excise) {DETC (Excise)} of the respective district.

During test check of the records of payment of license fee of the office of Deputy Excise and Taxation Commissioner (Excise), Gurgaon in October 2011 for the year 2010-11, we noticed that retail liquor outlets for sale of CL/IMFL were allotted to 10 licensees for ₹ 7.34 crore. The licensees failed to pay the monthly instalment of license fee for the year 2010-11 in full by the prescribed dates. Of the total license fee of ₹ 7.34 crore, the licensees had paid only ₹ 6.41 crore. Thus, the allottees did not deposit the balance amount of ₹ 93 lakh. The DETC (Excise), however, did not initiate any action to seal the vends for non-deposit of monthly instalment in full by the end of the month and levy interest for belated payment of lincense fee. This resulted in non/short recovery of license fee of ₹ 1.02 crore (including interest of ₹ 9.45 lakh).

After we pointed out these cases in October 2011, DETC (Excise), Gurgaon stated that proceedings for recovery had been initiated. We had not received further progress report on recovery (October 2012).

The matter was reported to the Government in December 2011; the Government accepted the audit observation during the exit conference held in October 2012.

## CHAPTER-IV: STAMP DUTY

### 4.1.1 Tax administration

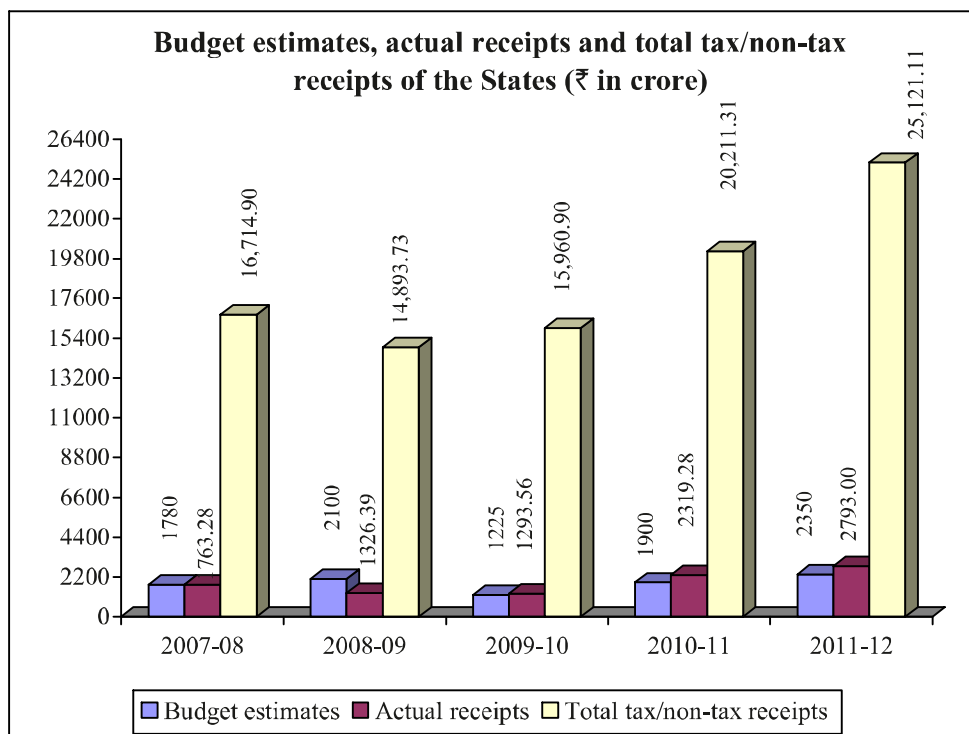
Receipts from the stamp duty (SD) and registration fee (RF) in the State are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. SD is leviable on the execution of instruments as per Schedule I-A of the IS Act and RF is payable at the prescribed rates fixed by the State Government. At the Government level, the Additional Chief Secretary and Financial Commissioner, Revenue and Disaster Management Department, Haryana, Chandigarh is responsible for the administration of the IS Act and IR Act and the rules framed there under relating to the registration of various documents. The overall control and superintendence over levy and collection of SD and RF vests with the Inspector General of Registration (IGR), Haryana, Chandigarh. The IGR is assisted by the 21 Deputy Commissioners (DCs), 67 tehsildars and 46 naib tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

### 4.1.2 Trend of receipts

Actual receipts from SD and RF during the years 2007-08 to 2011-12 along with the total tax/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 (Col. 4 to Col. 2)	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-à-vis total tax/non-tax receipts (Col. 3 to Col. 6)
1	2	3	4	5	6	7
2007-08	1,780.00	1,763.28	(-) 16.72	(-) 01	16,714.90	11
2008-09	2,100.00	1,326.39	(-) 773.61	(-) 37	14,893.73	9
2009-10	1,225.00	1,293.56	(+) 68.56	(+) 6	15,960.90	8
2010-11	1,900.00	2,319.28	(+) 419.28	(+) 22	20,211.31	11
2011-12	2,350.00	2,793.00	(+) 443.00	(+) 19	25,121.11	11



Source: State Budget and Finance accounts.

The actual receipts of the Department during the period 2007-08 to 2011-12 ranged between eight and 11 *per cent* and the stamp duty receipts increased by 20 *per cent* during the year 2011-12 over the previous year.

### 4.1.3 Analysis of arrears of revenue

The Department stated that the information relating to arrears of revenue was awaited from the office of the Divisional Commissioner. The Department had not supplied the details of arrears pending at the beginning of the year, arrears added and collected during the year and arrears pending at the end of the year due to non-availability of centralised database at the apex level. Thus, the Department could not monitor and expedite the progress of recovery of arrears.

### 4.1.4 Cost of collection

The gross collection in respect of SD and RF, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the relevant all India average

percentage of expenditure of collection to gross collection for the relevant year are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2007-08	1,763.28	12.04	0.68	2.09
2008-09	1,326.39	16.31	1.23	2.77
2009-10	1,293.56	13.72	1.06	2.47
2010-11	2,319.28	11.39	0.49	1.60
2011-12	2,793.00	12.41	0.44	-

Source: Finance Accounts.

### 4.1.5 Impact of Audit on Revenue

#### 4.1.5.1 Position of Inspection Reports

The performance of the Revenue Department to deal with the irregularities detected in the course of local audit conducted during the year 2010-11 and the corresponding figures for the preceding four years is tabulated below:

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2006-07	179	3,476	8.99	2,352	6.67	104	0.03
2007-08	180	85,543	44.43	2,136	6.04	240	0.07
2008-09	180	1,157	6.50	310	1.90	7	0.01
2009-10	182	481	23.07	159	20.99	18	0.13
2010-11	101	1,346	7.26	1,158	5.78	227	0.18
<b>Total</b>	<b>822</b>	<b>92,003</b>	<b>90.25</b>	<b>6,115</b>	<b>41.38</b>	<b>596</b>	<b>0.42</b>

We observed that the recovery in respect of accepted cases during the years 2006-07 to 2010-11 was only one *per cent*.

#### 4.1.5.2 Position of Audit Reports

During the last five years (including the current year's report), instances of non/short levy/realisation of SD and RF, evasion due to non-execution of conveyance deeds, non-presentation of documents for registration, misclassification of documents, incorrect grant of exemptions/remissions, application of incorrect rate etc., with revenue implication of ₹ 59.62 crore in 23 paragraphs (including two performance audits). Of these, the Department/Government had accepted audit observations to the tune of ₹ 47.99 crore in 23 paragraphs (including two reviews) and recovered ₹ 15.40 lakh. The details are shown in the succeeding table:

Year	Paragraphs included		Paragraph accepted		Amount recovered	
	(₹ in crore)				(₹ in lakh)	
	Number	Amount	Number	Amount	Number	Amount
2007-08	4	1.70	4	1.70	1	0.87
	1 (Review)	24.69	1	15.11	-	-
2008-09	5	0.76	5	0.76	1	1.43
2009-10	1 (Review)	22.85	1	20.96	1	11.50
2010-11	6	5.49	6	5.33	2	1.60
2011-12	6	4.13	6	4.13	-	-
Total	23	59.62	23	47.99	5	15.40

We observed that the Revenue Department had recovered only ₹ 15.40 lakh out of accepted cases amounting to ₹ 47.99 crore during the years 2007-08 to 2011-12. Thus, the recovery in respect of the accepted cases was very low (0.32 *per cent*). The slow progress of recovery even in respect of accepted cases is the indicative of failure on the part of the heads of offices/Department to initiate effective action to recover the Government dues promptly.

**We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.**

#### 4.1.6 Results of audit

Test check of the records of various registration offices during the year 2011-12 revealed non/short levy of stamp duty and registration fee amounting to ₹ 11.86 crore in 1,148 cases, which broadly fall under the following categories:

(₹ in crore)			
Sr. No.	Category	Number of cases	Amount
<b>Revenue Department</b>			
1.	Short recovery of stamp duty and registration fee due to non-charging of residential rates on purchase of land	562	4.61
2.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	134	1.05
3.	Non/short recovery of stamp duty due to undervaluation of immovable property	182	1.68
4.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	46	0.65
5.	Short recovery of stamp duty due to misclassification of instruments	59	3.30
6.	Miscellaneous irregularities	165	0.57
	<b>Total</b>	<b>1,148</b>	<b>11.86</b>

During the course of the year 2011-12, the Department accepted underassessment and other deficiencies of ₹ 11.75 crore involved in 1,048 cases, out of which ₹ 11.62 crore involved in 1,035 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 12.61 lakh in 13 cases pointed out in earlier years.

A few illustrative cases involving ₹ 4.13 crore are mentioned in the succeeding paragraphs.



## 4.2 Non-compliance of the provisions of the Acts/Rules

*The provisions of the Indian Stamp Act, 1899 (IS Act) and Indian Registration Act, 1908 (IR Act) require:-*

- (i) *levy of stamp duty (SD) at the prescribed rate;*
- (ii) *exemption of SD on fulfillment of prescribed conditions; and*
- (iii) *correct classification of documents.*

*We noticed that the registering authorities did not observe some of the above provisions at the time of registration of documents in cases mentioned in the paragraphs 4.2.1 to 4.2.5. This resulted in short levy/evasion of SD of ₹ 4.08 crore.*

### 4.2.1 Evasion of stamp duty due to undervaluation of immovable property

Section 27 of the IS Act as applicable to the State of Haryana, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, should be fully or truly set forth therein. Further, Section 64 of the IS Act provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to ₹ 5,000 per instrument.

During test check of the records of 111 registering offices between December 2010 and June 2011, we noticed that 30 conveyance deeds were registered between April 2009 and June 2011 on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was ₹ 6.51 crore. Cross verification of these deeds with the agreements executed between the concerned parties between May 2008 and December 2010 revealed that the total sale value of agreements worked out to ₹ 12.88 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than what had been agreed to between the parties. Undervaluation of immovable properties in conveyance deeds resulted in evasion of SD of ₹ 23.92 lakh. In addition penalty not exceeding ₹ 1.40 lakh was also leviable for incorrect information in the document.

After we pointed out these cases between December 2010 and June 2011, SR Rania stated in September 2011 that the Collector had ordered between December 2009 and May 2010 for deposit of SD amounting to ₹ 1.98 lakh including penalty of ₹ 10,000. SRs Ballabhgarh Jind, Pillukhera, and Sohna stated in January 2012 that the cases had been referred to the Collector in February 2010 under Section 47 A of the Act for final decision for the outstanding amount of ₹ 9.33 lakh. SR Sirsa stated in January 2012 that efforts would be made to recover the outstanding amount of ₹ 4.68 lakh. We have not received report on recovery and action taken to levy penalty and reply from

<sup>1</sup> SRs: Alewa, Ballabhgarh, Dabwali, Jind, Narwana, Pataudi, Pillukhera, Rania, Saffidon, Sirsa and Sohna.

the remaining five<sup>2</sup> SRs for the outstanding amount of ₹ 8.03 lakh (October 2012).

We reported the matter to the Government in May 2012. During exit conference held in January 2013 the Additional Chief Secretary, Revenue Department agreed to the audit observation and assured to take corrective/preventive steps.

#### **4.2.2 Non-levy of stamp duty on plant and machinery**

Under Section 2 (10) of the IS Act, “Conveyance” includes a conveyance on sale and every instrument by which property whether movable or immovable is transferred. As per instructions issued by the Government in August 2003, Conveyance deed includes sale of business including land, building and machinery which was installed permanently on land for running the business, machinery would be treated as immovable property for ascertaining value of property for SD.

During test check of the records of the office of Sub Registrar (SR), Karnal in June 2011 for the year 2010-11, we noticed that a vendee purchased a factory land, building, plant and machinery for a consideration of ₹ 7.80 crore (land and building: ₹ 4.19 crore and plant and machinery: ₹ 3.61 crore) in an auction conducted by the official liquidator attached to the Punjab and Haryana High Court at Chandigarh. While executing the conveyance deed in March 2011, SD of ₹ 20.94 lakh was paid on the cost of land and building but the Registering Authority did not levy SD of ₹ 18.06 lakh on ₹ 3.61 crore of the cost of plant and machinery. This resulted in short levy of SD of ₹ 18.06 lakh.

After we pointed out the case in June 2011, the SR Karnal stated in January 2012 that the case had been referred to the Collector in August 2011 under Section 47-A of the IS Act for final decision. We have not received further progress report on recovery (October 2012).

Similar case was also noticed during the year 2006-07 in Rohtak district involving ₹ 6.63 lakh in respect of cost of plant and machinery but no recovery had been made till date.

We reported the matter to the Government in April 2012. During exit conference held in January 2013 the Department agreed to the audit observation and assured to take corrective action.

#### **4.2.3 Evasion of stamp duty due to misclassification of documents**

Under the provisions of the Section 2 (10) of the IS Act, as applicable to the State of Haryana, separate rates have been prescribed for different types of instruments. The classification of an instrument depends upon the nature of the transactions recorded therein. In case possession of the property is handed over after receipt of full amount of consideration, the instrument becomes a conveyance deed and stamp duty (SD) becomes leviable under the IS Act.

During test check of the records of the office of Sub Registrar (SR) Gurgaon, for the year 2010-11 in June 2011, we noticed that two instruments conveying

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<sup>2</sup> SRs: Alewa, Dabwali, Narwana, Pataudi and Saffidon.

possession and transfer of property valued at ₹ 2.15 crore to the vendees were executed between February and March 2011. In all the cases, the vendors received full amount in lieu of the property sold and the possession of immovable property was also handed over to the purchasers. The deeds were liable to be treated as conveyance deeds and SD of ₹ 10.77 lakh was leviable. However, the registering authority misclassified these documents and registered the deeds as Agreements to sell charging SD of ₹ 110 which was incorrect. This resulted in evasion of SD of ₹ 10.77 lakh.

After we pointed out these cases in June 2011, SR, Gurgaon stated in January 2012 that the cases had been sent to the Collector in September 2011 under Section 47-A of the Act for decision. We have not received any report of recovery (October 2012).

We reported the matter to the Government in April 2012. During exit conference held in January 2013 the Department agreed to the audit observation and assured to take corrective action.

#### **4.2.4 Short levy of stamp duty and registration fee due to misclassification of documents**

Section 2 (10) of the IS Act, provides that ‘conveyance’ includes conveyance on sale and every instrument by which property whether movable/ immovable is transferred inter vivos and which is not otherwise specifically provided for by schedule 1-A of the Act. Further, Section 54 of the Transfer of Property Act, 1882 defines “sale” as transfer of ownership in some property on payment of price or on promise of price being paid or part of the price is paid and part promised. The classification of an instrument depends upon the nature of the transaction recorded therein. In case possession of the property is handed over after receipt of the full amount of consideration or promise to pay consideration later on, the instrument becomes a conveyance deed and stamp duty (SD) becomes leviable under the IS Act.

During test check of the records of the office of Sub Registrar (SR) Gurgaon between September 2010 and June 2011 for the years 2009-10 and 2010-11, we noticed that four collaboration agreements were registered between July 2009 and September 2010 in respect of land on which SD of ₹ 100 each was levied as applicable in the case of an agreement not involving sale of land. Scrutiny of these agreements further revealed that the owners of land authorised the developers to take possession of the land with the right to construct, develop and deal with the land in accordance with the terms and conditions of the agreements. In exchange of the land, the owners of land were entitled either to take a part of the developed land or receive part payment. The developers were entitled to dispose off their shares of developed land in such a manner as they deemed fit without requiring any consent from the owners. Hence, the development right/collaboration agreements were conveyance of right to develop, construct and sell the property and were liable to pay SD on sale of property in respect of the developers’ share of land. However, as per rates fixed by the Collector applicable in the concerned areas and rates as per agreement, total value of land transferred to the developers worked out to ₹ 26.15 crore on which SD of ₹ 1.33 crore was also leviable.

Misclassification of these sale deeds resulted in short levy of SD of ₹ 1.33 crore.

After we pointed out these cases between September 2010 and June 2011, SR Gurgaon stated in January 2012 that cases had been sent to the Collector for determination of value of property and proper duty payable thereon. We have not received further progress report (October 2012).

We reported the matter to the Government in June 2012. During exit conference held in January 2013 the Department agreed to the audit observation and assured to take corrective action.

#### **4.2.5 Short levy of stamp duty due to application of incorrect rates of immovable property**

In order to check evasion of SD in sale deeds, the Government issued instructions in November 2000 to all registering authorities in the State to the effect that agricultural land sold within municipal limits, with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, be valued at the rate fixed for the residential property of that locality for the purpose of levying SD.

During test check of the records of 17 offices<sup>3</sup> of JSRs/SRs between December 2010 and August 2011 for the years 2009-10 and 2010-11, we noticed that 191 sale deeds of plots within municipal limits with an area less than 1,000 square yards and in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, were registered between May 2009 and March 2011. The deeds were liable to be assessed for ₹ 51.26 crore based on the rates fixed for residential areas and SD of ₹ 3.09 crore was chargeable. However, the registering authorities assessed the deeds for ₹ 14.09 crore based on the rates fixed for agricultural land and levied SD of ₹ 87.25 lakh. This resulted in short levy of SD of ₹ 2.22 crore.

After we pointed out these cases between December 2010 and August 2011, 14 SRs<sup>4</sup> stated between October 2011 and January 2012 that the cases had been sent to the Collector between May 2011 and January 2012 under Section 47-A of the Indian Stamp Act, 1899 for decision. We have not received report on recovery and reply from the remaining three SRs<sup>5</sup> (October 2012). However, the Department stated in January 2013 that in respect of seven SRs, the Collectors dropped the amount of recovery citing the reason that cases of land sold was agricultural. The contention of the Collectors was not in accordance with the Government instructions issued in November 2000 as rates were to be levied treating the land as residential land even if it was agricultural land.

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<sup>3</sup> SRs: Ambala City, Ambala Cantonment, Ballabgarh, Barwala, Dabwali, Faridabad, Gurgaon, Kalka, Kurukshetra, Ladwa, Naraingarh, Pataudi, Panchkula, Pehowa, Shahbad, Sirsa and Sohna.

<sup>4</sup> JSRs: Ambala Cantonment and Ladwa; SRs: Ambala City, Ballabgarh, Barwala, Dabwali, Faridabad, Gurgaon, Kalka, Kurukshetra, Panchkula, Pehowa, Shahbad and Sirsa.

<sup>5</sup> SRs: Naraingarh, Pataudi, and Sohna.

Similar cases were also pointed out in earlier reports for the years 2006-07 to 2008-09 and 2010-11, Department replied that cases were referred to the Collector under Section 47 A of the IS Act for decision, and such mistakes are still repeated.

We reported the matter to the Government in May 2012. During exit conference held in January 2013 the Additional Chief Secretary, Revenue Department agreed to the audit observation and stated that corrective action would be taken to streamline the system.

### **4.3 Non-compliance of Government notification/instructions**

- (i) *Government notification of August 1995 provides for exemption in case of purchase of agriculture land out of the compensation received for acquisition of land by Government.*

*We noticed that non-compliance of some of the provision in the above notification in the following case as mentioned in paragraph 4.3.1 resulted in non/short realisation of SD of ₹ 4.99 lakh.*

#### **4.3.1 Irregular exemption of stamp duty**

As per notification issued on August 1995, under the IS Act, the Government remitted the SD in respect of the sale deeds to be got executed by farmers whose land was acquired by Haryana Government for public purposes and who purchase agricultural land in the State within one year of the amount of compensation received by them for the land acquired by the Government. The remittance will be limited to the compensation amount only and the additional amount involved for the purchase of agricultural land, will be liable to SD as per rules.

During test check of the records of four<sup>6</sup> offices of JSR/SR between February and June 2011, we noticed that farmers, whose land was acquired by the Government for public purposes, purchased residential and agricultural land valued at ₹ 96.23 lakh in ten cases. In eight cases, the registering authorities had registered conveyance deeds valued at ₹ 51.43 lakh between May 2009 and October 2010 for the period 2009-10. Stamp duty was to be levied at the rate of three to seven *per cent* valuing ₹ 2.75 lakh as the farmers had purchased residential land out of the compensation. In another two cases, SD of ₹ 2.24 lakh was also leviable at the rate of five *per cent* on ₹ 44.80 lakh for the period 2010-11 as the land was purchased after one year from the date of receipt of compensation amount. Thus irregular exemption of SD resulted in non-levy of SD to the extent of ₹ 4.99 lakh.

After we pointed out these cases between February and June 2011, SRs Ambala and Sohna stated in January 2012 that the cases had been sent to Collector for decision in May 2011. We had not received report on recovery and the reply from remaining JSR/SR, Saha and Mullana (October 2012).

<sup>6</sup> JSR: Saha, SRs: Ambala city, Mullana and Sohna.

We reported the matter to the Government in April 2011. During exit conference held in January 2013 the Department agreed to the audit observation.



## CHAPTER V: TAXES ON VEHICLES, GOODS AND PASSENGERS

### 5.1.1 Tax administration

#### 5.1.1.1 Passengers and goods tax

Registration of motor vehicles, assessments, levy and collection of passengers and goods tax (PGT) are governed under the provisions of the Punjab Passengers and Goods Taxation Act, 1952 (PPGT Act) and the Rules framed thereunder, as applicable to the State of Haryana. The Principal Secretary to Government Haryana, Excise and Taxation Department is the administrative head at the Government level. Overall charge of the Department vests with the Excise and Taxation Commissioner (ETC), Haryana, Chandigarh. The work relating to levy and collection of PGT is carried out by the Assistant Excise and Taxation Officers (AETOs) under Deputy Excise and Taxation Commissioners (DETCs) in the field. All the motor vehicles carrying goods and passengers are required to be registered with AETO of the district concerned in which the owner of the vehicle has residence or place of business where the vehicle is normally kept in the State.

#### 5.1.1.2 Taxes on vehicles

Registration of motor vehicles, issue of permits, issue of driving/conductor licences, levy and collection of token tax, permit fee, licence fee etc. are governed under the provisions of the Motor Vehicles Act, 1988, (MV Act) Central Vehicles Rules, 1989, the Haryana Motor Vehicles Rules, 1993, the Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act), as applicable to the State of Haryana and the Punjab Motor Vehicles Taxation Rules, 1925. The Additional Chief Secretary to Government of Haryana, Transport Department is the administrative head at the Government level and is responsible for the administration of the MV Act/Rules in the State and assisted by the Transport Commissioner who exercises general superintendence over the functioning of the Department. The powers of Registering and Licencing Authority (RLA) are being exercised by 57 Sub-Divisional Offices (Civil) in respect of non-transport vehicles, whereas 21 Secretary, Regional Transport Authorities (RTAs) are exercising the powers of RLA in respect of transport Vehicles.

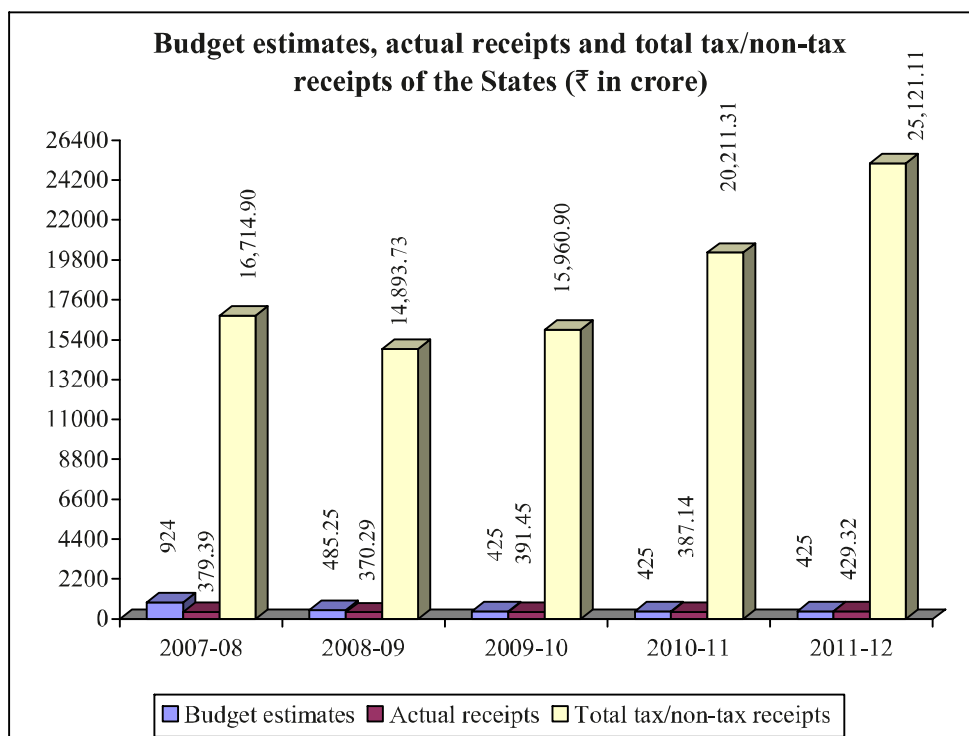
### 5.1.2 Trend of receipts

Actual receipts from PGT and Taxes on Vehicles during the years 2007-08 to 2011-12 along with the total tax/non-tax receipts during the same period is exhibited in the following table and graph:

#### 5.1.2.1 Passengers and goods tax

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2007-08	924.00	379.39	(-) 544.61	(-) 59	16,714.90	2
2008-09	485.25	370.29	(-) 114.96	(-) 24	14,893.73	2
2009-10	425.00	391.45	(-) 33.55	(-) 8	15,960.90	2
2010-11	425.00	387.14	(-) 37.86	(-) 9	20,211.31	2
2011-12	425.00	429.32	(+) 4.32	(+) 1	25,121.11	2



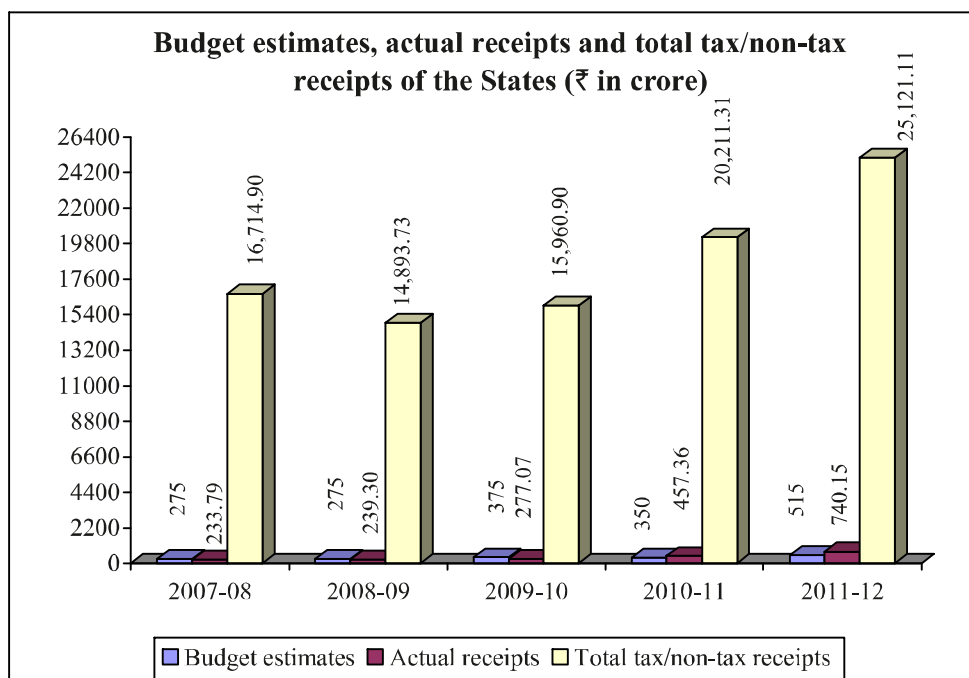
The actual receipts of the Excise and Taxation Department relating to PGT to total tax/non-tax receipts of the State during the period 2007-08 to 2011-12 is only two *per cent*.

### 5.1.2.2 Taxes on vehicles

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2007-08	275.00	233.79	(-) 41.21	(-) 15	16,714.90	1
2008-09	275.00	239.30	(-) 35.70	(-) 13	14,893.73	2
2009-10	375.00	277.07	(-) 97.93	(-) 26	15,960.90	2
2010-11	350.00	457.36	(+) 107.36	(+) 31	20,211.31	2
2011-12	515.00	740.15	(+) 225.16	(+) 44	25,121.11	3





The actual receipts of the Transport Department relating to Taxes on vehicles to total tax/non-tax receipts of the State during the period 2007-08 to 2011-12 ranged between one and three *per cent*.

### 5.1.3 Analysis of arrears of revenue

#### A: Passengers and goods tax

The arrears of revenue relating to PGT as on 31 March 2012 amounted to ₹ 60.18 crore out of which ₹ 15.29 crore (25 *per cent*) were outstanding for more than five years. The following table depicts the arrears of revenue during the period 2007-08 to 2011-12:

(₹ in crore)

Year	Opening balance of arrears	Amount collected	Closing balance of the arrears	Actual receipts	Percentage (Col. 3 to Col. 2)	Percentage of closing balance of arrears to actual receipts (Col. 4 to Col. 5)
1	2	3	4	5	6	7
2007-08	51.97	22.28	48.55	379.39	43	13
2008-09	48.55	11.52	58.08	370.29	24	16
2009-10	58.08	16.88	64.50	391.45	29	16
2010-11	64.50	13.96	59.41	387.14	22	15
2011-12	59.41	23.14	60.18	429.32	39	14

We observed that arrears of revenue of PGT had increased from ₹ 51.97 crore at the beginning of the year 2007-08 to ₹ 60.18 crore (16 *per cent*) at the end of the year 2011-12. The percentage of realisation of arrears to the arrears outstanding at the beginning of the year ranged between 22 and 43 *per cent* during the years 2007-08 to 2011-12.

The Government may advise the Excise and Taxation Department to take effective steps for collecting the arrears promptly to augment Government revenue.

### B: Taxes on vehicles

The Department intimated that there was an arrear of revenue of ₹ 0.84 crore as on 31 March 2012. The following table depicts the arrears of revenue during the period 2007-08 to 2011-12:

(₹ in crore)

Year	Opening balance of arrears	Amount collected	Closing balance of the arrears	Actual receipts	Percentage (Col. 3 to Col. 2)	Percentage of closing balance of arrears to actual receipts (Col. 4 to Col. 5)
1	2	3	4	5	6	7
2007-08	3.20	0.44	2.76	233.79	14	1.18
2008-09	4.15	0.61	3.54	239.30	15	1.48
2009-10	3.40	0.42	2.98	277.07	12	1.08
2010-11	1.30	0.11	1.19	457.36	8	0.26
2011-12	0.92	0.09	0.84	740.16	10	0.11

We observed that arrears of revenue of Taxes on vehicles had decreased from ₹ 3.20 crore at the beginning of the year 2007-08 to ₹ 0.84 crore (26 per cent) at the end of the year 2011-12. The percentage of realisation of arrears to the arrears outstanding at the beginning of the year ranged between eight and 15 per cent during the years 2007-08 to 2011-12.

### 5.1.4 Cost of collection

The gross collection in respect of PGT and Taxes on vehicles revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the relevant 'All India average percentage' of expenditure of collection to gross collection for the relevant year are mentioned below:

### A: Passengers and goods tax

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
2007-08	379.39	1.13	0.30
2008-09	370.29	1.50	0.41
2009-10	391.45	1.94	0.50
2010-11	387.14	1.94	0.50
2011-12	429.32	2.03	0.47

**B: Taxes on vehicles**

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2007-08	233.79	5.47	2.34	2.58
2008-09	239.30	8.00	3.34	2.93
2009-10	277.07	11.32	4.08	3.07
2010-11	457.36	13.38	2.93	3.71
2011-12	740.15	13.07	1.77	-

Source: Finance Account.

**5.1.5 Impact of Audit on Revenue****5.1.5.1 Position of Inspection Reports****A: Passengers and goods tax**

The table below provides details of number of units audited, value of objections pointed out during the course of audit, cases accepted and the recovery made there against during the period from 2006-07 to 2010-11.

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2006-07	22	1,325	2.65	501	0.95	2	0.17
2007-08	22	1,690	3.64	384	1.52	21	0.02
2008-09	22	1,406	1.94	319	0.36	18	0.06
2009-10	23	1,358	1.76	847	0.80	72	0.07
2010-11	22	1,078	1.45	90	1.20	47	1.07
<b>Total</b>	<b>111</b>	<b>6,857</b>	<b>11.44</b>	<b>2,141</b>	<b>4.83</b>	<b>160</b>	<b>1.39</b>

We observed that the recovery in respect of accepted cases during the years 2006-07 to 2010-11 was 29 per cent.

**B: Taxes on vehicles**

The table below provides details of number of units audited, value of objections pointed out during the course of audit, cases accepted and the recovery made there against during the period from 2006-07 to 2010-11.

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2006-07	81	66,261	18.43	-	-	-	-
2007-08	81	58,275	3.30	4,163	0.49	1	0.01
2008-09	81	4,209	2.11	1,523	1.42	81	0.10
2009-10	72	1,234	1.63	422	1.05	66	0.13

**Report for the year 2011-12 (Revenue Sector)**

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2010-11	51	828	1.83	270	0.10	-	-
<b>Total</b>	<b>366</b>	<b>1,30,807</b>	<b>27.30</b>	<b>6,378</b>	<b>3.06</b>	<b>148</b>	<b>0.24</b>

We observed that the recovery in respect of accepted cases during the years 2006-07 to 2010-11 was only eight *per cent*.

### 5.1.5.2 Position of Audit Reports

During the last five years (including the current year's report), instances of non/short levy/realisation of PGT, non-levy of interest on delayed/non-payment of tax, non/short realisation of permit fee/token tax/bid money etc., with revenue implication of ₹ 16.46 crore in 18 paragraphs (including one performance audit). Of these, the Department/ Government had accepted audit observations in 17 paragraphs (including one performance audit) involving ₹ 13.47 crore and recovered ₹ 89.59 lakh. The details are shown in the following table:

#### A: Passengers and goods tax

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	(₹ in crore)				(₹ in lakh)	
	No.	Amount	No.	Amount	No.	Amount
2007-08	3	1.47	3	1.47	3	25.19
2008-09	1	0.99	1	0.99	1	4.52
2009-10	1	0.65	1	0.65	1	6.32
2010-11	1	1.46	1	1.46	1	9.61
2011-12	1	6.60	1	5.24	-	-
<b>Total</b>	<b>7</b>	<b>11.17</b>	<b>7</b>	<b>9.81</b>	<b>6</b>	<b>45.64</b>

#### B: Taxes on vehicles

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	(₹ in crore)				(₹ in lakh)	
	No.	Amount	No.	Amount	No.	Amount
2007-08	5	3.16	4	1.53	1	5.07
2008-09	2	0.63	2	0.63	2	7.78
2009-10	2	0.81	2	0.81	2	7.22
2010-11	1	0.35	1	0.35	1	6.33
2011-12	1	0.34	1	0.34	1	17.55
Total	11	5.29	10	3.66	7	43.95

We observed that the recovery of accepted cases in respect of PGT and Taxes on vehicles was four and 12 *per cent* respectively. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/Departments to initiate action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

### 5.1.6 Working of internal audit wing

#### Taxes on vehicles

The Department stated (June 2012) that an internal audit system was set up for control and supervision of expenditure as well as receipts. The Department had one Senior Accounts officer, five Section Officers, two Assistant and one Clerk. The internal audit party had conducted audit of 21 RTAs and two registering authorities for the year 2011-12. Thus, the Senior Accounts Officer (Audit) failed to furnish the details of objections raised and settled along with planning of auditable units. The irregularity discussed in the paragraph 5.3.1 is indicator of ineffective internal control mechanism as the irregularity pointed out by us was not detected by the internal audit.

**The Government may consider strengthening internal audit wing to ensure timely detection and correction of errors in assessments, levy and collection of PGT and Taxes on vehicles revenue.**

### 5.1.7 Results of audit

Test check of the records in the offices of Transport, Excise and Taxation Departments relating to revenue received from taxes on vehicles, taxes on goods and passengers, and other tax receipts during the year 2011-12 revealed non/short recovery of tax/duty, fees and penalty etc. amounting to ₹ 9.22 crore in 2,072 cases which broadly fall under the following categories:

(₹ in crore)

Sr. No.	Category	Number of cases	Amount
<b>A: Excise and Taxation Department (Taxes on Goods and Passengers)</b>			
1.	Receipts from Passengers and Goods Tax (Performance Audit)	1	6.60
2.	Miscellaneous irregularities	487	0.50
	<b>Total</b>	<b>488</b>	<b>7.10</b>
<b>B: Transport Department (Taxes on vehicles)</b>			
1.	Non/short recovery of token tax in respect of stage carriage buses/combine harvesters etc.	238	0.43
2.	Non-recovery of bid money	44	0.68
3.	Non/short realisation of registration fee and token tax on vehicles transferred from other States	173	0.04
4.	Non/short recovery of token tax from private vehicles.	741	0.28
5.	Miscellaneous irregularities	388	0.69
	<b>Total</b>	<b>1,584</b>	<b>2.12</b>
	<b>Grand total</b>	<b>2,072</b>	<b>9.22</b>

During the course of the year 2011-12, the Department accepted underassessment and other deficiencies of ₹ 8.02 crore in 673 cases, out of which ₹ 7.96 crore involved in 651 cases were pointed out during the year and rest in earlier years. The Department recovered ₹ 15.81 lakh in 57 cases during the year 2011-12, out of which ₹ 10.36 lakh involved in 35 cases relate to the year 2011-12 and rest to earlier years.

Further at the instance of audit, the Additional Chief Secretary, Transport Department recovered ₹ 7.51 lakh.

This chapter contains Performance Audit on “**Receipts from Passengers and Goods Tax**” with financial impact of ₹ 6.60 crore and an illustrative case involving ₹ 33.51 lakh as mentioned in the succeeding paragraphs.

## **5.2 Receipts from Passengers and Goods Tax**

### **5.2.1 Highlights**

- Though responsibility for the collection of passenger Tax in the case of Auto rickshaws was entrusted to Regional Transport Authorities (RTAs) of the district concerned, details relating thereto were not transferred to Regional Transport Authorities by the eight out of 10 Deputy Excise and Taxation Commissioners (DETCs) offices test checked.

**(Paragraph 5.2.9)**

- DETCs offices were not aware of the amount of tax to be charged on six seater maxi cabs /taxies as PPGT Act and rules made thereunder does not prescribe the same.

**(Paragraph 5.2.11)**

- Lack of co-ordination between RTAs and DETCs offices resulted in evasion of Passenger Tax of ₹ 91.93 lakh in the case of 368 maxi cab/taxi.

**(Paragraph 5.2.12.1)**

- Absence of co-ordination between RTAs and DETCs offices resulted in evasion of Passenger Tax by the owners of 1,305 school buses out of 2,453 school buses registered by the RTAs of nine districts during 2006-11.

**(Paragraph 5.2.12.2)**

- Passenger Tax amounting to ₹ 49.88 lakh, interest of ₹ 20.07 lakh and penalty was not recovered in 309 cases of maxi cabs/taxies.

**(Paragraph 5.2.13.1)**

- The Department did not recover the Passenger Tax amounting to ₹ 17.08 lakh and interest of ₹ 2.71 lakh in the case of buses owned by co-operative societies in four districts.

**(Paragraph 5.2.13.2)**

- Goods Tax in 10 DETCs offices amounting to ₹ 3.15 crore and interest of ₹ 1.18 crore was not recovered in 2,630 cases.

**(Paragraph 5.2.14)**

- The Department did not recover Passenger Tax of ₹ 34.28 lakh including interest of ₹ 13.23 lakh in 81 cases out of 560 cases assessed.

**(Paragraph 5.2.15)**

- No reply was received for any of the 13 Inspection Reports issued during the years 2006-07 to 2010-11 by the Internal Audit Wing of the Department.

**(Paragraph 5.2.16.2)**

### **5.2.2 Introduction**

Passenger and Goods Tax (PGT) and Haryana Local Area Development Tax (HLADT) form part of total revenue of the Department. Registration of motor vehicles, assessments, levy and collection of PGT are governed under the provisions of the Punjab Passengers and Goods Taxation Act, 1952 (PPGT Act) and the Rules framed there under, as applicable to the State of Haryana. All the motor vehicles carrying goods and passengers are required to be registered with the Assistant Excise and Taxation Officer (AETO) of the district concerned, in which the owner of the vehicle has residence or place of business where the vehicle is normally kept. PGT is leviable on every vehicle at such rate as State Government may by notification prescribe from time to time under the Act and the Rules. After the close of the financial year or the closure of the business by the assessing authority, the assessments are done and orders issued by the AETO, on the basis of returns filed and tax paid by the owners of the motor vehicles. We conducted the performance audit with a view to ensure that the collection and levy of PGT is done in accordance with the prescribed procedure efficiently, economically and enforcing the provisions of the Act.

### **5.2.3 Organisational set up**

At the Government level, Financial Commissioner and Principal Secretary, Excise and Taxation Department (FCET) is responsible for the administration of PGT in the State. At the Department level, overall charge of the Department vests with the Excise and Taxation Commissioner (ETC) who is assisted by Joint Excise and Taxation Commissioner (JETC). The JETC supervises all the districts of his range. The exercise of levy and collection of PGT is undertaken by Deputy Excise and Taxation Commissioner (DETC) who is assisted by Excise and Taxation Officers (ETOs)/ AETOs, Taxation Inspectors and other allied staff at district level.

### **5.2.4 Audit objectives**

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

- budget estimates (BEs) were prepared in accordance with the prescribed procedures and were realistic;
- registration of motor vehicles was done in accordance with the provisions of the Act and rules made there under;
- the system of levy and collection of PGT in the Department was efficient and effective;
- prescribed procedures under the provisions of PPGT Act were complied with;
- follow up action on prescribed returns/statements received from the field offices were adequate; and
- an effective internal control and monitoring mechanism was in existence.



### **5.2.5 Audit criteria**

The Audit criteria was derived from the following sources:

- PPGT Act, 1952 and rules framed there under
- Departmental Notifications and circulars issued regarding levy and collection of PGT
- Administrative instructions issued by the Department.

### **5.2.6 Scope and methodology of audit**

The records relating to levy and collection of PGT in the office of ETC and 10 out of 23 offices of DETCs (PGT) in the State for the years 2006-07 to 2010-11 were test checked between June 2011 and February 2012. We selected four<sup>1</sup> district offices on random sample selection basis by applying formula of probability proportional to size method (without replacement) and four<sup>2</sup> districts on the basis of risk analysis. Panipat and Jhajjar districts were included in the scope of the performance audit on the suggestions made by Department during entry conference in May 2011. We have also included points of similar nature noticed during audit of the Department for the period 2006-07 to 2010-11.

### **5.2.7 Acknowledgement**

We acknowledge the co-operation extended by the Department in providing necessary information and records for facilitating audit. We conducted an entry conference (May 2011) which was attended by the Financial Commissioner-cum-Principal Secretary to Haryana Government (Excise and Taxation Department) and other officers wherein the audit objectives, methodology and selection of districts were explained. The suggestions of the Department were also kept in view at the time of selection of districts and conducting audit. An exit conference was held (October 2012) with the Principal Secretary to Haryana Government (Excise and Taxation Department) and other officers where the findings of the performance audit were discussed. The replies furnished and views of the Department/Government during exit conference and at other times have been appropriately incorporated in the performance audit.

### **5.2.8 Trend of revenue receipts**

The BEs and actual receipts realised by way of PGT during the years 2006-07 to 2010-11 in the State vis-a-vis the total tax/non-tax receipts during the same period are exhibited in the succeeding table and graph:

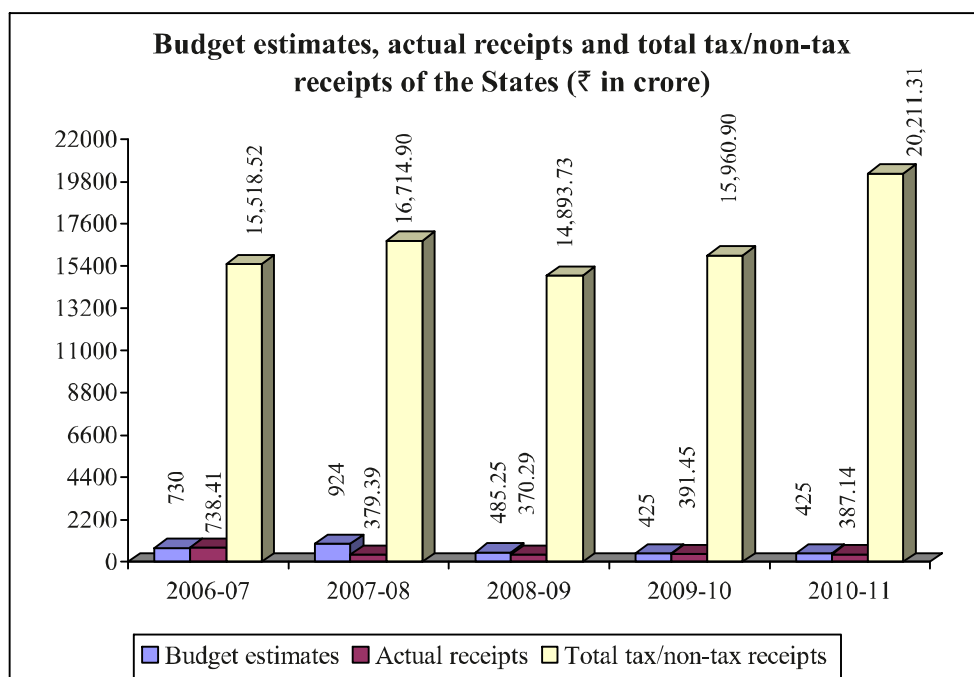
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<sup>1</sup> Hisar, Jagadhari, Kurukshetra and Rewari.

<sup>2</sup> Ambala, Faridabad (East), Faridabad (West) and Gurgaon.

(₹ in crore)

Year	Budget estimates of collection of PGT	Actual receipts	Variation excess(+)/shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2006-07	730.00	738.41	(+) 8.41	(+) 01	15,518.52	5
2007-08	924.00	379.39	(-) 544.61	(-) 59	16,714.90	2
2008-09	485.25	370.29	(-) 114.96	(-) 24	14,893.73	2
2009-10	425.00	391.45	(-) 33.55	(-) 8	15,960.90	2
2010-11	425.00	387.14	(-) 37.86	(-) 9	20,211.31	2



The actual receipts of PGT to the total tax/non-tax receipts of the State during the period 2006-07 to 2010-11, ranged between two to five *per cent*. The Department attributed the reasons for decreasing trend in receipts of tax with reference to BEs to reduction in rate of tax of co-operative buses, private school buses and passengers tax. We observed that BEs had been increased by 27 *per cent* for the year 2007-08 over 2006-07 and thereafter decreased for the years 2008-09 to 2010-11. The HLADT Act was declared unconstitutional by Hon'ble Punjab and Haryana High Court resulting in sharp decrease in revenue under PGT. Thus, BEs set up by the Finance Department were not realistic. During an exit conference (October 2012), the Principal Secretary, Excise and Taxation Department assured that realistic budget estimates would be prepared.

The Department had the following arrear of revenue awaiting collection during the period 2006-2011.

Year	Amount of arrear (₹ in crore)	Percentage increase over previous year
2006-07	42.32	-
2007-08	48.55	15
2008-09	55.75	15
2009-10	58.99	6
2010-11	59.41	1

The Department admitted the facts for 2010-11.

### **Audit findings**

### **System deficiencies**

#### **5.2.9 Absence of instructions regarding auto rickshaws**

As per procedure prevalent in the Department, levy and collection of passengers tax was the responsibility of DETC (PGT) of the concerned district while road tax was levied and collected by the RTA concerned. As per instructions issued in January 2009 responsibility for levy and collection of passengers tax including road tax was entrusted to RTA of the district concerned. RTA was further directed to deposit the element of passengers tax under PGT head.

Test check of records of the office of DETCs revealed that details of the owners of such registered auto rickshaws which had arrears of passengers tax to be paid were not transferred in eight<sup>3</sup> out of the 10 districts. However, details of arrear outstanding were sent to the respective RTAs by the DETC Kurukshetra and Jagadhari between January 2010 and June 2011 but no action was taken by the RTAs.

The Department in exit conference (October 2012) accepted the viewpoint of audit and assured for remedial action.

#### **5.2.10 Non-assessment of cases**

Rule 21 of the PPGT Act provides that if the assessing authority is satisfied without requiring the presence of the owner or the production by him of an evidence that the returns furnished under Rule 17(3) of the Act in respect of any period are correct and complete it (may at any time during the year and shall at the close of the year) or after the closure of business, if it take place during the year, assess the amount of tax due from the owner on the basis of such returns.

We noticed during the scrutiny of the records of the offices of DETCs, Kurukshetra and Faridabad (East) during the year 2007-08 to 2010-11 and DETC Gurgaon for the year 2008-09 and 2010-11 that not even a single case was assessed by the assessing authority. No reasons were recorded for non-assessment of the cases. We observed that no system exists as to the number

<sup>3</sup> Ambala, Faridabad (East), Faridabad (West), Gurgaon, Hisar, Jhajjar, Panipat and Rewari.

of cases to be assessed by the assessing authority. No target in this regard was fixed by the ETC. Loss, if any, to the State exchequer due to non-assessment of the cases could not be quantified in audit.

The Department during exit conference (October 2012) admitted the absence of any assessments and assured of action. They also stated that assessment had been made in the year 2011-12 in the districts.

**We suggest that the Department may set up a system where the number of cases required to be assessed are determined every year scientifically.**

#### **5.2.11 Deficiency in Rules**

PGT Rules prescribe the rates of Passenger Tax to be charged from owners of five seater taxies and seven to 12 seater maxi cabs. However, there is no provision in the Act to charge the tax on six seater maxi cab/taxi.

We noticed that passengers tax on six seater maxi cab/taxi was being charged at the rate of ₹ 100 per month per seat i.e. ₹ 1,800 per quarter in eight<sup>4</sup> district offices. DETC, Gurgaon charged tax on six seater taxi at the rate of ₹ 1,800 per quarter and ₹ 2,100 per quarter while DETC, Hisar charged at the rate of ₹ 2,700 per quarter. The Department had not issued any instructions for levying Passengers Tax on this category of vehicles.

The Department admitted the facts during exit conference.

#### **Compliance deficiencies**

#### **5.2.12 Non-registration of vehicles**

Section 9 of the PPGT Act requires that the owner of a motor vehicle should register his vehicle with the assessing authority of the district concerned within fifteen days of the date of purchase of motor vehicle or the date of incurring the liability to pay the tax under the Act, whichever is earlier. In case of default, interest and penalty are leviable under the Act.

**5.2.12.1** The PAC of Haryana Vidhan Sabha in its 67<sup>th</sup> Report on the Report of the Comptroller and Auditor General of India for the year 31 March 2006 (Revenue) had directed that all out efforts be made to recover the balance amount and the Committee informed accordingly.

Despite these recommendations, we noticed during test check of records of registration maintained in nine DETCs, 368 vehicles escaped from paying passenger tax but were registered with RTA. The evasion of passenger tax amounted to ₹ 91.93 lakh.

**5.2.12.2** We further noticed that in seven<sup>5</sup> districts, out of 2,453 school buses only 1,148 buses were registered. 1,305 buses were neither registered nor brought into account in the books of DETC offices from April 2006 to March 2011. Loss on this account to the State exchequer could not be ascertained as no survey was conducted to ascertain the amount of bus charges collected from the students. Matter was also not taken up with the concerned RTAs by

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<sup>4</sup> Ambala, Faridabad (East), Faridabad (West), Jagadhari, Jhajjar, Kurukshetra, Panipat and Rewari.

<sup>5</sup> Ambala, Gurgaon, Hisar, Jagadhari, Kurukshetra, Panipat and Rewari.

the DETCs. Four<sup>6</sup> DETCs stated that matter would be taken up with the RTAs. Further progress report and reply from remaining three DETCs were awaited (October 2012).

During the exit conference held in October 2012, the Principal Secretary, Excise and Taxation Department stated that vehicle owner can get his vehicle registered anywhere in the State. The reply is not tenable as vehicle owner has to apply for registration under the PPGT Act to the assessing authority of the district concerned.

**We are of the opinion that absence of co-ordination between DETCs and RTAs office resulted in evasion of tax.**

### **5.2.13 Non/short realisation of passengers tax**

#### **5.2.13.1 Maxi seater cab and taxi car**

Under Section 9 of the PPGT Act and rules framed thereunder, passengers tax on five seater taxi car is leviable at the rate of ₹ 3,000 per annum and on seven to 12 seater maxi cab at the rate of ₹ 100 per seat per month. Tax is payable in equal quarterly instalments within 30 days of the commencement of the quarter to which payment relates. In case of default, penalty and interest are leviable.

During test check of the records of 10<sup>7</sup> offices of DETC (PGT), we noticed that passengers tax in respect of 309 maxi seaters and taxi car had not been paid by the taxi owners. No demand notices had been issued. This resulted in non/short realisation of tax of ₹ 69.95 lakh was including interest of ₹ 20.07 lakh.

The Department in exit conference (October 2012) agreed to the audit observation.

#### **5.2.13.2 Transport co-operative societies buses**

Under the scheme of privatisation of passenger road transport, the permit holder of the buses plying on link routes of the State are required to pay lump sum passengers tax, based on the seating capacity of the bus monthly at the rate of ₹ 12,000 for 52/54 seater and ₹ 6,000 for 30 seater bus and in case their routes extended upto 24 kilometers at the rate of ₹ 16,000 for 52/54 seater and ₹ 10,000 for 30 seater bus with effect from March 2007. In case of default, penalty and interest are leviable under the Act.

Test check of the records of four offices<sup>8</sup> of DETC (PGT) for the period 2009-10 to 2010-11 revealed that in 11 cases, the owners of the co-operative societies buses did not deposit the monthly passenger tax either in full or in part during the years 2009-10 and 2010-11. There was nothing on record to show that the Department had raised the demand to realise tax from the defaulting societies. This resulted in non/short realisation of tax of ₹ 19.79 lakh (including interest of ₹ 2.71 lakh).

<sup>6</sup> Ambala, Jagadhari, Kurukshetra and Panipat.

<sup>7</sup> Ambala, Faridabad (West), Faridabad (East), Gurgaon, Hisar, Jagadhari, Jhajjar, Kurukshetra, Panipat and Rewari.

<sup>8</sup> Ambala, Hisar, Panipat and Rewari.

During the exit conference (October 2012), the Department agreed to the audit observation.

#### **5.2.13.3 City bus operators**

Section 9 (2E) of the PPGT (Haryana Amendment) Rules, 2004, as inserted with effect from 24 February 2004, provides that the holders of permit for plying buses on the roads within the municipal corporation limit in Gurgaon and Faridabad districts are required to pay passengers tax at the rates prescribed for ordinary half body and ordinary full body buses at ₹ 4,200 and ₹ 7,000 per month respectively. Ordinary full body buses having compressed natural gas as fuel are levied passenger tax at the rate of ₹ 8,000 per month.

Test check of the records of offices of DETC (PGT), Faridabad (East) and Gurgaon revealed that 23 private bus operators who were granted permits for plying buses in city areas did not deposit the monthly passengers tax for different period between April 2010 and March 2011. The Department did not take action to realise the tax from the defaulting bus owners. No demand notices were issued by the Department. This resulted in non/short realisation of tax of ₹ 11.18 lakh including interest of ₹ 1.19 lakh.

The Department in the exit conference agreed to the audit observation.

#### **5.2.14 Non-recovery of Goods Tax**

Goods tax is leviable in lump sum on public or private carriers used at the prescribed rates on the basis of registered load as per Motor Vehicles Act, 1988. In terms of Section 22 of the PPGT Act, 1952 read with Rule 9 of the PPGT Rules, 1952, the rates are ₹ 4,000 per annum (not exceeding 16.2 tons), ₹ 5,600 per annum (exceeding 16.2 tons but not exceeding 25 tons) and ₹ 12,000 per annum (exceeding 25 tons).

Test check of the records of 10 DETC offices revealed that in a sample size of 10,321 cases obtained by random sampling method, goods tax of ₹ 4.33 crore including interest of ₹ 1.18 crore were not received in 2,630 cases. However, no demand notices were issued and the assessing authority failed to review demand and collection registers (DCRs).

The Department in exit conference (October 2012) agreed to audit observation and assured that recoveries would be made.

#### **5.2.15 Non/short recovery due to non-assessment of cases**

PPGT Act envisages that if the assessing authority is satisfied without requiring the presence of the owner or the production by him of evidence that the return furnished under rule in respect of any period are correct and complete, it may at any time during the year and shall at the close of the year or after the closure of business if it takes place during the year, assess the amount of tax due from the owner on the basis of such returns. Further, if at the close of the year or at any time during the year, the assessing authority without requiring the presence of an owner or the production of evidence by him is not satisfied with the returns furnished or the tax paid in respect of any period, by him, it shall serve on such owner, a notice requiring him on date and at place be furnished therein, either to attend in person or cause to be



produced any evidence on which such owner may reply in support of such returns.

We noticed in offices of DETCs Ambala, Gurgaon and Rewari that Passenger Tax worth ₹ 21.05 lakh besides interest of ₹ 13.23 lakh was not recovered in 81 cases out of 560 cases assessed. No demand notices were issued by the Department.

The Department concurred and assured recovery would be made.

#### **5.2.16 Internal control mechanism**

##### **5.2.16.1 Inadequate internal controls and monitoring**

To have an effective internal control, the Department prescribed eight statements/returns to be furnished by the DETCs (PGT) to ETC every month.

Scrutiny of records in the office of the ETC, Haryana revealed that ETC office prescribed returns for submission by district offices. Returns were not compiled to review the performance during 2009-10 and 2010-11. No action was taken on the returns received during 2006-09 by ETC office. No separate meetings were held to review the performance. The Department stated in July 2011 that in general meetings, these points were discussed. However, minutes of meetings and dates of meetings were not made available to audit. Thus, internal checks and monitoring at Directorate level were inadequate.

During Exit Conference, the Principal Secretary, Excise and Taxation Department admitted the facts.

##### **5.2.16.2 Working of internal audit**

Internal audit is a tool in the hands of management to assure itself that the prescribed systems are functioning well. The Department stated in May 2011 that they had 10 Accounts Officers and Section Officers (against 15 sanctioned posts) at headquarters besides Section Officers in the district level offices who conducted internal audit in respect of the levy and collection of PGT.

For checking receipts of PGT, the Department has not codified the internal audit procedures, etc. The internal audit wing issued 13 Inspections Reports containing 63 paras and settled only seven paras during 2008-09 to 2010-11.

The Department stated that in each district, SOs were regularly conducting audit under PGT Act. However, we noticed SOs posted at the district merely pointed out the arithmetical errors in receipts.

During the Exit Conference, the Principal Secretary, Excise and Taxation Department admitted the facts and Excise and Taxation Commissioner assured that training will be imparted to Section Officers in due course for their capacity building to enable them to discharge their duties in an effective manner.

### **5.2.17 Conclusions**

PGT constituted between two and five *per cent* of the tax revenue of the Government during the period under Performance Audit. We noticed that:

- the Department had not fixed target for assessment of cases;
- the Department had not reviewed DCRs and did not issue any demand notices wherever required;
- there was lack of co-ordination between RTAs and DETCs offices which resulted into evasion of tax;
- the Internal Control Mechanism and internal audit were weak; and
- the Department did not follow the provision of the Act/Rules and instructions issued by the Government.

### **5.2.18 Recommendations**

Government may consider the following suggestions for implementations:-

- BEs should be made realistic;
- Demand and collection registers should be reviewed periodically and demand notices should be issued wherever required;
- Rate of tax to be charged on six seater maxi cab /taxi should be determined and added under PPGT Act/rules;
- Steps should be taken to effectively co-ordinate with RTAs to prevent evasion of tax; and
- Internal control mechanism and internal audit should be strengthened and made more effective.



## Other audit observation

### 5.3 Non-observance of the provisions of Acts/Rules

*The Punjab Motor Vehicles Act, 1924 (PMVT Act)/Haryana Motor Vehicle Rules, 1993 provides for:-*

- (i) *payment of motor vehicles tax/token tax/permit fee by the owners of vehicles at the prescribed rate; and*
- (ii) *token tax to be paid in advance and within the prescribed period.*

*We noticed that the Transport Department did not observe the provisions of the Acts/Rules in the cases for levy and collection of token tax and permit fee as mentioned in the paragraph 5.3.1. This resulted in non/short realisation of bid money of ₹ 33.51 lakh.*

#### 5.3.1 Non/short realisation of bid money on stage carriage permits

Under the provisions of the Motor Vehicles Act, 1988 and Rules framed there under, “Private Bus Service Scheme in Haryana-Year 2001” was introduced for the grant of stage carriage permits to the existing transport co-operative societies under the 1993 scheme, general public and to the new co-operatives of unemployed youths on certain routes. The permits and rights of operation were to be given to the operators on lease for a period of five years by inviting bids and the route was to be allotted to the highest bidder. The bid money was required to be deposited before 10<sup>th</sup> of each month. In case of non-payment of bid money, the authority could initiate action for suspension/ cancellation of permit and imposition of penalty.

During test check of the records relating to Demand and Collection Register (DCR) of five<sup>9</sup> Regional Transport Authorities (RTAs) between May 2010 and September 2011 for the years 2009-10 and 2010-11, we noticed that 20 transport co-operative societies which were granted permits between November 2001 and January 2002 for a period of five years were renewed as per conditions laid down under this scheme. These co-operative societies were required to deposit bid money in equal monthly instalments. The bid money was neither deposited regularly nor demanded by the Department. No action was taken either to suspend/cancel the permit or to levy penalty. This resulted in non/short realisation of bid money of ₹ 33.51 lakh for the period between April 2009 and March 2011.

After we pointed out these cases between May 2010 and September 2011, all the five RTAs stated in September 2012 that a sum of ₹ 17.55 lakh had been recovered in 12 cases between June 2011 and August 2012 and efforts would be made to recover the balance amount of ₹ 15.96 lakh.

The matter was reported to the Government between June 2010 and June 2012. The Government accepted the audit observation during the exit conference held in September 2012.

<sup>9</sup> Ambala, Bhiwani, Faridabad, Hisar and Jind.

Similar cases were also noticed during the years 2006-07 to 2007-08 in five districts involving recovery of ₹ 50.17 lakh, of which ₹ 5.33 lakh had been recovered till date.

## CHAPTER-VI: OTHER TAX AND NON-TAX RECEIPTS

### 6.1.1 Results of audit

Test check of the records in departmental offices relating to Excise and Taxation Department (Entertainment duty), Power (Taxes and duties on electricity), Mines and Geology, Industries and Land Revenue conducted in audit during the year 2011-12 revealed under assessments of tax and loss of revenue amounting to ₹ 3.81 crore in 4,433 cases which broadly fall under the following categories:

(₹ in crore)			
Sr. No.	Category	Number of cases	Amount
<b>A: Excise and Taxation Department (Entertainment duty)</b>			
1.	Non-recovery of entertainment duty	21	0.04
<b>B: Power Department (Taxes and duties on electricity)</b>			
1.	Miscellaneous irregularities	4,171	0.09
<b>C: Mines and Geology and Industries</b>			
1.	Non-recovery of interest on late deposit of contract money	12	3.21
2.	Non-recovery of royalty and interest	137	0.44
	<b>Total</b>	<b>149</b>	<b>3.65</b>
<b>D: Land Revenue</b>			
1.	Miscellaneous irregularities	92	0.03
	<b>Grand total</b>	<b>4,433</b>	<b>3.81</b>

During the course of the year 2011-12, the department accepted under assessment and other deficiencies of ₹ 4.14 crore involved in 4,290 cases, out of which ₹ 3.66 crore involved in 4271 cases were pointed out during 2011-12 and the rest in earlier years. The department recovered ₹ 53.52 lakh in 42 cases during the year 2011-12, out of which ₹ 5.65 lakh involved in 23 cases relate to the year 2011-12 and the rest in earlier years.

An illustrative case involving ₹ 3.84 crore is mentioned in the following paragraph.

## **MINES AND GEOLOGY DEPARTMENT**

### **6.2 Non-observance of the provisions of Acts/Rules**

*The Mines and Minerals (Development and Regulation) Act and Punjab Minor Mineral Concession Rules provide for:-*

- (i) levy of royalty on mineral removed from leasehold land area and levy of interest on belated payment of royalty;*
- (ii) realisation of contract money; and*
- (iii) levy of interest at prescribed rate.*

*We noticed that the Department did not observe the above mentioned provisions in the case mentioned in paragraph 6.2.1, which resulted in non/short realisation of bid money of ₹ 3.84 crore.*

#### **6.2.1 Non/short realisation of bid money**

As per Punjab Minor Mineral Concession Rules, 1964, as applicable to the State of Haryana, a mining contract for quarrying is granted by auction or by accepting tender of highest bidder. The bidder is required to deposit 25 *per cent* of bid as security plus one twelfth of the annual bid where contract value exceeds ₹ five lakh, as advance payment immediately on the allotment of the contract. The annual contract money is payable in equated advance monthly installments on 1<sup>st</sup> day of each calendar month every year. In the event of default in payment, the competent authority may, by giving a notice, terminate the contract and forfeit the amount of security. Further, interest at rate of 24 *per cent* per annum is also recoverable for the period of default in payment of installment of contract money till such amount is paid.

During test check of the records of office of the Mining Officer (MO), Bhiwani, we noticed in December 2010 that minor mineral quarrying permits were granted to four contractors for the years 2007-08 to 2009-10 on the basis of highest annual bid amount of ₹ 4.03 crore. Though the contractor had deposited due amount of bid for the years 2007-08 and 2008-09 but paid ₹ 99.62 lakh against the annual bid amount of ₹ 4.03 crore due for the year 2009-10. The Department had not issued any demand notice or taken any other action against the defaulting contractors to recover the outstanding amount. The Department failed to take timely action to recover the balance bid money of ₹ 3.04 crore from the contractors. This resulted in short-realisation of bid money amounting to ₹ 3.84 crore (including interest of ₹ 80.10 lakh).

We reported the matter to the Government in June 2012. During exit conference held in December 2012 the Department admitted the para and stated that recovery certificates had been issued in respect of three contractors including recovery of ₹ 3.00 lakh and efforts would be made to recover the balance amount of ₹ 3.81 crore.

**Chandigarh**  
**The**

**(ONKAR NATH)**  
**Principal Accountant General (Audit) Haryana**

**Countersigned**

**New Delhi**  
**The**

**(VINOD RAI)**  
**Comptroller and Auditor General of India**

**Annexure-I**  
**(Refer Paragraph No. 1.8.5)**

Position of paragraphs which appeared in the Audit Reports and those pending discussion/replies not received as on 30 September 2012.

<b>Name of tax</b>		<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>Total</b>
Taxes on Sales, Trade etc.	Paras appeared in the AR/pending discussion in the PAC	8	9	13	12	12	<b>54</b>
	Paras replies not received	0	0	0	0	12	<b>12</b>
Taxes on Motor Vehicles	Paras appeared in the AR/pending discussion in the PAC	1	8	2	2	3	<b>16</b>
	Paras replies not received	0	3	0	0	3	<b>6</b>
Stamp duty and Registration fee	Paras appeared in the AR/pending discussion in the PAC	3	5	5	1	6	<b>20</b>
	Paras replies not received	0	5	5	1	6	<b>17</b>
State Excise	Paras appeared in the AR/pending discussion in the PAC	2	2	4	2	1	<b>11</b>
	Paras replies not received	0	0	0	0	1	<b>1</b>
Others	Paras appeared in the AR/pending discussion in the PAC	2	7	4	4	1	<b>18</b>
	Paras replies not received	1	1	0	1	1	<b>4</b>
<b>Total</b>	<b>Paras appeared in the AR/pending discussion in the PAC</b>	<b>16</b>	<b>31</b>	<b>28</b>	<b>21</b>	<b>23</b>	<b>119</b>
	<b>ATNs to Paras included in AR not received</b>	<b>1</b>	<b>9</b>	<b>5</b>	<b>2</b>	<b>23</b>	<b>40</b>

**Annexure-II**  
**(Refer Paragraph No. 1.8.5)**

Details of outstanding recommendations of Public Accounts Committee on which the Government is yet to take final decision.

<b>Sr. No.</b>	<b>PAC Report No.</b>	<b>Total number of outstanding recommendations</b>	<b>Period of Audit Report</b>
1.	19	1	1977-78
2.	22	5	1978-79
3.	23	5	1979-80
4.	25	4	1980-81
5.	26	3	1981-82
6.	28	2	1982-83
7.	29	8	1983-84
8.	32	5	1984-85
9.	34	12	1985-86
10.	36	7	1986-87
11.	38	13	1987-88
12.	40	25	1988-89
13.	42	31	1989-90, 1990-91, 1991-92
14.	44	41	1990-91, 1991-92, 1992-93
15.	46	9	1993-94
16.	48	10	1993-94, 1994-95
17.	50	41	1993-94, 1994-95, 1995-96
18.	52	31	1996-97
19.	54	43	1997-98
20.	58	64	1999-2000
21.	60	38	2000-01
22.	62	46	2001-02
23.	63	54	2002-03
24.	64	57	2003-04
25.	65	51	2004-05
26.	67	52	2005-06
<b>Total</b>		<b>658</b>	

**Annexure-III**  
**(Refer Paragraph No. 1.9.1)**

Details of outstanding Inspection Reports as on 30 June 2012.

Year	Number of outstanding IRs	Para	Amount (` in crore)
Upto 2001-02	74	115	31.43
2002-03	16	40	2.36
2003-04	18	43	3.81
2004-05	23	82	4.26
2005-06	22	117	215.94
<b>Total</b>	<b>153</b>	<b>397</b>	<b>257.80</b>
2006-07	26	142	29.69
2007-08	31	217	55.19
2008-09	31	206	133.04
2009-10	32	293	263.70
2010-11	1	16	1.01
<b>Grand Total</b>	<b>274</b>	<b>1,271</b>	<b>740.43</b>



**Annexure-IV**  
**(Refer Paragraph No. 1.9.2.2)**

Details of reviews and recommendations included in the Audit Reports for the years 2002-03 to 2010-11.

Year of Audit Report	Name of the Review	Details of recommendations made
2002-03	Pendency of appeals at various levels and its impact on revenue collection	<p>To improve the effectiveness of the system; the Government may consider:</p> <ul style="list-style-type: none"> <li>➤ The norms for disposal of appeal cases were not achieved. Remedial measures are required to clear the accumulated arrears;</li> <li>➤ The monitoring of receipts and disposal of appeals and remand cases at apex level needed to be strengthened so that procedure/system prescribed under the rules is strictly adhered to;</li> <li>➤ The State Government should prescribe time limit for communication of orders passed by the appellate authority to enable timely finalization by Assessing Authorities ; and</li> <li>➤ The State Government should develop a strong internal control system to ensure compliance with instructions issued by the Government/Department.</li> </ul>
2003-04	Delay in assessments and their impact on revenue and collection of sales tax demands	<p>To improve the effectiveness of the system the State Government may consider:</p> <ul style="list-style-type: none"> <li>➤ Inserting the provisions in the Act/Rules for time bound assessment of cases;</li> <li>➤ Prescribing time limit for communication of orders passed by the AAs and demand notices to enable timely realization of Government dues; and</li> <li>➤ Developing a strong internal control system to ensure compliance with instructions issued by the Government/Department</li> </ul>
2004-05	Delay in disposal of remand and revision cases	<p>For speedy settlement of cases and to improve the effectiveness of the system, the State Government may consider:</p> <ul style="list-style-type: none"> <li>➤ Maintaining the records like appeal register of remand cases essential for monitoring the remand cases at Joint Excise and Taxation Commissioner (Appeals) {JETC (Appeals), DETC, AA –wise as per the provision of the Act.</li> <li>➤ Prescribing time limit for finalization of remand cases as well as for communication of orders passed by the appellate authority to the AA.</li> </ul>
2005-06	Evasion in sales tax	<p>With a view to curb the incidence of evasion, the State Government may consider;</p> <ul style="list-style-type: none"> <li>➤ Ensuring adequate and regular survey every year to bring unregistered dealers into tax net,</li> <li>➤ Ensuring cross verification of transactions</li> </ul>

Year of Audit Report	Name of the Review	Details of recommendations made
		<p>against declaration forms with other circles/ States before finalising assessment;</p> <ul style="list-style-type: none"> <li>➤ Ensuring before allowing exemptions/ concessional rate of tax the transactions are supported by prescribed statutory declaration forms properly filled in and with evidence; and</li> <li>➤ Developing internal control system to monitor proper functioning of the field office of department to plug leakage of revenue.</li> </ul>
2006-07	Levy and collection of sales tax	<p>For proper and effective assessments and collection of sales tax, the State Government may consider:</p> <ul style="list-style-type: none"> <li>➤ Fixing norms for monthly disposal of sales tax assessment cases as HGST Act has been repealed since April 2003;and</li> <li>➤ Brining about amendments in the Act/Rules to fix time limit for initiation of recovery proceedings.</li> </ul>
2007-08	Exemptions and concessions under Sales Tax/VAT Act	<p>The State Government may consider:</p> <ul style="list-style-type: none"> <li>➤ Inserting similar provisions regarding tax deposited in the declaration form VAT C-4 as contained in declaration form ST-14 and authentication/issuance of these forms by the department to ensure genuineness and correctness of tax deposited by the selling dealers while allowing input tax credit (ITC)</li> <li>➤ Ensuring cross verification of transactions against declaration forms with other circles/ State before finalising the assessments and also prescribing reporting to the superior authorities of the results of such cross verifications;</li> <li>➤ Prescribing submission of list of sales along with evidence/ proof of sales of PVC pipes and related goods for claiming exemption/tax free sales; and</li> <li>➤ Setting up an internal audit wing in the Sales Tax Department to ensure timely detection and correction of errors in assessment, levy and collection of sales tax revenue and refund cases.</li> </ul>
2008-09	Recovery of sales tax/VAT in arrears	<p>For proper and effective collection of arrears of sales tax/VAT, the State Government may consider:</p> <ul style="list-style-type: none"> <li>➤ Strengthening internal audit wing to ensure timely detection and correction of arrears in assessment, levy and collection of sales tax/VAT revenue;</li> <li>➤ Evolving a suitable mechanism for the collection of dues by closely monitoring their initiation and completion of recovery proceedings;</li> <li>➤ Prescribing a time limit for (i) initiating recovery proceedings for attachment and disposal of attached property (ii) the issue of revenue</li> </ul>

Year of Audit Report	Name of the Review	Details of recommendations made
		<p>recovery certificate and adherence to such time limit should be closely monitored to avoid pendency of revenue collection;</p> <ul style="list-style-type: none"> <li>➤ Evolving a suitable mechanism to ensure proper co-ordination between the departmental officers with in the State to facilitate early realization of the arrears locked up under revenue recovery proceeding; and</li> <li>➤ Fixing target for the collection of arrears and closely monitoring the performance of both the AAs and the Collectors against such target.</li> </ul>
2010-11	Exemption / deferment and concessions of sales Tax to Industrial Unit	<p>In order to plug loopholes and enforce control over working of Excise and Taxation Department and Industries Department for proper evaluation and implementation of the scheme, Government may consider:-</p> <ul style="list-style-type: none"> <li>➤ Maintaining a centralized database of incentives sanctioned and availed to help the State Government in formulating a new tax concession scheme in future;</li> <li>➤ Putting a system in place for effective co-ordination between the implementing agencies and the Excise and Taxation Department for monitoring recoveries due and for taking prompt action on units closing business;</li> <li>➤ Setting up a system to watch the proper functioning of units availing benefits of tax concession; and</li> <li>➤ Instituting an effective system in the implementing agencies for initiating action for prompt recovery of the taxes and other dues.</li> </ul>
	Cross Verification of declaration forms used in Inter State Trade	<p>It is recommended that the Government may consider the following steps:</p> <ul style="list-style-type: none"> <li>➤ Putting in place an effective internal control mechanism to avoid extension of irregular exemption on account of deficient/incomplete forms at the time of completion of assessment;</li> <li>➤ Instituting system for cross verification of transactions relating to branch transfers within the stipulated time frame;</li> <li>➤ There should be time limit for utilization of declaration forms;</li> <li>➤ Proper checks should be prescribed and exercised to call for utilization certificates of declaration forms from the dealers while submitting their tax returns; and</li> <li>➤ To devise a system for uploading of details of declaration forms used on TINXSYS for verification of sale/ purchase transactions.</li> </ul>

**Annexure-V**  
**(Refer Paragraph No. 1.10)**

Audit plan for the year 2011-12.

Sr. No.	Nature of receipts	Total no. of auditable units	A-Annual B-Biannual T-Triennial Q-Quadrille				No. of units planned during the year 2010-11				Total unit planned during the 2010-11
			A	B	T	Q	A	B	T	Q	
1.	0039-State Excise	39	21	18	-	-	21	8	-	-	29
2.	0030- Stamp duty and Registration fee	119	59	60	-	-	59	31	-	-	90
3.	0041-Taxes on vehicles	75	21	54	-	-	21	25	-	-	46
4.	0042-Passengers and Goods tax	23	23	-	-	-	23	-	-	-	23
5.	0853-Mines and minerals	16	8	8	-	-	8	4	-	-	12
6.	040-Sales Tax	61	33	-	-	28	33	-	-	7	40
7.	0043-Electricity duty	4	1	-	-	3	1	-	-	1	2
8.	0045-Entertainment	23	-	-	-	23	-	-	-	5	5
9.	0029- Land Revenue	119	-	-	-	119	-	-	-	29	29
10.	0039-Pharmacy	18	-	-	-	18	-	-	-	4	4
	<b>Total</b>	<b>497</b>	<b>166</b>	<b>140</b>	<b>-</b>	<b>191</b>	<b>166</b>	<b>68</b>	<b>-</b>	<b>46</b>	<b>280</b>

## GLOSSARY OF ABBREVIATIONS

ATNs	Action Taken Notes
AAs	Assessing Authorities
AETO	Assistant Excise and Taxation Officer
BEs	Budget Estimates
BIFR	Board of Industrial and Financial Reconstruction
CL	Country Liquor
CST Act	Central Sales Tax Act, 1956
DETC	Deputy Excise and Taxation Commissioner
DHBVNL	Dakshin Haryana Bijli Vitran Nigam Limited
DCR	Daily Collection Register
DCs	Deputy Commissioners
ETC	Excise and Taxation Commissioner
ETOs	Excise and Taxation Officers
FCET	Financial Commissioner and Principal Secretary, Excise and Taxation Department
GOI	Government of India
GDP	Gross Domestic Product
GTO	Gross Turnover
HVAT Act	Haryana Value Added Tax Act, 2003
HGST Act	Haryana General Sales Tax Act, 1973
HVPNL	Haryana Vidyut Prasaran Nigam Limited
HPGCL	Haryana Power Generation Corporation Limited
HLL Rules	Haryana Liquor License Rules, 1970
HLADT	Haryana Local Area Development Tax
ITC	Input Tax Credit
IOCL	Indian Oil Corporation Limited
IS Act	Indian Stamp Act, 1899
IR Act	Indian Registration Act, 1908
IGR	Inspector General of Registration
IMFL	Indian Made Foreign Liquor
JSR	Joint Sub Registrar
MV Act	Motor Vehicles Act, 1988
MO	Mining Officer

PAC	Public Accounts Committee
PAG	Principal Accountant General (Audit)
PSET	Principal Secretary, Excise and Taxation Department
PGT	Passengers and Goods Tax
PPGT Act	Punjab Passengers and Goods Taxation Act, 1952
PMVT Act	Punjab Motor Vehicles Taxation Act, 1924
RF	Registration Fees
RLA	Registering and Licensing Authority
RTA	Regional Transport Authority
SD	Stamp Duty
SR	Sub Registrar
SO	Section Officer
TIN	Taxpayers Identification Number
TINXSYS	Tax Information Exchange System
UHBVNL	Uttar Haryana Bijli Vitran Nigam Limited
UHT	Ultra High Temperature
VAT	Value Added Tax
WCT	Works Contract Tax